detective on the chance of his being able to recognize the prisoner. The system has been adopted by Italy, Spain, Germany, and Denmark; and efforts are being made to introduce it into the United States, so that, before long, it will probably become the recognized means for criminal identification throughout the world.

It is evident that some radical improvement in our system of identification is necessary, not only as regards the habitual criminal, but also as regards the first offender, for such erroneous evidence given by police officers before a magistrate might lead to a summary conviction and a much more severe sentence than would otherwise be inflicted, or the committal for trial and expenses attendant thereon instead of a summary conviction.—*Law Times* (London).

MARRIAGES BY SHAM CLERGYMEN.

Recently we called attention to an important circular raising the question whether marriages celebrated by a "sham" clergyman—believed by the parties to be in holy orders—are valid. Our own opinion is clearly that they are. The doubt arises from the decisions of the House of Lords in the well-known cases of *Reg.* v. *Millis* (10 Cl. & Fin. 534; 8 Jur. 717,) and *Beamish* v. *Beamish* (5 L. T. Rep. [N. S.] 97; 9 H. of L. Cas. 274), where it was held in effect, that by the common law of England (and of course excepting marriage by the registrar, etc.), the presence of a priest, or since the Reformation, of a deacon, was essential to marriage. It is important to notice that in the case of *Reg.* v. *Millis*, the House was equally divided, Lords Brougham, Denman and Campbell being in favor of the marriage, which was performed by a Presbyterian minister, and the decision being against its validity on account of the rule *Semper presumitur pro negante*. This case was followed in *Beamish* v. *Beamish*, where it was decided that a clergyman cannot perform the marriage ceremony for himself. But notwithstanding these decisions, we say that the rule does not apply to a case where the parties *bona fide* believed that the person solemnizing the marriage was a clergyman. In *Reg.* v. *Millis* Lord Campbell (10 Cl. & F. 784,) touches on the subject, and says:—"Mr. Pemberton admitted at the bar, as he was bound to do, that the marriage would be valid. Lord Stowell repeatedly expressed an opinion to this effect; and it turns out that in the instance of a *pseudo* parson, who about twenty years ago officiated as curate of St. Martin's-in-the-Fields, and during that time married many couples, upon the discovery of his being an impostor, which became a matter of great notoriety, no act of Parliament passed to give validity to the marriages which he had solemnized, which could only have arisen from the government of the day being convinced, after the best advice, that in themselves they were valid." Mr. Pemberton was the counsel who argued against the validity of the marriage. Lord Campbell goes on to say that the idea that parties so married should find that they were living in a state of concubinage, and that their children are bastards, "is a supposition so monstrous that no one has ventured to lay down for law a doctrine which would lead to such consequences" (p. 785). The Lord Chancellor who decided against the marriage in *Reg.* v. *Millis* yet appears to have considered marriage by a sham clergyman valid (p. 860); and Lord Cottenham, who also held the marriage in *Reg.* v. *Millis* void, said:—"It was urged that marriages were good when the person officiating was not in orders, though pretending and believed to be so. This I apprehend depends upon a very different principle. The Court in such a case would not, I conceive, permit the title to orders to be inquired into" (p. 906). It will be seen then that the above case of *Reg.* v. *Millis* does not cover the case of the sham clergyman, but rather expressly excludes it from its scope. And it is not in the least likely that the principle of *Reg.* v. *Millis* will be extended. The Supreme Court of Bombay refused to follow it in 1849: *MacLean* v. *Christall*, 7 Notes of Cases App., p. 17. It should be remembered that by the ancient canon law, which is the foundation of our English marriage law (*Proctor* v. *Proctor*, 2 Hag. Consist. 300), the presence of a priest was not essential to a valid marriage, which was indeed considered to be a sacrament without such intervention; and the principle laid down in *Reg.* v. *Millis* is contrary to many high authorities and possibly founded on an erroneous view of English history. Of course marriage by a pretended clergyman is not invalidated by 4 Geo. IV, ch. 76, s. 22, as that only affects cases where the parties have "knowingly and wilfully" married contrary to the statute.—*Law Times* (London).