The Life and Constitutional Legacy of Gouverneur Morris

Thursday, December 27, 2024

Visit our media library at constitutioncenter.org/medialibrary to see a list of resources mentioned throughout this program, listen to the episode, and more.

[00:00:03.2] Jeffrey Rosen: Hello, friends. I'm Jeffrey Rosen. President and CEO of the National Constitution Center. And welcome to We the People. A weekly show of constitutional debate. The National Constitution Center is a nonpartisan, nonprofit chartered by Congress to increase awareness and understanding of the Constitution among the American people. In this episode we explore the life and legacy of Gouverneur Morris, the Founding Father who drafted the preamble to the Constitution. We discuss his vivid personal story, his pivotal role on the Committee of Style at the Constitutional Convention, his commitment to abolitionism and his reputation as the funniest founder. Joining me are three leading scholars of Gouverneur Morris. Melanie Miller is the editor of the Gouverneur Morris Papers Diaries Project. Dennis Rasmussen is Professor of Political Science and the Hagerty Family Fellow at Syracuse University's Maxwell School of Citizenship and Public Affairs. He wrote, The Constitution's Penman: Gouverneur Morris and the Creation of America's Basic Charter. William M. Treanor, is the Dean of Georgetown University Law Center and author of the forthcoming book, *Fathers of the Constitution: Triumph, Tragedy, and the Creation of the American Republic*. Enjoy the show.

[00:01:16.5] Jeffrey Rosen: Thank you so much for joining, Melanie, Dennis, and Bill. Dennis, why don't we start with you because your book is just out. *The Constitution's Penman: Gouverneur Morris and the Creation of America's Basic Charter*. Tell us who was Gouverneur Morris and why should we care about him?

[00:02:55.5] Dennis Rasmussen: Well, I think Morris is quite possibly the most interesting of the American founders, just period. And he is, as you suggested, he is almost certainly the most important of the founders, who very few people have even heard of. One scholar declared recently that he may have been the most colorful individual in all of North America at the time of the founding. And that, frankly, sounds about right to me. He was a peg-legged ladies' man, with a really wicked sardonic sense of humor. He was, without question one of the funniest of the founders, granted, that's not a super high bar. But the founders were on the whole and usually serious. But he and Franklin were clearly the funniest of the founders. But I think more

importantly for us is his importance. I think he was arguably the single most important or single dominant figure at the Philadelphia Convention that produced the Constitution.

[00:03:46.8] Dennis Rasmussen: Among other things, he spoke more often at the convention than anyone else. He proposed more motions than anyone else. He had more of his motions accepted than anyone else. When you read through Madison's notes, Morris's speeches, his interventions are very blunt, very provocative. They all but jump off the page at you when you read through the notes. We can talk more about the specifics. He was one of the two chief architects of the presidency as we know it, along with James Wilson, who was far and away the staunchest critic of slavery at the convention. And I think most importantly of all, I may have buried the lede on this, he was the one who wrote the Constitution itself. So at the end of the summer, the delegates formed what was called the Committee of Style to write the final draft of the Constitution.

[00:04:32.7] Dennis Rasmussen: And all the evidence suggests that the committee basically just turned it over to Morris to write this, which is unbelievable that so few people know this. Everybody knows. Most American schoolchildren can tell you that Thomas Jefferson wrote The Declaration of Independence. Very few people know that Morris wrote the Constitution, no matter how well read they might be. I would bet if you pulled PhDs in political science, it's probably still a pretty small fraction that could tell you who it was that wrote the Constitution. Most people, many people I think assume that Madison must have written it, the Father of the Constitution, or that it was just a collective effort. And of course, in some senses, it was a collective effort. The provisions of the Constitution had been laboriously debated and voted on over the course of the summer.

[00:05:18.9] Dennis Rasmussen: So it's not like he could just choose the structure of the powers of the government on his own say so. So there had been a draft constitution midway through the summer, produced by the Committee of Detail that had 23 rather sprawling articles. He condensed this down to a neat seven. He changed or chose a great deal of the wording on his own initiative, oftentimes in consequential ways. And so, when we pour over the fine details of the Constitution, we're looking for clues regarding its meaning. We have Morris to thank or to blame for many of those details. And he wrote the famous Preamble, the Constitution's ringing statement of purpose, basically from scratch. So all the stuff about forming a more perfect union and establishing justice and ensuring domestic tranquility and so on, that's all Morris. And so, he is more than anyone else, certainly the author of the Constitution. So that would be my case for his importance.

[00:06:18.4] Jeffrey Rosen: Beautiful architect of the presidency, greatest opponent of slavery, author of the Constitution, including the Preamble and funniest founder, that is quite a legacy. Bill Treanor, who was Gouverneur Morris, and why should we care about him?

[00:06:31.6] William Treanor: Well, he is more than anybody else, the father of the Constitution. He's the most influential person at the convention for reasons that Dennis has said, and that matters for constitutional law. We think now of Madison as the father of the Constitution. He is always referred to that way. But when Madison leaves the convention, he's distraught because he has lost again and again and again. Morris is the one who has won on the issues that matter most to him. And if you think about his philosophy, it's really much more like Hamilton's. He's really Hamilton before Hamilton. And so, we often as constitutional scholars, we think of Madison as having created a small state, weak executive limited power of the national government. That it's the Madisonian vision that's the original understanding. And then Hamilton tries to hijack that during the Washington administration.

[00:07:26.4] William Treanor: Madison is the strict constructionist, and Hamilton is the loose constructionist playing fast and loose. But in fact, it's Morris who wins. Morris, who is the champion of the big executive, who's the champion of the strong national government, who's the fierce opponent of slavery. He wins again and again on convention votes. And then, as Dennis had said, he writes the document, the Committee of Style is at the very end of the Constitution and in provision after provision, he changes it. So he makes it his vision. What we think of now is a Hamiltonian vision. And just two other points on that. One is that Hamilton stays with him during the convention. Hamilton really literally looks up to Morris, Morris is his role model. When Hamilton is shot, Morris is the one who is summoned to his deathbed. And Ron Chernow has suggested that Hamilton even apes Gouverneur Morris's style in terms of his speaking style.

[00:08:28.8] William Treanor: So Hamilton is vivid, but he's just a copy of Morris. And then, the other thing that I just think, when we're thinking about how dominant he is, he is a giant for his day. So we think now of Washington, there's statues of Washington all across the country, and we think of him as a giant with a heroic build. It's actually Gouverneur Morris's body on all of those statues, because it's made by the great Houdon, the great sculptor when Morris was the ambassador to France. And he uses Morris's body, which is good for Washington's image because Washington is actually pear-shaped. Whereas Hamilton's small, Morris is the near giant with a peg leg and a heroic build. So, and that just kind of captures it. Morris is everywhere, and we never see him. So that's why he's a fascinating figure.

[00:09:23.2] Jeffrey Rosen: Wonderful. Champion of a strong executive, champion of strong national government. Hamilton's mentor at Hamilton's deathbed and the giant, the model for the Washington statute. Superb. Well, it is such an honor to ask you, Melanie, who was Gouverneur Morris, and why should we care about him?

[00:09:43.7] Melanie Randolph Mille: Well, it's hard to be brief because there is so much to tell about him. He had such an extraordinary life, and I've been lucky to spend most of the last

three decades writing and researching him. And as mentioned here his character, well, it's not just that he's been ignored, his character has been vilified for the last 200 years, and that has deprived us all of the real pleasure of getting to know Morris. I have come to have a much deeper appreciation of his principles and the services he did for America before and after it became the United States. And one of the primary points I'd like to make, somehow to your listeners, is how many things he said so eloquently continue to reverberate, particularly today about government constitutions and human nature. He really is worth reading and thinking about.

[00:10:35.8] Melanie Randolph Mille: And I just wanna mention there's a comment in a biography that William Howard Adams wrote, a really nice one. He said, "Are we capable of cutting through the Jeffersonian fog to see the founding generation in far richer detail and see federalism as something more serious than a fleeting aberration?" And the question is whether we are mature enough as a nation to comprehend Morris's greatness. So, I can tell you about his life if you would like me to. He was born in 1752 at Morrisania, which was a large estate running from the Harlem River to the East River in the Bronx. His father was a vice admiralty judge. His grandfather was the first Chief Justice in New York. And he was famous. His grandfather was a very strong character and was famous for winning a case, seen as striking a blow for freedom of the press against the British governor of New York.

[00:11:31.4] Melanie Randolph Mille: And even though Morris grew up in an affluent home, he was the youngest son by a second wife, so he didn't inherit a lot. His dad died when he was 10, but his father had made provisions for him to get an excellent education. And so, he learned French when he was very young. He went to the Philadelphia Academy which was a prep school when he was nine. And at 12 we went to King's College, which was three years younger than most people which is now Columbia. And while he was there, he suffered a bad burn to his right forearm. It took about a year to recover from that. After school, he clerked in a law firm and he was admitted to the bar when he was 19. And as you all have been discussing, he wrote beautifully. He was known as a great speaker.

[00:12:16.6] Melanie Randolph Mille: He loved to laugh. He liked women, he loved sex. And as his diaries show in France, he respected their political opinions. This is one of the things I really like about Morris. He really did respect women. He was exceptionally talented in grasp of economics and finance. He demonstrated that when he was only 17, he wrote and published a paper criticizing a New York Assembly financial plan. He was in terms of his character, I think he was too trusting on a personal level. That's something we found. He had a great empathy for human suffering as we'll be probably talking about his speech against slavery in the convention, but it showed in so many other ways. And he was never interested in claiming credit for his service, which is another reason. Here we are saying he's a forgotten founder, because he didn't, he specifically said so at various points. And I'd just like to mention a quote from a woman who knew him in France. He sheltered her during the terror, and she wrote this wonderful portrait of

him. And she said in there, "Were I called to distinguish him by a single trait, I would say he is good. I saw the exercise of this virtue in every action of his life".

[00:13:27.8] Jeffrey Rosen: Wonderful, great introduction. We'll certainly return to all of the other highlights. But so helpful of you to highlight that statement that he was good, that he respected as well as loved women. And that quotation about are we capable of cutting through the Jeffersonian fog and really seeing the towering achievement of federalism and nationalism embodied by Morris as much as anyone, including Hamilton, is really, really powerful. Well, Dennis Rasmussen, why don't we examine his central role at the Constitutional Convention? You introduce it in your chapter, a most splendid part, and you talk about his influence on federalism, the Senate, the House of Representatives, the electoral college, the presidency, and the judiciary, and slavery, and the Preamble. So your book really shows how important his influence is, but why don't you cover as many of the highlights of those big themes at the convention as you can?

[00:14:24.2] Dennis Rasmussen: Okay. Sure. That's a lot, but let me say to follow up on what Bill was saying about his relationship to Hamilton. One other thing I think bears noting is that after the convention's close, Hamilton asked him to contribute to the Federalist, or what we now call the Federalist paper. So it was initially supposed to be the trio of Hamilton, John Jay, and Morris. So these three, they're all kind of up and coming New Yorkers, they're all good friends. And it was supposed to be the three of them who wrote this very famous series of essays in favor of the Constitution. It's only after Morris declined to participate that Hamilton turned to Madison. So Bill says, I think quite nicely in his article on Morris, that this makes Madison the most consequential backup choice in the history of political theory, that it was only after Morris turned him down.

[00:15:11.3] Dennis Rasmussen: And it is, I mean, it's very fascinating to think about how the Federalist might have been different if Morris had written for it instead of Madison. For sure Morris would've been far more famous than he is today. But to back up, back to your question about the convention. So yeah, so Morris is one of the leading voices, nationalist voices at the convention. Nationalists not in the sense of America first in the international realm, but in terms of wanting to augment the power of the national government, the federal government at the expense of the states. In terms of Congress, actually, Congress is one area where he doesn't get his way as much as the other branches. He really wanted the Senate to be a sort of quasi-aristocratic body. He thought the Senate should be made exclusively of wealthy individuals, to be chosen by the President to serve for life without pay.

[00:16:08.0] Dennis Rasmussen: Strangely enough, he thought that would serve to check the political power of the rich. So the idea was that if, and I should preface this by saying he wanted, some other delegates wanted the Senate to be a quasi-aristocratic body as well complete with lifetime appointments. But most of the other delegates who wanted this, wanted it because they

trusted wealthy elites more than the common people. Morris wanted this precisely because he didn't trust them. He repeatedly says the rich are generally corrupt and power hungry and all too eager to oppress the poor. But he thought that the rich would be easier to restrain if they're kind of isolated, confined to the Senate where the people and the people's representatives in the house can scrutinize their every move, watch them like a hawk, resist any kind of oppressive measures they try to pass.

[00:17:00.5] Dennis Rasmussen: So, I don't think his vision for the Senate would be congenial to too many people today. But it definitely is interesting. He really had far more impact though on the presidency. He is as I already suggested, one of the two chief architects of the presidency as we know it, along with James Wilson. It's really because of the two of them that the president is chosen by an electoral college. I don't think many people realize today just how close the convention came to having Congress choose the president, which would've gone a long way toward making America a parliamentary rather than a presidential system to use contemporary terms. So for all but a couple weeks of the entire summer, the plan on the table had congressional selection of the president. It's really, again, Morris and Wilson pushing it against it.

[00:17:51.5] Dennis Rasmussen: Morris says, "Well, if Congress chooses a president, then the outcome is always going to be a matter of partisan factional infighting, and the president's gonna be subservient to Congress". This is gonna undermine checks and balances. He would've preferred the direct popular election of the president. But almost no one else at the convention wanted that besides him and Wilson. They found this idea utterly preposterous that the people could possibly choose the president. And so, the two of them came as a kind of makeshift second best, came up with the electoral college, which solved some problems with regard to the small states, and especially the slave states that maybe we don't need to get into. But again, Morris is one of the chief architects of the electoral college, but he sees it as a second best option. He would've preferred a direct vote by the people themselves. Yeah, I'll stop there. I could talk about the judiciary and I definitely wanna return to slavery, but I'll leave it at talking about Congress and presidency for now.

[00:18:46.4] Jeffrey Rosen: That sounds just great. Bill Treanor, you call Morris a Dishonest Scrivener for the many changes he made to the constitution when he was on the Committee of Style. You examine key clauses that Morris changed, including the general welfare clause and others. Tell us about the significance of those changes and why it's also significant for originalist interpretation of the constitution.

[00:19:09.7] William Treanor: So he, first of all, is an extraordinarily skilled lawyer and very good with text. So as Dennis has said, Hamilton wants Morris to be the coauthor of the Federalist papers, not Madison. He has a sensitivity to language both in terms of rhetoric and in terms of legal meaning that other than James Wilson, nobody has the ability to parse text and nobody at

all at the convention has the ability to construct moving language. And Madison is not a very good textualist. So what we have now is originalism focused on the public meaning of the text. First of all, Morris is the author of most of the public meaning of that text and he knows what he's doing. So if we're trying to cover original public meaning, we should look at what Morris wants to do. So at the very end of the convention, they don't really have a constitution. They have a draft that has been about, it's about a month old that the committee has detailed. It's very long. They've been fighting over it. They send it to a committee, which Morris is a member of, to put it, to wrap it all up and to create a final draft.

[00:20:26.8] William Treanor: And so, over about three days he takes a month of debates. He dramatically shortens the constitution. He makes it our constitution that we know today and he pushes in a very subtle way, all the goals that he is, that are meaningful to him. So, we start with the Preamble. What happens when the Committee of Detail is, "We the people of New Hampshire, Massachusetts", Morris changes that. It comes out, "We the people of the United States", it reflects his nationalism. And then, it goes on every end of the Preamble to form a more perfect union and promote justice, domestic tranquility, and provide for the common defense. Morris adds those. Those are the product of the Committee of Style. And they are not debated after the committee finishes its work and the convention is just rushing through to a close. And critically, people now treat the Preamble as fluff, as really just hortatory.

[00:21:31.6] William Treanor: But Morris knew and the Federalists in the Washington and Adams administration know that this is text that matters. So the big government actions, like the Bank of the United States, people justify them by appealing to the Preamble. And we've lost that. So that's part of recovering Morris, is recovering the original meaning. I think he makes subtle changes to create a broad presidency. One other thing that I just wanna add that I think is important because it's focused on a lot is, right, that when the constitution is finalized, it has nothing that indicates that slavery is moral. And that's because of Morris, who's the big opponent of slavery. He calls it an abomination, a scandal against heaven. The fugitive slave clause, as it goes into the Committee of Style has the word justly, that owners are the people who own other people can justly, justly seize them. And Morris takes the word just that.

[00:22:42.7] William Treanor: So abolitionists in the years before the civil war say there is nothing in the constitution that indicates that slavery is moral. And that's because of governor Morris. So he makes a series of changes that are small or large, that are designed to increase the power of the executive, increase the power of the national government and fight slavery. And that's the text that we have today.

[00:23:07.8] Jeffrey Rosen: That is extraordinary. Many give Madison credit for the fact that the constitution refuses to admit the idea that there could be property in men, but you've just taught us that it's Morris for whom we owe the fact that there's no word justifying slavery in the

document and those other central contributions to the Preamble and to the Nationalism of the Constitution, which as you say, have such relevance for textualist interpretation today. Well, as we return to his life, Melanie, gives us a sense of why Morris was the greatest opponent of slavery in the constitution. What was his abolitionist background and what are other aspects of his biography that could explain his opposition to slavery?

[00:23:50.3] Melanie Randolph Mille: Well, his father actually owned, I think something like 60 slaves, and I remember some slaves left to his sisters and his mother, and I think one was left to him. But Morris himself did not, by the time his mother died, that slave was, I don't know where it was, but it wasn't, he didn't take it into his household, him into his household. He, well, you can see a lot of what he thought about it when you look at his speech in the convention, because what's so remarkable about it is it's partly the humanity of him talking about how awful this is. How can the inhabitants of South Carolina and Georgia go to the coast of Africa and tear these people from their nearest relations and condemn them to the most cruel bondages? So, he's looking at it from a humanity point of view. And he's also talking about how when he went down there, he saw the shape of the economy there, which was terrible. He saw poor fields. The Southern economy was nothing like the robust Northeastern economy. So he knew it was really bad for any country to have slavery.

[00:25:03.3] Melanie Randolph Mille: And so, it was his practice too, he bought a couple of slaves during his lifetime and he always immediately freed them and hired them as indentured, indentured servants, I guess is the word, freedom for a certain period of time. He also hired a number of free black men to work on his farm in Morrisania. So that's, he was a member of the Manumission Society. I actually don't think he was part of it when it was formed, but that's probably because he wasn't there. But John Jay was one of the founders. And when they were framing the New York state constitution, which Morris was the primary proponent of, got them to agree they needed one. He wanted to have a provision that future assemblies would abolish slavery in New York. That didn't get passed, of course. But you see, it was a long time.

[00:26:00.6] Tanaya Tauber: So powerful to give us those important details. Dennis, you have a chapter, chapter nine, the curse of Heaven slavery. You quote Morris's famous speech, calling slavery a nefarious institution, the curse of heaven be upon it. And you talk about his incredible abolitionist background. Give us a sense of the centrality of Morris's contribution to opposing slavery.

[00:26:22.2] Dennis Rasmussen: Sure. I'm happy to expand. Bill and Melanie, everything they said is right, but it's worth pausing on this because this is in many ways, his finest hour at the convention from today's perspective. No one at the convention spoke more passionately or more eloquently or at greater length about the evils of slavery than Morris did. His long speech of August 8th has been called the first abolitionist speech in American public life, which I think is

probably a bit of an exaggeration, but there's some truth to this. It's all the more remarkable, of course, when you remember the audience, there's probably a couple dozen people sitting there in the room that he's speaking to who are themselves slave holders. So this speech is, well, let me backup. He gives this speech in opposition to the three-fifths clause, to counting three-fifths of the enslaved population toward representation in the House of Representatives, and then hence also, at least eventually the Electoral College. And his argument is that there's no good reason why enslaved people should count at all, according to any ratio. This just augments the power of the South.

[00:27:26.3] Dennis Rasmussen: If enslaved people are human beings, as he believed, then they should be made citizens and allowed to vote. But if they're mere property, as many of the Southern delegates contended, then they shouldn't have been included at all. No other property was included toward representation. So again, the three-fifths clause was just a way of augmenting the political power of the slaveholding North, South, one that would encourage them, of course, to import still more enslaved people, so their political clout would be further increased. So, I just pulled it up here. Let me just read the climax of this speech. Melanie already gave a couple of the lines, but I think this is really worth hearing. So Morris says this, "The admission of slaves into the representation, when fairly explained, comes to this, that the inhabitant of Georgia or South Carolina, who goes to the coast of Africa and in defiance of the most sacred laws of humanity, tears away his fellow creatures from their dearest connections, and dams them to the most cruel bondage, shall have more votes in a government instituted for the protection of the rights of mankind than the citizen of Pennsylvania or New Jersey, who've used with laudable horror so nefarious a practice".

[00:28:32.6] Dennis Rasmussen: And I won't keep going, but he goes on to say that giving the South extra representation on behalf of these people who may have enslaved would require a sacrifice of every principle of right, of every impulse of humanity. So this is, talk about being on the right side of history. He has more, again, moral clarity, passion, eloquence on this than anyone else does. Of course, he fails to make that much headway. The three-fifths clause is passed over his fierce objections. But so, I say in the book that Morris was in many ways, the framers' conscience on this issue, but as all too often happens, that conscience was sometimes ignored. Let me just say one more thing about this, if I can. Not only does Morris' speech here make him look pretty good, of course, from our perspective, I also think it makes some of the other framers look worse, frankly, by comparison.

[00:29:26.1] Dennis Rasmussen: In the sense that historians are always reminding us, "Oh, it's unfair to judge figures of the past on the basis of today's values", right? Which I guess to a certain extent is true. But this speech of Morris' makes it harder for me to accept the idea that the poor founders were mere creatures of their times, they simply didn't know anybody. They couldn't possibly have known anybody with regard to slavery, right? Morris was one of them and

he knew better and he told them so. Again, he's a northerner, but as Melanie rightly points out, he comes from a slave holding family. But he's just clear sighted enough about the evils of slavery to, as Melanie also said, he fought against it way back in the New York state constitutional convention in 1777. He's at that point, only 25 years old. Slavery is legal and practiced in every state at that time. So yeah, both of the constitutional conventions he participates in, but he's really at his courageous far sighted best when it comes to slavery.

[00:30:26.1] Jeffrey Rosen: Superb. Thank you so much for that. So significant that the most anti-slavery founder is not given credit for that today. We had a great Town Hall recently with Jane Calvert, author of a wonderful new biography of John Dickinson, who was also a fervent opponent of slavery at the convention. And he too is largely forgotten today. And Bill Treanor, that raises a question that David Tolson asks in the chat. What are the reasons that Morris has not really received the credit he deserves for his role in crafting the US constitution? And why do we, as you write, pay more attention to Madison than to Morris?

[00:30:58.7] William Treanor: So let's start with Madison. So Madison writes the notes. And I think also one thing that we should keep in mind with Madison's notes is I think Mary Bilder has recently written a book, Madison's Hand, which indicates that he made very significant changes over time. The notes weren't published until after his death. And so, just as an example, Jeff, you talked about his anti-slavery positions at the convention. Mary's book indicates that he added those were not speeches he gave, that his anti-slavery speeches are ones that he adds as he's redrafting his notes. In Madison's notes, he's silent about the three-fifths clause in the other notes of other speakers he speaks in favor of. So Madison kind of consciously portrays himself as anti-slavery. He also, he's focused on making himself central and part of that is minimizing Morris's role. So after Morris's death, Jared Sparks is writing a biography of Morris and he says, "My understanding is Morris was central to the convention. Isn't that right?" And Madison's responses, "Not really". But you know, the community stuff, he was, he did a nice job and he really did a nice style. So he kind of minimizes Morris because Morris has a very different vision of the constitution. So that's partly Madison's role.

[00:32:33.7] William Treanor: Now Morris, he then he's somebody who is very different from really any of the other founders in that they are all focused on their legacy and on being great historical figures. Morris is not, he's interested in building a nation, but he's also interested in making money. He's interested in sex. And so, at the end of the convention, he's done. He doesn't write the Federalist papers. He doesn't participate in the New York constitutional convention. He starts to focus on making money. So he doesn't have that role afterwards. And then he goes to Europe. He does, he works in London, he becomes ambassador to France. So he largely disappears from the national political discourse. His sexual life is for many of the founders, a scandal. He's not a figure for the Pantheon. He's incredibly promiscuous and that scandalizes many of his fellow founders. When he loses his leg, John Jay Wright, who's his friend, writes a

letter and he says, "I wish it had been another limb that he had lost". So they are scandalized by that.

[00:33:48.7] William Treanor: And this is another fascinating story. He's married to a woman who's accused of plausibly two murders. So you know, so again, not a Pantheon story. She's a member of the great Virginia Randolphs. She's accused of infanticide. She's accused of poisoning the brother-in-law who, with whom she had the child and, and yet Morris marries her. So again, not a Pantheon kind of story. And then, I think the final thing, which Dennis I think is really so focused on, he loses faith in the constitution. So, he looks at the Virginia dominance. He looks at slavery's dominance in the constitution and he looks at the war of 1812 and he says, "This is just designed to destroy New England commercial interests". And so, he's supportive of the Hartford convention, which is a turning around, turning away from the constitution. And so, at the end of his life, he deeply despairs about the constitution that he has done so much to create. So, all of those are the reasons why he's not a central figure. He's not somebody that Pantheon, he doesn't hold great office. He scandalizes people. And then, he worries about the constitution that he's done so much to craft.

[00:35:16.6] Jeffrey Rosen: So interesting on all scores. The notion that it was his loss of faith in the constitution at the end of his life and his womanizing and the fact that he wasn't a pasteboard hero that put him on the wrong side of popularity and contributed to his legacy. Melanie, tell us, 'cause you've talked about how he had no interest in popularity or legacy. Give us a sense of those aspects of his life that you think contributed to the fact that he's not better remembered.

[00:35:48.2] Melanie Randolph Mille: Well, I think a lot of it had to do with the attacks that began on him after he went to Europe. And this is what I just found in my research on him when he was in France. There were a number of things that permanently hurt his reputation and unfairly so. One of them was Hamilton. People don't realize that Hamilton stabbed him in the back in a really long lasting way when Morris was sent by Washington to talk to the British about completing the terms of the peace treaty. This was in 1790. He talked to the British. The British really were not interested. Morris did a great job in these discussions 'cause he came home every night and wrote down everything he said, and he sent it off to Washington, and Jefferson, who was Secretary of State by then, thought he did a good job. But Hamilton really, really wanted an alliance, a commercial treaty and an alliance with Britain. And he didn't want to hear this. Remember, he's Treasury Secretary. He's not Secretary of State. He starts having unauthorized meetings with a British agent who's not an authorized agent. And in the course of those meetings, he basically fabricates these British complaints about Morris.

[00:36:56.6] Melanie Randolph Mille: Well, we wouldn't have reached any agreement with him 'because we didn't like him. He was rude. He was indiscreet. That is not what was happening

in those meetings. The British actually liked him. He continued to have correspondence with one of the cabinet ministers for years. But Hamilton couldn't stand that this was all falling to his fingers. So, he repeated this stuff to Washington as though that agent had said it to him, which was not true. Hamilton had said it. The other guy said, "Oh, oh, really? Oh". And when Morris's nomination was being confirmed in the Senate, those same allegations were repeated against him. So, that didn't help him at all. And then there were others. Morris gave LaFayette some pretty darn clear advice about the French Revolution and the way it was going to go. La Fayette did not like that. He wrote to Washington to complain about his appointment at great length. William Short, Jefferson's secretary, really wanted the job as minister to France. And he wrote all these awful letters to Jefferson about what a jerk Morris was. Nobody wanted to talk to him. Not true.

[00:38:03.6] Melanie Randolph Mille: Thomas Paine was another one. There were several people who had these plans for using the American debt to France to make money, and Morris was in the way. So those things got over here and permanently, in my opinion, blackened Morris's character in a way that kind of backwashed over his entire career. So I kind of agree with Bill on all this. There's one scene in his diary where he goes to a place where they're rehabilitating prostitutes in Europe and the amity he feels for these women's suffering, I think that's how he felt about her. And that's why he married her. So I just, and the womanizing stuff, okay. The carriage accident was just that. There were a number of delegates who had seen it and wrote about it the next day. He jumped in the carriage. He never tethered his horses properly. Jumps in, they take off, that's it. His leg is hurt. So I'll quit, but I do feel strongly about these things.

[00:39:10.4] Jeffrey Rosen: That's remarkable. And that's so important that you note that Hamilton stabbed him in the back. Incredible, Hamilton who lashed out against Adams and of course Jefferson and Burr and his allies as well as his friends. It lashes out against his greatest ally and you think that may have contributed to Morris's reputation. Dennis, you give four reasons which may help to explain Morris's lack of recognition today. Tell us about those, your incredible exchange with Lin-Manuel Miranda about why Morris didn't end up in the musical and how you wrote an amazing book about the founder's loss of faith in the American experiment at the end of their lives, fear of a setting sun. How did Morris's loss of faith in the experiment contribute to his obscurity today?

[00:39:57.9] Dennis Rasmussen: Well, the story about Lin-Manuel Miranda is Bill's. I'm gonna let him tell that story.

[00:40:02.8] William Treanor: Okay. Good thing.

[00:40:05.7] Jeffrey Rosen: Absolutely. You're all pestering Lin-Manuel Miranda.

[00:40:09.8] Jeffrey Rosen: Bill, since I mentioned it, do you wanna quickly tell the story?

[00:40:12.6] William Treanor: So, I was at an event with Lin-Manuel Miranda. So now I've name dropped and I went up to him and I said, "You know, Governor Morris was Hamilton's best friend and Hamilton modeled himself after Morris. Why is Morris not in Hamilton?" And Lin-Manuel Miranda said, "Well, he's a second act character and there are no second act characters. Everybody is in it, it starts in the first act". So that's Lin-Manuel Miranda's explanation. I think there are a number of reasons. One is, but one of them is, frankly, if Morris was on the stage, Hamilton would be a secondary figure. So I think that's part of why I think he's not at all appearing.

[00:40:58.1] Jeffrey Rosen: Wow, showbiz is rough, but a great story.

[00:41:01.1] William Treanor: It's like drafting a constitution.

[00:41:02.9] Jeffrey Rosen: Absolutely, but much more important. Dennis, more broadly, why don't we remember Morris today?

[00:41:13.4] Dennis Rasmussen: Right. So, and I agree with Bill, by the way. If you have this peg-legged ladies' man, very outspoken, I think he might have upstaged Hamilton in a way that wouldn't have played well in the musical. But yeah, no, I confess I'm very puzzled by the lack of attention paid to him today. So there are all these suggestions and Bill made a number of them, but I don't know. So we have his elitism or apparent elitism, his criticisms of unfettered democracy. Maybe that's too offensive to our political sensibilities, right? You know, I don't think he's nearly as much of an elitist as sometimes is thought. But, you know, Hamilton is a core member of our founding pantheon. He is second to none in his misgivings about popular self-rules. I don't think that would rule him out. Yes, of course, he has, Morris has his sort of licentious lifestyle. Maybe this undercuts the aura of gravitas that we expect from our venerable founders. And I think Bill's right. Maybe that explains why he was disdained by many in his lifetime.

[00:42:17.6] Dennis Rasmussen: But you might think by now that a predilection for fun and sex and money would be, you know, less objectionable, maybe even a boon to his reputation rather than a hindrance to it. And here too, Franklin. Franklin's eminence hasn't been hurt by his sort of fun-loving, amorous ways, right? Another one I'd add is, you know, for us scholars, he never wrote a big book for people to pore over, right? Nothing like the Federalist or Jefferson's Notes on the State of Virginia or Adam's Defense of the Constitutions or even Franklin's biography. As I hope my book shows, there's plenty there to analyze. Also true, he never held a particularly high office under the Constitution. He was never president or even treasury secretary. He was

minister to France and he was a senator. That's not exactly negligible. But more than that, I think Jefferson would be widely remembered today for merely having written the Declaration of Independence, even if he had never become president. Whereas again, Morris penned the Constitution. Why hasn't that put him on the same level?

[00:43:22.9] Dennis Rasmussen: And then, yeah, there's this disenchantment with the state of American politics toward the end of his life, where he looks out, he sees the world split between forces of good and evil. The forces of good are a commercial system based on free labor in the North. Evil is an agricultural system based on slavery in the South. And he basically thinks evil is winning. And so, he advocates basically Northern secession. He wants New England and New York to secede from the South, let them go their own way. As I've tried to suggest in my book, Fears of a Setting Sun, he's not at all alone on this score. Most of all, but Madison, basically, most of the major founders grew deeply disillusioned with America's constitutional order by the end of their lives. So, I'm not really sure why he's so obscure today. Maybe it's some combination of these factors, maybe it's just the result of the vagaries of fortune. But again, the puzzle is made all the more confounding by the fact that he's such a staunch critic of slavery. And in our day when many people are uncomfortable lauding Jefferson or Madison or Washington too unreservedly because of their complicity in slavery, Morris would seem to be all the more attractive, right?

[00:44:31.7] Dennis Rasmussen: Even just leave aside everything else he did, penning the constitution, delivering the strongest anti-slavery orations at the Philadelphia Convention. You'd think that would be enough to assure his name toward the top of any list of the most illustrious founders.

[00:44:47.3] Jeffrey Rosen: Remarkable. Bill Treanor, your forthcoming book, Fathers of the Constitution, examines both Morris and James Wilson and George Mason and other forgotten founders as central to the founding experience. How does resurrecting the legacy of Morris and the others change our understanding of the constitution? And in particular, are there any aspects of Morris's legacy that you think we should focus on in understanding the constitution today?

[00:45:13.1] William Treanor: Well, I think, again, we have come to think of Madison as the father of the constitution. So, when we look at the original understanding, we understand it in the way we understand Madison to have envisioned a small national government, pro-states. You know, not that critical of slavery. In fact, you know, obviously, Madison, you know, owns hundreds of people eventually. Morris's vision is totally different. It's the vision of, you know, very much more of the America that we became. It's a vision of a strong national government. It's less power to the states. It's a strong executive. It's anti-slavery. He's focused on expanding commerce. So if we have the true original understanding, it's so much Morris's. And Wilson, so Wilson in kind of the normal story is essentially Madison's wingman. So, you know, the classic

story is about Madison and Wilson is Madison's wingman and Morris is a third tier in almost comic relief. But Wilson disagrees with Madison on so many of the most fundamental issues.

[00:46:26.5] William Treanor: He and Morris together create the strong executive. He and Morris together are concerned about states. He and Morris together are big national government people. They're pro-judicial review people, whereas Madison struggles with judicial review. So understanding Morris and Wilson totally transforms the way in which we should read the text. And finally, they are the two drafters. So the Committee of Style we've talked about, Morris transforms the constitution in the Committee of Style. The previous drafting committee was the Committee of Detail. And that's a committee that involves, we have the drafts as it evolves. On one hand, the Northern voice is Wilson. And on the other hand, Randolph is the great Southern voice. And you see the drafts go back and forth. And so much of the critical language of the constitution, again, is Wilson's addition.

[00:47:27.2] William Treanor: So we the people, that's Wilson, we the people of the United States are Morris's. We the people is Wilson's. The necessary and proper clause, that's added by Wilson. And Wilson, again, puts in language for the strong executives. Now, Wilson then, he also has a very colorful and ultimately dismal career, even worse in terms of the Pantheon than Morris's as he goes bankrupt and he's on the Supreme Court and he's fleeing his creditors while hearing cases. And it ultimately dies. He has a stroke over a tavern in Virginia, or in Carolina with his teenage wife by his side. Another person who gets lost because he's not a figure for the Pantheon. But they are the ones who draft the constitution. They are the ones who went to the convention and it is their vision that if we're covering original public meaning, we should rediscover.

[00:48:22.8] Jeffrey Rosen: That is amazing. It's extraordinary that it was Morris's words, necessary and proper, perhaps the most central and contested language in all of constitutional interpretation. And you make such a powerful case that it's the nationalist constitution that was Hamilton's constitution as well, that doesn't get the respect that it deserves because we focus on Madison's constitution and for true textualists, as you say, resurrecting Morris's nationalism is just crucial. Melanie, you've offered a series of really powerful quotations from Morris that we could learn from. There's so many that I could ask you about, but I wanna ask you about his reflections on the French Revolution. He writes one of the most riveting diaries of the French Revolution where he's serving as American ambassador of anyone and views with horror the terror as it unfolds, as well as with shrewd observations. Among his observations are a letter to Thomas Pinckney in 1792. Success, as you will see, continues to crown the French arms, but it is not our trade to judge success.

[00:49:27.8] Jeffrey Rosen: And he also notes to Pinckney, a man attached to his fellow men must see with the same distress the woes they suffer, whether arising from an army or from a

mob and whether those by whom they were inflicted speak French or German. Tell us about his incredible prescient and accurate reflections on the terror of the French Revolution.

[00:49:45.7] Melanie Randolph Mille: Well, there were quite a few things he had to say. He said they made the mistake, the common mistake of thinking that to achieve liberty, you only had to destroy authority. And he talked about how morals without which liberty is but an empty sound. And another one that I liked, he wrote to Madame de La Fayette after her husband had been captured. He said, "I've lived too long to regard men's expressions so that all sentences rounded off with fair words or foul, such as patriotism, liberty, virtue, treason, aristocracy or crime are to me but blank paper". So he saw, his experience there really was incredible. And he wrote to someone at one point saying, "People don't have any idea what it's like here". And I think that's another reason he doesn't get the credit he deserves because it was really terrible. It was terrifying. And he doesn't, Teddy Roosevelt wrote about him. He said, "We've never had a statesman or a diplomat foreign minister who deserves more credit than Gouverneur Morris. His service to our country and to France as our representative during that time stands by itself in diplomatic history".

[00:51:11.1] Melanie Randolph Mille: He said he was a clear headed practical statesman devoted to the cause of constitutional freedom. And Morris helped people over there. He didn't get credit for it, but he did his best to help people. Americans were thrown in jail, non-Americans were thrown in jail. He gave two years of his salary to La Fayette's wife to try and help her with her debt. And I might add that La Fayette never paid him back which was a really bad blow to him. So yes, I think that if you look at his years in Europe, you'll get a better idea of why it was that he, his character did not survive really. I mean, we don't know more about him. There are a lot of reasons that you guys have given too. But I think that these were Jefferson, you know, Jefferson believed the French Revolution was great right through. And he didn't wanna hear what Morris said. He didn't even write to Morris for six months during the terror. He was the Secretary of state. Now you see.

[00:52:18.1] Jeffrey Rosen: Just fascinating. And as you say, Morris was uniquely precious in understanding the centrality of the terror being owed to the defective constitution that the French adopted. And he wanted a strong separation of powers. They insisted on a weak executive and a unicameral executive. And he predicted it would lead to blood. And indeed it did. And you also note, isn't that incredible? Theodore Roosevelt of all the founders chose to write a biography of Gouverneur Morris. And in his amazing biography of Gouverneur Morris, he wrote, Theodore Roosevelt wrote, "Morris championed a strong national government wherein he was right. But he also championed a system of class representation leading toward aristocracy wherein he was wrong. Not Hamilton himself was a firmer believer in the national idea. Extraordinary". Well, it's time for closing thoughts in this superb discussion, just as wide ranging and illuminating as I knew it would be. Dennis Rasmussen, any final points about the significance of Gouverneur

Morris you'd like to highlight? And why should we care about that underappreciated giant, Gouverneur Morris?

[00:53:27.3] Dennis Rasmussen: Yeah, no, I think we've done a great job laying out why he's so interesting and why he's so important. I think even those of us who are big fans of Morris have to admit, not everybody's gonna like everything they see in his constitutional vision, right? In particular, I'd say he privileges property and wealth in a way that is gonna be anathema to many on the political left. Whereas I think his embrace of a very powerful, far-reaching national government might rankle those on the political right. But no matter what perspective you're coming from, you just have to appreciate how prescient he was, right? He saw as clearly as any of the founders, the need for it within America's constitutional order for a powerful executive with a popular mandate, right? Not chosen by Congress, but chosen at least indirectly by the people. He saw the need for an independent judiciary armed with the power of judicial review. He also, we haven't mentioned this yet, but he seems to have foresaw the role that the really central role that political parties would come to play in American public life, which most of the framers seem to have been totally oblivious to.

[00:54:30.6] Dennis Rasmussen: And above all, as we've stressed, he foresaw the unfathomable evils that slavery would visit on American life. So, the prescience of his vision and the impact that he had, I think he's really worth lumping in together with the other big six, right? Washington, Hamilton, Adams, Jefferson, Madison, Franklin, right? I think we need to make it a big seven.

[00:54:52.7] Jeffrey Rosen: Superb, hear, hear. Bill Treanor, Russ Larson asked, when is your book gonna be published? And final thoughts on Gouverneur Morris. There are lots of great questions in the chat, including what's with the name Gouverneur? How did you pronounce it? And Bill, why don't you just tie it all together with your final thoughts on the legacy of Gouverneur Morris.

[00:55:08.7] Jeffrey Rosen: Okay. Sure. So it's, I actually was just emailing my editor last night, September 15th, 2025, is when I will be delivering my manuscript. So I hope everybody in the audience will buy a copy or maybe multiple copies, great for a gift. Big debate about how you pronounce the name. It's his mother's maiden name. And so, Abigail Adams writes a letter and it says it's pronounced Gouverneur. On the other hand, one of his descendants who taught at the Stanford faculty said it was pronounced Gouverneur. So it's a very divisive scholarly debate. And you've taken one side, Jeff, but again, it's a very much of a live controversy. Why does he matter? It is his constitution more than anyone else's. He wins at the convention more than anyone else. He speaks more and he writes the text and he writes it with a high level of intentionality. And so, the big government vision, the anti-state vision, the limit on states, the pro judicial review, the big executive, that's what he is crafting in the constitution. And we can't

recover original public meaning without grasping what he believed in, what he fought for and where he won. It would totally transform modern constitutional law if Morris is elevated to the place that he deserves.

[00:56:34.8] Jeffrey Rosen: Beautiful. Melanie, the last word in this great discussion is to you. What are the final thoughts you'd like to leave with us?

[00:56:40.8] Melanie Randolph Mille: Last quote. This is Morris. "The true object of a great statesman is to give to any particular nation the kind of laws which are suitable to them and the best constitution which they are capable of". I like that.

[00:56:54.7] Jeffrey Rosen: Beautiful. Melanie Mille, Bill Treanor, Dennis Rasmussen, for doing justice to the great constitutional legacy of Gouverneur Morris. Thank you so much. Thanks to all. Look forward to seeing you again soon.

[00:57:06.7] William Treanor: Very good. Great to be part of this conversation. Thank you.

[00:57:48.4] Jeffrey Rosen: Today's episode was produced by Tanaya Tauber, Lana Ulrich, Samson Mostashari and Bill Pollock. It was engineered by Kevin Kilburne and Bill Pollock. Research was provided by Samson Mostashari, Cooper Smith, Gyuha Lee and Yara Daraiseh. Friends, it's New Year's and happy holiday to all. Thank you so much for the wonderful learning that we've done together over 2024. So looking forward to our learning together in 2025. And as you think about the possibility of a year and gift, we'd be so grateful if you would remember the Constitution Center with any amount, $5, $10, or of course more to signal your support of our mission and your membership in this wonderful community of lifelong learning. I'm so grateful to be learning along with you, and there's so much learning ahead.

[00:58:42.2] Jeffrey Rosen: Sign up for the newsletter at constitutioncenter.org/connect. And remember always in your holiday dreams and waking moments that the Constitution Center is a private nonprofit, and we rely on your generosity. On behalf of the National Constitution Center, I'm Jeffrey Rosen.