

PRESUMPTIONS IN CRIMINAL CASES.

time what vanishing properties they appear to have possessed. In the Philadelphia case, for instance, when the Protestant rioters were on trial, witnesses from the opposite ranks were found in abundance to testify to the activity of certain leading Protestant agitators in the fray; which participation was negatived by witnesses for the defence. The same condition of things was exhibited when the Roman Catholic Rioters were on trial; and it was noticed that one prominent and very obnoxious Roman Catholic alderman was sworn to have been conspicuous in so many distinct operations of mischief, that this very multiplicity of inconsistent employments gave strong corroboration to the testimony of his friends that during the whole of the riots he kept quietly at his home. The same observation may be made as to the English prosecutions of the Roman Catholics, under the auspices of Titus Oates. That Oates knowingly perjured himself there is no question. But there were other witnesses for the prosecution whom we cannot so readily dispose of, as they were persons whose honesty of purpose, whatever we may say of their susceptibility to excitement, was unquestioned and unquestionable. The only solution is that here proposed—weak capacity for the perception of identity, acted on by powerful distorting prejudices. The mental eye, never very accurate, is overstrained. It is feared, or hoped, or even believed, that a particular person will be in a particular place. Somebody else is converted into that particular person.

Are such transmutations or idealizations of appearances dependent upon public excitement, as in the cases just mentioned? It would be fortunate for public justice if they were, since in this way our distrust would be limited to cases which involve public excitement. But so far from this being the case, we find that the same deranging and transmutive influence is exercised, on many minds, by an intense personal longing. There are few impostors, striving to seize upon some vacant chair in a desolate household, that have not had at least some sort of temporary recognition of this class. We have before us a French trial,

of which the basis was the disappearance of a young girl from a peasant's home. Two years afterwards, a girl, much resembling the lost child, made her appearance in the neighbourhood, and was greeted by some of the neighbours as the lost child re-appeared. The new-comer, not originally an impostor, but under the influence of one of those not unfrequent physical conditions in which self-deceit and epidemic delusion mingle, assumed the part thus assigned to her, and appeared in the bereaved home. The strangest part of the procedure was that she was welcomed by the family as really the person she claimed to be; and it was not until months had passed, and a series of counter recognitions sprang up from the family to which she really belonged, that the delusion was dispelled.

Lady Tichborne's recognition of the claimant as her lost son is a more familiar illustration of the same phenomenon. Her vision had been for years strained in one pursuit, that of the boy whom she reproached herself with having treated capriciously, and who had sought, in another continent, the home of quiet which he had been denied in his mother's house. She was prepared to receive in the vacant seat any one who had any plausible claim to it. She could not believe her child was dead. She was ready to seize upon any trifling indication that pointed out the claimant as her child. Certainly the claimant was very different from what her child would probably have been had he lived. But she eagerly desired that he should prove to be her child, and what she eagerly desired she believed. Of her honesty, there can be little doubt. There can be little doubt, also, that her perceptive powers had become so distracted by this morbid and passionate longing, and by this prolonged belief in his re-appearance, against all probability, that her recognition was a delusion.

There is also an instinctive tendency in many minds to see a person in a place with which he has usually been associated. The effect of this, in its most unshackled operation, we observe in dreams, in which we fill familiar scenes with persons whom we recollect as having in former times occupied them, no matter how long those persons may have been in the grave. Of