

skin of a black, white, or other variety of color. Second, when the cause or agency manifests its power by frizzling or curling the hair or feathers, this is termed crispation. Third, when the same constitutional change shows itself by a loss of hair or plumage so as to leave a naked skin, it is called peeling. Of these three effects, the last occurs but seldom; the second pretty often; and the first is very frequent indeed, showing that it is a much more difficult process for nature to eradicate hair or feathers than to curl them, and more difficult to twist than to change their color. If it be of any importance to investigate minutely these points, they will be found at length in the work I have mentioned. These accidents, says that author, may befall every man, every quadruped and every bird, to a greater degree in some than in others, and become permanent in the race by propagation from one generation to another without end.

With this view, it would appear, that with respect to the rule we first laid down touching the color of men, there are a vast number of exceptions; which exceptions I shall class under the three last mentioned heads. It is only by comparing those facts with the case before the court, and applying the observations which they furnish, that we can pronounce an opinion; for as to reasoning *a priori* upon such a subject, neither the court nor I, nor any other witness that can be brought, can know any thing of the matter. The most that I can do is to state facts that I know, and from them give my opinion upon the proba-

bilities of the case. The woman here swears the black man to be the father of the child—

*Mr. Morton.* Doctor I am sorry to interrupt you; but it is necessary I should remind you that the witnesses are only called to give testimony, not to observe upon it—that will be the duty of the counsel in summing up.

*Dr. Mitchell.* In estimating this case according to the exceptions laid down, and which I have observed are so frequent, and often so widely deviating from the general rule I conceive that it violates no probability to suppose this child the offspring of the connection between the woman and the black man. The mother, who knows most of the matter, has deposed to that fact, and it is not in itself incredible. I have, therefore, no hesitation to say, according to the best of my judgment, as the evidence of the woman is positive, and the fact she swears to violates no probability, I should, were I in the place of the court, confirm the rule.

*Mr. Morton.* Doctor, you must excuse me—before, you seemed inclined to do the office of counsel, and now that of the judge. This case you say, doctor, violates no probability. Are we to understand from that, that it is a possible case or a probable one? —or let me ask you, according to your own principles, which is most probable, leaving the woman's evidence out of the question, that this should be the child of a black or white man? *Prima facie* I should say it was a case under the general rule. If I did not adhere to the rule, it would be on account of the circumstances attending the case,