the little girl, sent by her to the prisoner." It does not appear on the record that this evidence was objected to as inadmissable. but suppose it was objected to, we are of opinion that it was admissable on the ground that altho ~~the~~ naked declarations of one are not admissable against the other to show an agency or an agreement; yet this was not a naked declaration like an admission or confession, but was a part of the act, & indeed the most important part of it—

3.d "The words used by Lavina Foster, ought not to have been received as evidence" we think that the evidence was admissable as a part of the act; it was so considered by us in Sec where the case was upset from 1 Phillips 211.—

4.th "The question put to the witness Eliza Anderson, ought not to have been ruled out" there is not enough set out in the statement of the case, to show the relevancy of this question & we are confined to what appears in the statement of the case, treating it as a bill of exceptions on the part of the prisoner—

Neither of the two grounds taken in support of the motion to arrest the judgt