

person guilty thereof, ascertain in their verdict, whether it be murder of the first or second degree."

The indictment, in the first and second counts, charges the prisoner with the murder of Rosanna Brown; in the first count by a mortal wound given with the barrel of a gun, over the right eye, in the forepart of the head; in the second count, by cutting her throat with a knife.

The third count charges the prisoner with the murder of John Brown with a rifle; the bullet entering the right side of the breast, and penetrating through the breast.

The fourth and fifth counts charge the prisoner with the murder of Elizabeth Brown; the fourth count by giving her a mortal wound with a stone, as described, on the back part of the head; the fifth, by giving her a mortal wound with a stone, on the forepart of the head.

The sixth count charges the prisoner with the murder of George Brown, by a stroke on the back part of his head, fracturing his skull, and by a mortal wound inflicted by a stroke on the left jaw, with a rifle gun.

The seventh count charges the prisoner with the murder of Jacob Brown, by shooting him with a rifle through the head.

And the eighth count charges the prisoner with the murder of David Brown by strangling.

You have heard how and when the murdered persons were found. In this stage, I will refer you to the testimony of Dr. James G. Lightner. He swears that about nine o'clock on Sabbath morning (31st May), he examined the bodies. The first was

Elizabeth. Her head presented a mass of bruises; a large incision through the scalp, in the back part of the head, two and a half or three inches long; another on the forepart of the head about two inches long; and one on each side of the head of smaller size.

Jacob was next examined. His skull had the appearance of a ball having passed through the brain—entering the back part of the head, and coming out at the front. He could not