

## PRESUMPTIONS IN CRIMINAL CASES.

knew when to ask whether the boy of one of them, born five years before, was yet in breeches, or whether the daughter of another, born a little earlier, was yet out of school. If there should be these variations in the capacity for distinguishing likenesses, and in individuating family incidents, it is not strange that this capacity should be in some persons all most absolutely suspended, and in others should become morbidly active. If so, we can understand how it is that we have so many extraordinary negations of identity, and so many equally extraordinary affirmations of identity. Two witnesses, one peculiarly dull in the exercise of this perception, the other peculiarly acute, are looking on at a riot, such as that led by Lord George Gordon, or that in Philadelphia in 1844, in which a series of Roman Catholic churches were burned. A man is seen figuring conspicuously in setting fire to a building. The flames cast a distracting light on his face, so as to exhibit it vividly, and yet at the same time in new and flickering expressions. The obtuse witness does not see in him a likeness to anybody. The witness gifted with an acute perception of likenesses, sees in him one, if not two, persons whom he had seen before.

"I cannot see the speaker, how with you?"

"Not see the speaker? Why I now see two."

Such was a supposed colloquy between Pitt and Dundas when, after a dinner in which each had taken too much portwine, they entered the House of Commons. The excitement had produced contrary effects; the one could see nobody at all in the chair; the other saw two persons instead of one.

May we not, in view of what we call *face-blindness*, or, in other words, in view of the occasional abnormal distribution of the faculty of detecting likenesses, explain what is otherwise inexplicable both in history and in jurisprudence? "The popular belief at Rome," says Macaulay, "seems to have been that the event of the great day of Regillus was decided by supernatural agency. Castor and Pollux, it was said, had fought, armed and mounted, at the head of the legions of the commonwealth, and had afterwards carried the news of the victory with in-

credible speed to the city." \* \* \*  
 "How the legend originated cannot now be ascertained; but we may easily imagine several ways in which it originated; nor is it all necessary to suppose, with Julius Frontinus, that two young men were dressed up by the dictator to personate the sons of Leda." St. James was in like manner seen charging at the head of more than one Spanish army, and Whalley, the regicide, appeared more than once as a supernatural ally among the Puritan soldiers, in their early conflicts with the Indians.

In the court room these abnormal conditions of the perceptive powers have been frequently illustrated. After the disappearance of Dr. Parkman, when public curiosity was greatly strained on the question whether he had been seen after the day on which it was alleged he had been murdered, several entirely honest witnesses were convinced that they had seen him in some of his old haunts at the time when, there is now no question, he was dead. Numerous have been the persons who, since the disappearance of Charlie Ross, have honestly declared that they recognised the lost child in places so remote from each other, and at times so close, that it is clear that some of them, at least, were mistaken. The same remarkable aberration of the perceptive powers was illustrated in the trials consequent on the Lord George Gordon riots, and on the Philadelphia riots in 1844, already noticed. In each of these cases the collisions were brought about by intense religious animosity. There was a conviction among certain classes of Protestants, and especially among those from the north of Ireland, that the Roman Catholics were about to rise to murder the foes of their Church, and that certain well-known and conspicuous Roman Catholics were to be foremost in the work of blood. There was a conviction among certain classes of the Roman Catholics that certain prominent Protestant leaders were engaged in preparing for a slaughter of Roman Catholics, and the destruction of Roman Catholic churches. When the leading rioters were tried, it is remarkable how ubiquitous these champions, on both sides, are sworn to have been, and yet at the same