

his wound undressed. Many men were questioning whether he knew who shot at him. To some he answered "no," to others he stated that the prisoner was the man who shot at him, and he knew him. That he did, situated as he was, declare on Sunday, that he did not know who shot at him, and that he so declared, at some other times, seems to be true. We agree this militates against his evidence. Yet we think great allowance may be made by the jury to the situation in which Brown was placed. A person questioning another, does not always understand the answer; nor is the question always correctly understood. Brown never averred that he knew who murdered his wife and children.

Now, as to the prisoner, you have heard the facts and circumstances proved against him. It is proved that he went to his mothers, with his family early on Saturday morning. There is proof that he left his mother's dwelling about 9 or 10 o'clock. It is not alleged that he was seen by any one (except by Brown), until about sun-set, a period of between 9 and 10 hours. You have heard his relation of that period; and if he gave different accounts of where he was during that period, it makes against him. Is it not clear from the testimony of Dr. Lightner, that Elizabeth and Jacob were murdered pretty early in the day? We submit to you whether it was possible for any person to perpetrate the crimes proved, unless he was well acquainted with the children, and had their confidence. Quarry swears he was at Brown's between 11 and 12 o'clock. The old lady was then at her dough-trough. None of the children were then about the house. He heard a shot.

When the prisoner came first to Brown's, on Sabbath morning, Mr. McKinstry swears that when first taken into custody, sitting on the fence, he told him, that on Saturday he had been at his brother Mike's grubbing. About the same time Rhodes swears he heard Robert say, he "was clear." "Yes," some one said, "he was at the grubbing yesterday." Robert made no answer. When Mr. McKinstry asked him shortly afterwards if he was at Mike's grubbing, he said he