

Yet each and all of these witnesses swore to a positive fact fatal to the prosecution. Each of them swore that Dr. Parkman was outside of the Medical College after the time it was alleged he went in. "Not comment upon such testimony particularly!" Is not this equivalent to saying this testimony is entitled to very little consideration?

The Court proceeds: "It [all the testimony of Mrs. Hatch and others] is to be compared with the proof on the other side. When such a great event happens the whole community is thrown into a committee of inquisition, and a large number of lines of inquiry are instituted, a great many persons are found to have seen the object of the search. It became known on Saturday evening that Dr. Parkman, a man known to almost every body, had disappeared. The whole community were put upon their recollections, and would it be strange if a great many should remember that they had seen him, and yet have been mistaken. If they had not been mistaken, would not others be found, when all were intent, who would testify that they saw him also. This negative evidence, it is true, is not conclusive in itself, but it goes to destroy the positive evidence, for we can hardly conceive that if there had been no mistake in those who saw him as to his identity or the time, a great many others would not also have seen him, and would not have recollected it the next day."

The Court thus, by a course of reasoning which the jury must have taken as a legal deduction, disposed of the testimony for the defence. I deny the soundness of the reasoning; it is illogical, it is illegal. It is untrue that the considerations presented to the Court were *negative evidence* which went to destroy the positive evidence. It is untrue that five witnesses, testifying positively to facts, are to be disbelieved, or discredited, because a greater number is not called to testify to the same facts. If five creditable witnesses testify that they saw me walking in State street, from the Capitol to Broadway, their testimony is not to be shaken because one hundred persons, in State street, at the same time, testify that they have no recollection that they saw me.

Perhaps I may be wrong in the views here presented, but the case is one of such thrilling interest as will necessarily cause the proceedings on the trial to be closely scrutinized; they ought to be scrutinized, and the honor of Massachusetts is especially concerned that one of her citizens should not become the victim—not of perjury—but of false reasoning. STARKIE.