

# On Trial: Racialized Science, Politics, and the University in the 1808 Whistelo Trial

By Michaela Greer

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Michaela Greer Discussing On Trial: Racialized Science, Politics, and the University in the 1808 Whistelo Trial: [video] [https://www.youtube.com/watch?v=nh1SFFbw\\_VE](https://www.youtube.com/watch?v=nh1SFFbw_VE)

## Introduction

Common law describes a system in which judicial precedent is made law. They generally have the same power as statutes and executive orders. By name common law describes the process by which judges, courts, and tribunals apply precedents to cases that are similar. A precedent made in one case is the precedent in another similar case and the court is bound to apply the same reasoning or what is called stare decisis meaning cases must be /should be decided according to consistent principled rules so that similar facts will yield similar results. Introduced into the Americas by the British, common law has become an integral part of the American justice system. However as British rule took over New York many of the Dutch traditions of the Amsterdam colony sustained. In part the influence of Roman Dutch law as such the judicial system of New

York was equally judge-made and scholarship driven. As the colony transitioned into statehood this tradition did as well. The 1808 case of Commissioners of the Almshouse v. Alexander Whistelo is a representation of common law jurisprudence with Roman Dutch influence. The Whistelo trial existed against a backdrop of a changing New York City and a legal surge to maintain parts of it such as racial hierarchy. Over the course of the trial, there was a battleground for the city's leading physicians on the topic of race and a political moment to establish a precedent on racial hierarchy in the city. The battle between popular and scientific conclusions surrounding race was propelled and shaped by the city of New York at the time and the power and influence of post-colonial colleges.

The paper centers around the 1808 trial of The Commissioners of the Almshouse v. Alexander Whistelo and the testimony of Columbia affiliate, statesmen, and physician Samuel Latham Mitchill. The Whistelo trial existed against a backdrop of a changing New York City and a society struggling with the legal, political, social, and economic aftermath of an ever growing free black population. The trial itself was a historical moment to establish a precedent on the racial hierarchy of the city led by the city's foremost academic institution Columbia College. One man in particular Samuel Latham Mitchill was instrumental in shaping the conversations surrounding the understanding of the race. Through his life and works my project examines the ways in which race shaped medical science in the early 19th century and in turn how racialized science was built by the academy and then became the language of common people. I take focus on Dr. Samuel L. Mitchill's testimony in part because of his history with Columbia, having taught at both Columbia and the College of Physicians and Surgeons for a number of years, but also because of the many avenues in which he took part. His role as a physician, statesman, professor and editor of the country's first Medical journal the medical repository, both solidify him as a valuable expert witness for the prosecution but also as a succinct means of demonstrating how racial science was constructed to fit the narrative of slavery and black autonomy in the city. Being in his position gave him a unique junction to control the narrative about race and disperse it. The internal struggles of both New York and Samuel L. Mitchill come across in the trial.

## Dr. Samuel Latham Mitchill

Samuel Latham Mitchill was born in North Hempstead, Long Island in 1764. Born into a Quaker family, Samuel's father worked as a planter. The third of six sons, Samuel took on a great deal of responsibility following his father's passing in 1769. Yet Samuel Latham Mitchill's story does not begin until he came under the tutelage of his maternal uncle Samuel Latham. A physician, Latham ensured Samuel Latham Mitchill received both a classical education and a beginner's medical education under himself and the established Dr. Samuel Bard, whom is credited as starting the first medical college and later the College of Physicians and Surgeons, in New York City. Having completed his studies Mitchill's tenure in the city was cut short by the British occupation of the city. Instead he took up and continued his studies at the University of Edinburgh in 1783, at the expense of his uncle. The time between his graduation in 1786 and beginning his teaching career in 1792 at Columbia College was spent learning legal code under Robert Yates, who at the time served as Chief Justice of the state of New York.[1] His tenure at Columbia College between 1792 and 1801 was spent expanding and securing scientific reputation of New York. Most notably by introducing Lavoisier chemistry to the American Academy, which is in part responsible for introducing the metric system to American science and reforms in element naming. While teaching lectures and holding positions in the botany, natural history, zoology, and mineralogy, Mitchill also devoted his time to nature; collecting and classifying aquatic organisms in the water surrounding the city. Most notably and important to the theme of this paper is his editing and cofounding of the Medical Repository, the first American medical journal. In addition, writing for a number of other publications, the American Medical and Philosophical Register, London Philosophical magazine, New York Medical and Physical Journal, American Mineralogical Journal to name a few.[2] He would end his Columbia professorships only to take a position in Congress in the House of Representatives, 2nd district. He would continue his political career serving in the House of Representatives for another year before being appointed to a Senate seat in 1804 which he sat until 1809.[3]

While in the Senate, Dr. Mitchill returned to Columbia, teaching at the then unaffiliated College of Physicians and Surgeons. However, the merger with Columbia Medical School and College would occur during his tenure which lasted until 1826. In addition to his professional career he was a member of several societal clubs. Being such a man comfortable in so many avenues with a resume that to quote his friend Felix Pascalis, another prominent doctor and the one to deliver his eulogy, said, "I may not and cannot enumerate, in full series, the deeds of the young patriot and sage. It would be an endless task to follow him closely through every path of learning and economics he pursued, and to which he came prepared with a capacious and active memory, and an industry and punctuality by which each day was marked with a new acquisition." [4] I will not, cannot, and have not attempted to do a comprehensive listing of his endeavors instead provided a short but inclusive listing demonstrating his involvement in a number of things in society leading up to his testimony in the Whistelo trial. Pertinent because Mitchill's strength as an expert witness is derived from his breadth of knowledge, connection to Columbia, and his ability to appeal to both the elites and common man.

My paper examines the witness testimony in the trial, with a focus on that of Dr. Mitchill, to mark the ways in which a precedent on what constitutes race and blackness was created. Throughout the testimony I have identified four themes that remain constant throughout the trial and the landscape of New York City. They are:

1. The Second Great Awakening
2. Jeffersonian era politics
3. The growth and validation of medical science and the medical profession
4. Gradual Emancipation and Manumission

Prior to and during the trial the Second Great Awakening had taken hold. The time saw an increase in Baptists and Methodists and a resurgence of slaves demanding freedom which was commonplace when New York existed under Dutch control and again in the mid-18th century. [5] Mitchill born to a large Quaker himself converted to Presbyterian faith. It is unclear why he did so yet it does show that Mitchill or the elite were not

untouched or unmoved by the rivals taking place at the time and the socio-political implications of such.

Politically both New York and the country had been encompassed by democratic republicans and Jeffersonian democracy. As such a strong political push against elitism, corruption, and slavery took hold in the city.[6] Mitchill himself was a friend of Jefferson's frequently exchanging letters on one occasion discussing how best to treat yellow fever outbreaks among slaves at Jefferson's estate, Monticello. Both Jefferson and Mitchill struggled with the idea of slavery and racial hierarchy. Like many others involved in the case Mitchill opposed the institution of slavery and spent his political career advocating the New York Manumission Society despite that he himself owned slaves. And still much like Jefferson despite his efforts to bring about the end of slavery, Mitchill played an active role in cementing the ideology surrounding the inferiority of blacks in medicine by giving it validation and thus traction.

The push for science that supported or established black inferiority was important to the country as the number of black freedman increased in New York, especially where gradual emancipation laws and manumission laws led to large numbers of free working class blacks in the city. Without slavery to define the relationship between whites and blacks and blacks and the city, there needed to be an insitution or system in place to continue defining that relationship and hierarchy. While Mitchill pushed for the Manumission of slaves he, like the majority of society at the time, did not believe in their equality or citizenship.

Along the same time the medical profession was in flux. The 1788 Doctor's Riots in New York were largely in part due to the frustration citizens had with the practices of physicians. Medical colleges at the time were looking to standardize medical practice. Even Mitchill himself, along with co-editors Elihu Hubbard Smith and Edward Miller, began the Medical Repository as a way to control "correct" medical information and "its effects on the public mind." In his diary Smith writes, "The Repository would separate sheep from goats among physicians; as the observers put themselves on display, subjected themselves to public scrutiny, the spurious would be 'exposed,' and 'men of real talents' would assume 'a more elevated rank in the eyes of their fellow citizens.'"[7]

They worked to portray medical information in a way that was accessible to the masses. The repository itself mirrored political gazettes at the time in reflecting partisan opponents as dangerous, not out of malice but to ensure politicians and the community responded in a certain manner which is particularly poignant in the context of the Whistelo trial. Nonetheless the Medical Repository, of which Mitchill was an editor for almost 27 years, looked to create a national audience of medical science. It was successful even in its initial year, reaching 14 states. [8]

The state with the highest representation relative to population are New York , Connecticut, and Delaware; the home states of the editors.[9] It reached mostly physicians but also merchants, lawyers, judges, ministers, and booksellers largely due to the influence of Dr. Mitchill and having been at the time published out of Columbia College.

The Commissioner of the Almshouse v. Alexander Whistelo, a Black Man

The story begins in 1807 when Lucy Williams, a free mulatto woman gave birth to a daughter. Her daughter presented lighter with more Anglican features than Lucy herself and the purported black father, Alexander Whistelo. During the birth and the months that followed, Alexander Whistelo provided for the child, paying boarding fees and what appeared to be medical fees for Lucy. However, in the year that followed the birth of the child, Whistelo began to question the paternity of the baby girl due to her complexion and features up until the point in which he relinquished responsibility of the child. Without assistance from Whistelo or any other options Lucy placed her daughter in the care of a New York City Almshouse. Yet after carrying for the child for a number of months, the Almshouse sought the parents of the child for support of the child under an 1801 New York Law that required the mother and reputed father of a child bore outside of lawful matrimony pay money towards the support of the bastard child.[10] As Lucy Williams was in no position to provide for the child and had identified Alexander Whistelo as the father of the baby girl, he was summoned to the justice of the peace to plead his case.

What should have been a routine procedure instead became a scientific battle over the complexities and variabilities of race in New York City. Alexander Whistelo amassed one of the city's best legal teams, with the assistance of former employer, David Hosack, a prominent physician and Columbia College professor. Originally heard before two justices of the peace, the defense and the prosecution agreed after no verdict could be reached to move the case to the Mayor's Court under Mayor DeWitt Clinton. What followed was a scientific foray of what constituted and satisfied the standard for blackness. Lucy Williams was the first to testify and recounted her story of events that led to the birth of her baby girl. Lucy's retelling of events found Lucy and Alexander's sex to be a coercive one being that she, "scuffled with him a long time, but at last he worried [her] out." [11] Although that was not of concern at the time nor does it speak to the topic of this paper, it does provide insight into the tactics of the defense. Shortly after testifying to having sexual relations with Alexander, Lucy admits to also having relations with a white man directly after, rumored to be David Hosack which perhaps explains his immediate interest in such a mundane proceeding. According to Lucy Williams testified that this man, " had turned the black man out with a pistol, and taken his place---that they had a connexion; but she said she was sure they has made no young one , for they fit all the while." [12] Lucy may have been attempting to prove that the baby could have only been parented by Alexander Whistelo under a dated belief that women could not conceive without consent or pleasure yet instead she provided the defense with reasonable doubt that Alexander Williams could have not have been the father being she had se with two men in succession on the date of conception. The fact that the other party present was white also gave entryway to the defense as to the race of the child. The witnesses that would testify over the length of the trial were all prominent physicians in New York at the time and many of them Columbia affiliated. For the defense, Wright Post, chair of anatomy at Columbia College, Joshua Secor, who is believed to be the physician responsible for some of Lucy William pre and post-natal care, was a charter member of the College of Physicians and Surgeons, Dr. John Osbourne, a professor of medicine at Columbia College, George Anthon, a professor and trustee at Columbia College, Sir James Jay, both a graduate of Columbia College

and a founder of the College of Physicians and Surgeons, and the aforementioned David Hosack. For the prosecution there only was Dr. Samuel Latham Mitchill.[13]

Much of the defense witness testimony that took place in the first days of the trial relied not on science but observations of the child's complexion and features. Not one of the physicians provided testimony that relied on scientific principles or finding until Dr. Mitchill's testimony for the prosecution and his subsequent cross examination by the defense. Dr. Mitchill's observations, unlike that of his peers and former colleagues, were rooted in scientific precedent. He applied what was known to the scientific community, his own observations, and then the facts of the case to come to conclusions, steering clear of questions he did not feel he nor science at the time could answer. Thus his testimony is the most poignant of the trial because it challenges the popularly held beliefs surrounding race and therefore provides the most insight into the social upheavals the aforementioned themes of religion, emancipation and manumission, as well as the legitimization of the medical profession had on New York City and its citizens. His viewpoints and testimony came from a place that represented early 19th century New York. He believed in the religious equality of black persons and politically fought for their freedom from bondage while being a slave owner himself (a hallmark of the Jeffersonian democracy which had gained foothold in the country).[14] He believed instead that the differences in races was that of circumstance or accident rather than biological or environmental, which dominated many of the theories on race at the time. Much of Mitchill's testimony relayed instances of black persons changing colors and resembling white persons as a result of accident, albinage, or at times shock. His testimony begins as the defense calls into question the race of the child. From the opening lines of his testimony Mitchill claims the father of the child to be black and spends the rest of his testimony defending that assertion.

In an effort to dispel the idea that a black man cannot produce a child so fair, the prosecution asks, "Do not accidental causes sometimes operate change on the fetus at or after the time?"[15] To which Mitchill responds yes and provides example. He finds that there are 3 causes that operate change on the fetus which he enumerates in both type and origin as can be seen in the image below.



Mitchill finds the first is the most common and has the power to become permanent through generations of procreation. Several things were to come from this piece of testimony. First, Dr. Mitchill backed his testimony with the work of others of which he encouraged the court to consult, validating his testimony and making it that much harder to dismiss. Second, he provides an alternate understanding of race that is wholly incompatible with the current racial hierarchy of the city that was no longer solely divided by slave and slaver holder. Mitchill's primary examination dismisses color as a means of differentiation since color, as he testified, is the most susceptible to change. For the trial, it meant that Alexander Whistelo could be the father of a white passing child. For New York at large, it meant whiteness and blackness were impermanent and unfixed. At the time of the trial New York had already passed the first round of gradual emancipation laws freeing thousands of slaves. As they, along with the slaves freed via manumission, moved into the city and workforce there had to exist a defining and subjugating barrier between them and working class whites which has been color. Yet Mitchill's testimony proved the unimportance of color in determining whiteness. Thirdly if color was an unimportant factor in differentiating men all men could have derived from Adam and if that was the case then it begged the question why were some treated differently than others. More problematic for the physicians and politicians then was the idea that if color was unfixed Adam could have been a black man from which all white men also descended from. Lastly this portion of Mitchill's testimony would dictate the rest of the trial as the both the defense and the judge would not only go about proving that Alexander Whistelo was not the father but also refuting and discrediting Mitchill's revolutionary ideas about race to maintaining the parameter surrounding black inferiority and bondage.

The defense's cross-examination looked to relate the fairness of the child to having being fathered by a white man. Therefore, exceptions to the rules that guided color which Mitchill also laid forth in his testimony as were of no use and detrimental to the defense. Therefore, through a series of clever maneuvers the defense looked to discredit the "accidental causes" Dr. Mitchill presented by painting them as anomalies and uncommon if they were to occur.[16] They begin with phenomena of albinage. Dr. Mitchill provides 3 cases of observed albinage that he knows of to potentially find

relation between albinage and fair skin of the child. All 3 of the cases Dr. Mitchill sights in the trial come directly from the Medical Repository. In fact, in the transcription of the trial, the court reporter simply pulled the language straight from the Medical Repository rather than transcribe what Dr. Mitchill dictated to the court. As you can see in the images below the language is exactly the same.

Their appearance in the Repository speaks volumes to their importance of such incidents and prevalence in society. As previously mentioned from an excerpt of the diary of Dr. Mitchill's coeditor Elihu H. Smith, the repository looked to control the dissemination of medical thought, it quelled opponents and disposed of the myths that might ignite the community. This can only mean that the case of negroes changing colors and why was of great importance to society and the medical/scientific community at the time. As medical science strengthened its connections to politics through individuals, like Mitchill who simultaneously served positions in Congress and taught as a practicing physician at the College of Physicians and Surgeons, it promoted an agenda to further the information regarding negro complexion as well. As Craig Wilder states in his book *Ebony and Ivy: Race, Slavery, and the Troubled History of America's Universities*, "the politics of slavery hastened the ascent of the academy in public affairs." [17] This can be seen in Dr. Mitchill's entry and observation on Maurice which he poses as a question, "How additionally singular would it be, if instance of spontaneous disappearance." [18] The political and societal implications of his work were on his mind before he even was involved in the trial.

In the above entry he was sure to include that the white colorations/spots on the negro Maurice were not surpassed by the European complexion. His word choice cannot be taken for granted here as it is known from further diary entries of Smith's that Mitchill put an emphasis on crafting his medical observation and literature in a literary jargon to mimic popular literary journals of the time and attract those outside the medical profession.

His testimony and entries in the medical repository exposed a flaw in the understanding of race and color. One in which opposing counsel addressed the dangers of in their closing arguments. When defense attorney Morton said, "better even that the

community should suffer an inconvenience than an example of injustice be set and a s door option to oppression.”[19] He was not solely talking about the plight of Alexander Whistelo. He was also referring to giving weight to Mitchill’s testimony to allowing the equality of blacks to be the unwritten outcome of the case. When defense attorney Sampson referred to Lucy Williams as an, “Adam-coloured damsel,” he involved religion and implications Mitchill’s testimony would have on monogenesis and creation.[20] When he moved on to say, “she [bore] a child, not of her primitive and proper color,” insinuating black persons could bear non-black children.[21] Sampson claims that his only concern was that the practice not be established of having, “white men...father[ing] their children upon negro fathers,” yet the entirety of his summation reads more like a warning of what is to come, the chaos that might ensure if Mitchill’s testimony were true.[22] Mayor Clinton echoed much of the same when he said it would, “be an anomaly in the science of man, and a departure from the usual operations of nature.”[23]It was imperative at the start of the trial that the outcome be in favor of the maintaining of racial hierarchy and order of the city.

The Whistelo trial was far more than a trial to determine the paternity of Lucy William’s child. It was a moment in which, “scientific authority was enlisted on counter a powerful inherited tangle of folk beliefs, ancient medical theories, and antidotal observations of racial difference precisely because this amalgamation conflicted with the social requirements of racial slavery, namely the fundamental project of defining white from black.”[24] It put on display the ways in which universities and the academy accelerated and politicized science and the insitiution of race. The Whistelo trial was just as much about Columbia as it was about race. With 6 members of the Columbia faculty testifying for the defense, the issue of how race was to be understood was coming directly from the academy and Dr. Mitchill although on the side of the defense played an integral role in ensuring those views were widespread.

## Endnotes

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- [2] Waterman, Bryan. "Arthur Mervyn's Medical Repository and the Early Republic's Knowledge Industries." *American Literary History* 15.2 (2003): 213-247.
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- [5] Harris, Leslie M. *In the Shadow of Slavery: African Americans in New York City, 1626-1863*. University of Chicago Press, 2004.
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- [11] Ibid

[12] Ibid

[13] Messer-Kruse, Timothy. "Humor and the Policing of the Boundaries of Racial Science: The " Remarkable" Whistelo Trial of 1808." NEW YORK HISTORY 96.1 (2015): 9-37.

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[19] The Commissioners of the Alms-House v. Alexander Whistelo, A Black Man Being a Remarkable Case of Bastardy, Tried and Adjudged by the Mayor, Recorder, and Several Alderman, of the City of New York (New York: David Longworth,1808): 35

[20] Ibid 38

[21] Ibid 38

[22] Ibid 39

[23] The Commissioners of the Alms-House v. Alexander Whistelo, A Black Man Being a Remarkable Case of Bastardy, Tried and Adjudged by the Mayor, Recorder, and Several Alderman, of the City of New York (New York: David Longworth,1808): 55

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