

## PRESUMPTIONS IN CRIMINAL CASES.

Some of these may be marshalled as follows:

1. The homicide was committed by someone at the time in Boston. Boston contained then, we may say by the way of rough estimate, 150,000 residents. A was resident in Boston that night. Therefore it is, on the face of things, 1 to 150,000 that A was concerned in the homicide. But there are many considerations which tend greatly to reduce the number of 150,000, the basis for inductions in this respect. We must take into account, in such cases, the antecedent probability of the conclusion. We must take into consideration, also, all conflicting probabilities. How many of the 150,000 residents of Boston were incapacitated at the time, by infancy, sickness, or other disability, from perpetrating the act? To how many others would the imputation of the act be morally and physically absurd.

2. The homicide was committed by some one with a motive. This, of course, is a proposition not universally true. Some homicides have undoubtedly been motiveless. Sudden incursions of homicidal mania have, in certain very rare instances, swept down upon individuals abnormally constituted in such a way as to make them the irrational instruments of a fierce destructive purpose. But these rare cases are generally distinguished by violent and uncontrollable scenic outbursts. No instance is on record in which they have been executed with the stealth and secrecy by which the killing of Dr. Parkman was marked. If, therefore, we have to assume that the murder of Dr. Parkman was committed by a person who had a motive to destroy him, we limit very much the ranks of those among whom the probable perpetrator is to be sought. Among motives we may mention the following:

*Old grudge.*—Who, likely to avenge it, bore an old grudge to the deceased?

*Jealousy.*—Of a man of Dr. Parkman's character and habits, is it probable that anyone could be instigated by this passion?

*Expectation of plunder.*—Is it likely that the dead man could have been entrapped into a place where he could readily have been killed by one of that

desperate class by whom the docks and alleys of great seaports are infested?

*Interest in getting the victim out of the way.*—Was it the interest of anybody to remove him? Were there unprincipled heirs, whose access to fortune would be accelerated by his death? Had he debtors who would be relieved by his death?

*Sudden passion.*—Who is there among those with whom Dr. Parkman came in collision, who might have been stung into sudden passion by irritating conduct on his part; who would have been likely to let this passion wreak itself in a fatal blow; who would have had the skill afterwards to hide the body so as to evade immediate detection?

3. Supposing the homicide not to have been committed in a spot remote from Dr. Parkman's usual haunts, it must have been by a person capable of concealing its track, and of employing effective agencies by which the body of the deceased man could be removed from sight.

4. Consciousness of guilt is apt to betray itself, involuntarily, in attempts to evade justice; in feverish and restless interpositions in the action of the officers of justice who are seeking to ferret out the author of the crime; in tremor when charged with the offence; in efforts, not always cool or prudent, to throw suspicion upon others. It is true, as we will presently see, that conduct of this class is not an invariable associate of guilt. But when we notice a person engaged in a train of conclusive efforts to evade a charge of crime, and to throw the opprobrium elsewhere, we may say that he is probably concerned in the guilt whose imputation he makes such strenuous and unscrupulous efforts to repel.

5. Can we trace the property of the deceased into the hands of a suspected party? If so, and this possession is unexplained, this leads to the probability of the party charged being concerned in the homicide.

6. Are the remains of the dead man shown to have been at any time under the control of the accused? It is true, if so, they may have been placed there surreptitiously, without his knowledge, or brought there for the purpose of *post-mortem* experiment. But even making