

Gouverneur Morris and Contemporary America: The Scrivener’s Ageless Views

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INTRODUCTION

In his classic study of the Constitutional Convention, *The Grand Convention*, Clinton Rossiter identified four delegates whom he judged to be indispensable: James Madison, James Wilson, George Washington, and Gouverneur Morris. Morris, Rossiter admitted, would be a surprising choice to those who find his sense of humor too close to frivolity. But, he argued, Morris’s speeches, his committee work, and his final draft made a contribution that was “magnificent.”¹ Anyone who reads Madison’s notes of the convention, or compares the wordiness of the draft of the Committee of Detail with the clarity and concision of the draft Morris produced for the Committee of Style, is bound to agree.

Now, in his subtle and provocative essay, William Treanor awards Morris another distinction—secret lawgiver. By a series of editorial tweaks, Morris made the Constitution a Federalist Party document before there was a Federalist Party. Morris’s draft, like a baseball pitching machine, throws slow ones in the strike zone for Team Federalist—President Washington, Treasury Secretary Alexander Hamilton, and Chief Justice John Marshall—to knock out of the park. This arguably makes Morris a trickster, pulling a fast one on his fellow delegates. Morris’s defense, if he condescended to make one, might be that they all could read. If they thought he had exceeded his remit, they could have objected.

* *National Review* senior editor and author of many works of history and biographies of Founders, including *Gentleman Revolutionary: Gouverneur Morris, the Rake Who Wrote the Constitution*. © 2023, Richard Brookhiser.

1. CLINTON ROSSITER, *THE GRAND CONVENTION* 248 (1966).

As the politics surrounding the Supreme Court heat up, Dean Treanor's argument gains interest. Suppose he is right about how the Constitution's final draftsman bent the document to his will. Has the Supreme Court followed in Morris's creative footsteps? Should it? Dean Treanor's essay prompts even those of us who were not already charmed by the most charming of the founders to ask, Are there other aspects of Morris's life which merit a second look?

Let me suggest four subjects on which Morris speaks to us: race, infrastructure, sex, and Afghanistan.

I. RACE

These are the years of George Floyd and Black Lives Matter, of the 1619 Project and Critical Race Theory. As Americans struggle to find the right lens for viewing our racial past, what do we see in Morris?

Despite several dramatic actions and statements concerning race and slavery, these subjects do not seem to have occupied a large space in Morris's thoughts. This is partly because Morris's actions at different times pulled in different directions. At the 1777 session of New York's Provincial Congress, meeting in Kingston on the run from the British army, Morris joined his friend John Jay in urging that New York state's first post-independence Constitution should contain language expressing a desire to end slavery "so that in future ages, every human being who breathes the air of this State, shall enjoy the privileges of a freeman."² He and Jay lost. Ten years later at the Constitutional Convention, Morris delivered an oration condemning the counting of slaves in the representation of states. It contains one of the most incendiary sentences uttered during the entire convention.

The admission of slaves into the Representation when fairly explained comes to this: that the inhabitant of Georgia and [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] damns them to the most cruel bondages, shall have more votes in a [government] instituted for protection of the rights of mankind, than the Citizen of [Pennsylvania] or [New] Jersey who views with a laudable horror, so nefarious a practice.³

But in 1802, speaking as a US Senator in favor of the Ross Resolutions—a Federalist attempt to embarrass the Jefferson administration by urging it to seize French-held Louisiana—Morris argued that slaves needed to know there was no nearby foreign soil they could escape to. "Men in their unhappy condition must be impelled by fear and discouraged by despair." He repeated the point for emphasis. "The impulsion of fear must be strengthened by the hand of despair."⁴

2. MAX M. MINTZ, *GOUVERNEUR MORRIS AND THE AMERICAN REVOLUTION* 76 (1970).

3. 3 *DEBATES IN THE FEDERAL CONVENTION OF 1787 AS REPORTED BY JAMES MADISON* 392 (James McClellan & M.E. Bradford eds., 1989).

4. 3 *JARED SPARKS, THE LIFE OF GOUVERNEUR MORRIS, WITH SELECTIONS FROM HIS CORRESPONDENCE AND MISCELLANEOUS PAPERS* 414 (1832).

Still later, as the United States and Britain began talks to end the War of 1812, which Morris had bitterly opposed, he commented on a British proposal that Indians in the old Northwest be given an independent homeland: “The British ministers [have discovered] that our copper-colored brothers are human beings Take care, my good friend, that they do not make a similar discovery with respecting our ebony-colored brethren.”⁵

After his youthful efforts in Kingston, Morris seemed to use slavery as a political tool: shaming his rivals of the moment—southerners at the Constitutional Convention, Jeffersonian Republicans in the early republic—by showing them how their human property was acquired, or what they must do to keep it. All his life one of Morris’s favorite rhetorical techniques was to state facts in the most offensive way possible. Slavery was a marker of infamy that he could move about the chessboard of an argument.

Morris’s life as a slave owner, then a former slave owner, makes an interesting case study, within the larger case study of the extinction of slavery in his state. Although Morris attended the Constitutional Convention as a delegate from Pennsylvania, since he had been living and working in the state for nine years, he was born in New York to a family of local grandees and spent most of his life there. New York was a slave colony, then a slave state for all his life (1752–1816). When he was a young man, slavery was firmly entrenched. Artisans in New York City owned slaves to help run their shops. Small farmers in Brooklyn and Westchester used them to work their properties. Wealthy Hudson Valley landowners kept them as field hands and domestic servants. Yet by the time Morris died, slavery in New York was dying too, its warrant having been signed by Governor John Jay in 1799 in a law that set a schedule for gradual emancipation. The last slaves in the state would be freed on July 4, 1827.

Some years ago, Paul Finkelman, the historian of slavery, gave me a call asking if Morris had owned slaves at the time of the Constitutional Convention. I realized I did not know. I knew Morris had been given a slave in 1762 in his father’s will. I also knew that he seemed not to have any in 1808 when he hired Nancy Randolph, of the Virginia Randolphs, to be his housekeeper. Only a born gentlewoman, he believed, could properly manage his servants, whom he described as “wild Irish, some French who have fled Napoleon’s conscription—a few cutthroat English, a portion of Americans who disdain subordination—also a small number of Germans.”⁶ No slaves among them. He might still have had slaves working his fields, but since black house slaves had been a status symbol, wouldn’t they be the last to be kept?

A dive into censuses, tax records, and wills could track the waning of slavery in Morris’s life and in his world. It would help explore a counterfactual, Could the upper south have ended slavery as New York did, before the Civil War? If so, what would that process have looked like? It should make us grateful for a factual: that the most populous state in the Union, and a longtime hub of northern slavery, would become, for all its crosscurrents, a bastion of the Union during its great crisis.

5. 2 GOUVERNEUR MORRIS, *THE DIARY AND LETTERS OF GOUVERNEUR MORRIS*, 568 (Anne Cary Morris ed., 1888).

6. ALAN PELL CRAWFORD, *UNWISE PASSIONS* 201 (2000).

II. INFRASTRUCTURE

“Infrastructure” has been one of the magic words of recent American politics, in both major parties. In the summer of 2020, President Donald Trump, running for re-election, proposed to spend a trillion dollars over ten years on it.⁷ The following spring his successor, President Joe Biden, saw him and raised him, proposing to spend two trillion on a “once-in-a-generation investment” to “rebuild the backbone of America.”⁸

Gouverneur Morris was intimately connected with the most successful publicly funded American infrastructure project of the early nineteenth century: the Erie Canal. The story of its success is both an inspiration to contemporary fans of infrastructure and a cautionary tale.

The man who, more than any other, made the canal happen was the New York politician DeWitt Clinton. As governor, he presided over both the groundbreaking in Rome, New York, on July 4, 1817 and the grand ceremony that celebrated its completion: a journey, by canal boat, beginning in Buffalo on October 26, 1825 and ending in New York Harbor on November 4. But Morris had been an early and energetic promoter and partner.

The Atlantic coast of the United States was well served by ports. But how were Americans who lived in the interior to access them? This was a vital economic question since what the United States had to offer the world was crops of various kinds—tobacco, cotton, wheat, flour, and timber. After the Jefferson administration bought Louisiana from France in 1804, the Mississippi River and its tributaries, especially the Ohio, offered an easy route, via New Orleans, to the sea and to European markets. But could there be shortcuts?

Visionary Virginians hoped that the Potomac or the James Rivers might be made navigable by locks, and their headwaters linked via canals with the Ohio. After the Revolution, canal building was for a time George Washington’s obsession. One visitor to Mount Vernon reported that “[h]earing little else, for two days, from the persuasive tongue of this great man . . . completely [infected me with] the canal mania.”⁹ Washington’s interest contributed to the Constitutional Convention: an interstate conference at Mount Vernon in 1785 on the navigation of the Potomac and the Chesapeake Bay produced the call for the Annapolis Convention of 1786, which produced the call for the great convention in Philadelphia a year later. Washington’s hopes outlived him. In 1812, the Virginia legislature tapped John Marshall to survey a possible canal route along the James River. The chief justice and his party spent six weeks shooting rapids, hauling

7. Jeff Mason & David Shepardson, *Trump team prepares \$1 trillion infrastructure plan to spur economy*, REUTERS (Jun. 15, 2020), <https://www.reuters.com/article/us-usa-trump/trump-team-prepares-1-trillion-infrastructure-plan-to-spur-economy-idUSKBN23N0D7> [<https://perma.cc/79ER-KD6H>].

8. Lauren Gambino, *Biden unveils ‘once-in-a generation’ \$2tn infrastructure investment plan*, GUARDIAN (Apr. 1, 2021), <https://www.theguardian.com/us-news/2021/mar/31/biden-promises-historic-2tn-spending-in-infrastructure-but-capitol-hill-fight-awaits> [<https://perma.cc/59JE-7S37>].

9. ELKANAH WATSON, MEN AND TIMES OF THE REVOLUTION; OR, MEMOIRS OF ELKANAH WATSON 281 (Winslow C. Watson ed., 1856).

stones out of their path, and dragging their boats over those that could not be removed.

New Yorkers had been thinking of a route of their own since colonial times. The Hudson River was navigable north to Albany, where the Mohawk River, flowing from the west, joined it. Perhaps a canal could connect these rivers with the Great Lakes.

Morris became a vocal proponent as early as the Revolutionary War. An acquaintance who met him in upstate New York during the grim days of Gen. John Burgoyne's invasion recalled him "descanting with great energy on what he termed the 'rising glories of the Western World.' One evening in particular . . . he announced, in language . . . to which I cannot do justice, that at no very distant day the waters of the great western inland seas would, by the aid of man, break through their barriers and mingle with those of the Hudson."¹⁰

Morris's convictions would be bolstered by seeing successful canals in Europe. In the 1790s, during a trip to Scotland, he viewed a newly opened canal which bisected the country from the Firth of Forth to the Clyde River. Barges and their cargoes could travel between the North Sea and the eastern edge of the Atlantic Ocean, avoiding either jolting roads or a long nautical detour. "When I see this," he wrote in his diary, "my mind opens to a view of wealth for the interior of America which hitherto I had rather conjectured than seen."¹¹

At all times, Morris was inspired by his imagination. A man known for hard-headed judgments and cynical witticisms, he had a powerful romantic streak. In the summer of 1800, he took a trip up the Hudson River and over the lakes of northern New York to Montreal, then up the St. Lawrence to Lake Ontario, which he followed westward to Niagara Falls and the eastern end of Lake Erie. "Hundreds of large ships will, in no distant period, bound on the billows of these inland seas," he wrote excitedly. "[O]ne tenth of the expense borne by Britain in the last campaign" of the war then raging in Europe "would enable ships to sail from London through Hudson's river into lake Erie. As yet, my friend, we only crawl along the outer shell of our country . . . The proudest empire in Europe is but a bauble, compared to what America *will* be, *must* be, in the course of two centuries, perhaps of one!"¹²

For a while, it seemed that these heady hopes might be fulfilled by the Republican Party of Thomas Jefferson and James Madison. Jefferson's thrift had built up a surplus in the federal Treasury, and in his 1806 message to Congress, he asked it to consider spending the money on roads and canals, provided a constitutional amendment allowing the federal government to make such expenditures were passed first.

10. 1 JARED SPARKS, *THE LIFE OF GOUVERNEUR MORRIS, WITH SELECTIONS FROM HIS CORRESPONDENCE AND MISCELLANEOUS PAPERS* 497 (1832).

11. 2 MORRIS (Morris), *supra* note 5, at 129.

12. 3 SPARKS, *supra* note 4, at 143–44.

New York responded to Jefferson's invitation. In March 1810, the legislature picked a seven-man commission to report on the feasibility of a canal. It was a bipartisan effort. Federalist Morris was named chairman; the lead Republican was DeWitt Clinton, then mayor of New York City.

In the summer, the commissioners scouted possible routes. Most of them traveled by water as far west as Oswego. Clinton's diary records their sufferings in frontier inns: "drunken people in an adjacent room, . . . crickets in the hearth, . . . rats in the walls, . . . dogs under the beds, . . . the flying of bats about the room."¹³ Morris, wiser, went overland in a carriage accompanied by his wife, trailed by a second carriage containing his French cook.

In a report the following year (written by Morris), the commission called for a canal going all the way to Lake Erie, at a price tag of \$4 million. The federal government should pay since much of the country besides New York would benefit. "The wisdom as well as the justice of the national legislature, will, no doubt, lead to the exercise on their part of prudent munificence."¹⁴

Morris and Clinton went to Washington, D.C. in December 1811 to lobby. Madison, now president, was encouraging, though he shared Jefferson's "scruples" about constitutionality.¹⁵ Treasury Secretary Albert Gallatin proposed a way around the difficulty: a sale of 4.5 million acres of federal land in northern Indiana, the revenue to be earmarked for New York. Early in 1812, Congress considered a canal bill including Gallatin's suggestion.

Considered, and dropped it. Tensions with Britain consumed the political class's attention. In June, Congress declared war. Clinton challenged Madison for the presidency in the fall but fell short. Federal canal funding was dead.

After the war ended in February 1815, Morris proposed that New York State go it alone: the canal commission should be empowered to issue \$5 million in bonds. As each section of the canal opened, revenues would pay down the interest on the debt.

So it proved. The canal progressed rapidly. Laborers worked 10- to 12-hour days. The channel they dug was an inverted trapezoid, forty feet wide at the surface, 25 feet wide at the bottom, and four feet deep. A boat drawing three-and-a-half feet of water could carry a 75-ton load. The first segment, Rome to Utica, opened in October 1819. By the time the canal was finished, six years later, revenue was pouring in at \$100,000 per year above the sum needed for debt service. Shipping costs were slashed. Pre-canal, a ton of flour worth \$40 took three weeks to go from Buffalo to New York, at a cost of \$120. After the canal, the same trip took eight days, at a cost of \$6. The produce of the Midwest began to flow into New York, not south down the Mississippi. In 1835, the Northeast was receiving

13. EVAN CORNOG, *THE BIRTH OF EMPIRE: DEWITT CLINTON AND THE AMERICAN EXPERIENCE, 1769–1828*, at 111 (1998).

14. *JOURNAL OF THE SENATE OF THE STATE OF NEW YORK*, S. 34th Sess., at 75 (N.Y. 1811).

15. See *PUBLIC DOCUMENTS, RELATING TO THE NEW-YORK CANALS, WHICH ARE TO CONNECT THE WESTERN AND NORTHERN LAKES, WITH THE ATLANTIC OCEAN; WITH AN INTRODUCTION* 60 (1821).

23.7 percent of the Midwest's commodities. By 1853, it had collared 62.2 percent. The canal's revenues, meanwhile, held in a canal fund, helped New York City weather a disastrous fire in 1835 and the Panic of 1837.¹⁶

Morris's and Clinton's visionary infrastructure project was a win-win for everyone involved. There were off-stage losers, however, whom modern-day enthusiasts for infrastructure should ponder. New York's canal builders beat Virginia's because most of New York's route was flat. The greatest engineering feat required was an 802-foot-long aqueduct over the Genesee River in downtown Rochester. Washington, Marshall, and their peers confronted the hunchback of the Appalachian mountain chain.

Geography frustrated the Virginians. Pennsylvania, which began digging a rival canal the year after the Erie Canal opened, had similarly difficult mountains, at both the eastern and western ends of the state. It was also late to the party: New York already offered a route. The Pennsylvania canal cost twice as much as New York's, and tolls came in more slowly. In the 1840s, the state defaulted. Location, timing, and luck are everything.

III. SEX

Everybody knows everything about the sex lives of recent American politicians—or at least, about those aspects of their sex lives which they have wished to conceal. From the impeachment of Bill Clinton—reprised in September 2021 in a series for FX's "American Crime Story"—to the resignation of New York governor Andrew Cuomo the preceding August, we have been bombarded with detailed, first-person accounts of affairs and sexual harassment, proven and alleged. The insatiable appetite of the media and the outrage of the #MeToo movement are sure to keep such accounts coming.

We know that some founders had unruly sex lives too. In 1797, Alexander Hamilton published a 92-page pamphlet recounting an affair he had conducted five years earlier with a woman named Maria Reynolds; Hamilton, who was nothing if not thorough, included love letters from her, angry letters from her husband James, and testimony from Maria's landlord. Hamilton's purpose in publishing was to prove that his relationship with the Reynoldses was foolish and immoral, not illegal. His political enemies suspected him and James Reynolds of having engaged in insider trading when Hamilton was Treasury Secretary; Hamilton sought to show that he had instead been paying Reynolds blackmail to buy his silence, and his compliance.

Thomas Jefferson wrote nothing about his relationship with his slave Sally Hemmings, but it became a matter of public comment from the moment that journalist James Callender revealed it in 1802. Callender's report in a Richmond newspaper unleashed a years-long storm of cartoons, poems, and jibes from observers as diverse as John Quincy Adams and Charles Dickens. Jefferson's

16. For facts on the Erie Canal, see Richard Brookhiser, *The Founder of Gotham's Fortunes*, CITY J. (Winter 2004).

silence, his family's denials, and historians' prudery finally succeeded in putting a lid on the story, until interest in the history of slavery, stimulated by the civil rights and black power movements, gave it renewed attention in the last decades of the twentieth century. A 1998 chromosome test of Jefferson and Hemmings family descendants established it as fact.

But these are scandals told from the outside, through their effects on the politics of the day or, at best, in the re-creations of historians. They lack the texture and the immediacy that modernity has accustomed us to. What did the founders *do*?

Gouverneur Morris began keeping a diary on March 1, 1789. The 37-year-old had just arrived in Paris, where he had come to act as an agent for his friend and associate Robert Morris (no relation), tending to Robert's many transatlantic business ventures. Morris kept writing after he became minister to France in February 1792, belatedly succeeding Thomas Jefferson. He made no entries after January 1793, at the depths of the Terror. But he resumed writing in October 1794 upon leaving France (the French had demanded his recall) and continued until October 1816, a month before his death. Morris's diary is a compendium of day-by-day glimpses of daily life: what he was working on; what he ate; where he traveled; whom he met; the weather; the news; little difficulties; world wars; all seasoned with his reactions and reflections, very occasionally with his hopes and fears (Morris did not often allow himself to indulge either).

He also wrote about his erotic life.

Morris would stay single until 1809 when he wed his housekeeper, Miss Randolph. Until then he played the field. His primary lover during his Paris years was Adelaide de Flahaut, the wife of a count, who was 33 years older than she was (Morris was nine years older). Her regular lover when Morris met her was Charles Maurice de Talleyrand-Perigord, then Bishop of Autun (the bishop, not the count, was the father of her son).

Adelaide was attractive (Louise-Elisabeth Vigee Lebrun, who painted her, admired the soulfulness of her eyes), intelligent (she presided over a salon), talented (she would become in after years a popular novelist), and political. At one point she and Morris drew up a possible ministry for a post-revolutionary government. "And then, my friend," she said, "you and I will govern France!" "The Kingdom," Morris told his diary that night, "is actually in much worse Hands."¹⁷

Even as Adelaide had other sexual partners—besides Talleyrand, she had an affair with an English nobleman—so did Morris: various aristocratic women, both in Paris and in the four years he spent traveling in Europe after leaving France, as well as prostitutes.

There are cross-outs in the manuscript of Morris's diary, and several pages torn out, presumably by his widow Nancy, who survived him by twenty-one years. But references to many, many encounters remain.

17. 1 GOUVERNEUR MORRIS, A DIARY OF THE FRENCH REVOLUTION BY GOUVERNEUR MORRIS 235 (Beatrix Cary Davenport ed., 1939).

The most striking thing about Morris's affair with Adelaide de Flahaut is the persistence of the lovers, and their ingenuity. They seem never to have spent an entire night together. Adelaide's husband had a royally granted no-show job, which entitled him to two apartments in the Louvre, then a residence as well as an art gallery, and the two lovers often met there. But they also made love in carriages, and once in the waiting room of a convent where Adelaide's former nurse lived as a nun.

Morris does not describe their lovemaking in detail, relying instead on periphrasis: doing the needful; brightening the chain (a phrase typically used of negotiations with American Indians); obeying the first commandment (i.e., be fruitful and multiply). He thus avoids the direct language of either anatomy or pornography. He also casts an air, at once jocular and boastful, over his lovemaking.

The other striking aspect of Morris's sexuality is how atypical he was. He was an outlier in both the United States, and in Europe, although at different edges of the bell curve in each place: promiscuous at home, rather prudish abroad.

Without access to diaries that are equally frank, it is impossible to say whether Morris actually had more sex than his fellow Americans. But his fellow Americans appear to have thought he did. In the spring of 1779 Morris's friend Jay wrote of him that "Gouverneur is daily employed in making oblations to Venus."¹⁸ A year later, Morris suffered a serious accident, catching his left foot in the wheel of a carriage. As a result, physicians had to amputate his mangled leg at the knee. Jay's comment, in a letter to a third party, was that Morris might better have "lost *something else*."¹⁹ Morris had been flirting with a congressman's wife when the accident occurred, which prompted Jay to write to Morris himself, "I have learned . . . that a certain married woman after much use of your legs had occasioned your losing one."²⁰ Robert Livingston, noting a rumor that the congressman, then out of office, had died, wrote Morris that "his death by lessening the sin would lessen your pleasure in loving" the wife.²¹ Morris's friends mix joshing, envy, and tut-tutting in about equal parts.

In Europe, the American rake melted into a crowd, male and female, who matched or exceeded him. Besides the many couplings and much loose talk that came within his notice—one diplomat tried to assure him that Frenchwomen were "greater [w]hores with their [h]earts and [m]inds than with their [p]ersons"²²—he encountered practices hitherto beyond his ken. One nobleman was said to be the offspring of Louis XV and his own daughter²³; he heard accounts of anal sex, gay and straight, which he called "the Crime ag[ainst] Nature."²⁴ Another feature of the European scene which made him uncomfortable was the

18. HOWARD SWIGGETT, *THE EXTRAORDINARY MR. MORRIS* 66 (1952).

19. MARY-JO KLINE, *GOUVERNEUR MORRIS AND THE NEW NATION 1775–1788*, at 176 (1978).

20. MINTZ, *supra* note 2, at 141.

21. KLINE, *supra* note 19, at 177.

22. *See* 1 MORRIS (Davenport), *supra* note 17, at 292.

23. *Id.* at 354.

24. *Id.* at 341.

ready availability of prostitutes. He frequented them from time to time, often guiltily. After picking one up in the Palais-Royal in Paris—a complex owned by a royal duke, and thus not subject to ordinary laws—Morris wrote that he had become thereby “the [o]bject of my own [c]ontempt and [a]version.”²⁵

Prostitutes were found beyond louche Paris. In Berlin, a “woman of the town” came into Morris’s room, ostensibly to sell fruit, in fact to “perform[] . . . an Operation which Boys are too apt to perform for themselves”²⁶ After their encounter, he bought some of her fruit, sent her away, and “reflect[ed] at my Leisure on the Corruption of Morals which thus sets all Decency at Defiance.”²⁷ In Vienna, attending a midnight mass three days before Christmas, he noted “the principal object of a great part of the congregation” was making assignations with the many prostitutes in attendance. Morris was a deistical Protestant, contemptuous of Catholics, but he added “that this mode of employing an edifice dedicated to sacred purposes does not accord with my feelings.”²⁸

On that occasion, at least, he refrained from the activity he deplored.

Wicked Europe and innocent America is an old theme of American polemic and fiction. It flatters our images of ourselves as sturdy refugees, Christians, republicans, or all three. Morris gives an unusual twist to it.

The most disturbing sexual episode in his diary was his own doing. In Hamburg, last stop on his European travels—Adelaide had moved there, where she met the Portuguese diplomat who would become her second husband—Morris carries on with the daughters of his landlady. He does not give their exact ages, but they appear to be teenagers. He writes of the younger that she “begins to feel the gentle hint from nature’s tongue.”²⁹ The metaphor is creepily real; his tongue is at work, as well as nature’s. Perhaps the age difference would not be actionable today. But the social gap between high-rolling foreign tenant and daughters of the house was formidable. Morris should have forbidden himself to cross it.

Morris married, at age 57, a woman even more notorious than he was. Nancy Randolph had been involved years earlier in a lurid scandal in her native Virginia. She and Richard Randolph, her cousin, were accused of exposing their illegitimate newborn on a woodpile during a visit to a friend’s plantation. The putative father, the only party brought to court, was acquitted with the help of his lawyers: Patrick Henry and John Marshall. A taint, however, clung to his alleged paramour. Morris in after years nevertheless defended her against the resistance of his family (his nieces and nephews, anxious to inherit, feared the birth of a son, who indeed arrived in 1813) and the libels, fueled by malice and opium, of John Randolph of Roanoke, yet another one of Nancy’s cousins.

25. *Id.* at 44.

26. GOUVERNEUR MORRIS, THE DIARIES OF GOUVERNEUR MORRIS EUROPEAN TRAVELS 1794–1798, at 298 (Melanie Randolph Miller, ed., 2011).

27. *Id.*

28. See 2 MORRIS (Morris), *supra* note 5, at 244.

29. See SWIGGETT, *supra* note 18, at 322.

We have ample testimony from Morris on the women in his life. Where are their voices? His wife cherished him, even as he cherished her. A double portrait of the newlyweds by James Sharples shows a positively smirking Nancy, even more pleased with herself than Gouverneur. The memorial stone she placed for him in the Morris family church (which still stands in the south Bronx) calls him “the Best of men.”³⁰

Adelaide de Flahaut, later Mme. de Souza, told her own story indirectly in her fiction. Though it is unread now, it had a continental reputation when it was new. In *War and Peace*, Pierre Bezuhov reads her during one of his frequent periods of distraction. She even gave Morris a bit part: her first novel, *Adele de Senanges*, contains a character named Docteur Morris.

IV. AFGHANISTAN

America’s withdrawal from Afghanistan after almost two decades of warfare brought a chorus of I-told-you-sos from those who had always (or belatedly) opposed involvement, and some rethinking from those who had supported it.

In September 2021 John Yoo and Robert J. Delahunty, former officials of the George W. Bush administration, wrote a mea culpa entitled “Why We Failed in Afghanistan.” The main reason the authors offered was that we could not have succeeded in the first place. “Constitutions,” Yoo and Delahunty wrote, “grow organically out of a people’s history, culture, and tradition. In referring here to ‘constitutions,’ we mean not legal texts, which can be altered as desired, but the basic institutions, practices, rules, and norms that structure a society’s legal system and govern its operations. In that sense, constitutions are highly resistant to change. Even when outward constitutional forms undergo drastic transformation...the deep structures of the old regime tend to persist, and entrenched patterns of governance reemerge.”³¹ America could smash Al Qaeda and (temporarily) the Taliban, but it could never change Afghanistan because Afghans never wanted to change.

Yet George W. Bush, the president they served, said in his second inaugural, “Eventually, the call of freedom comes to every mind and every soul.”³²

This American foreign policy debate, between sides often called “realists” and “idealists” or “Wilsonians,” goes back to the founding era. The test case then was the French Revolution, which found Morris in the realist camp.

Since the late seventeenth century, France had been the pre-eminent state in Europe. Britain had better finances, a larger colonial empire (much of it wrested from France), and a greater navy. But France was almost twice as populous.

30. RICHARD BROOKHISER, GENTLEMAN REVOLUTIONARY GOUVERNEUR MORRIS: THE RAKE WHO WROTE THE CONSTITUTION 220 (2003).

31. John Yoo & Robert J. Delahunty, *Why We Failed in Afghanistan*, NAT’L REV. ONLINE (Sep. 1, 2021), <https://www.nationalreview.com/2021/09/why-we-failed-in-afghanistan/> [<https://perma.cc/E9BL-3QMJ>].

32. *President Bush’s Second Inaugural Address* (Jan. 20, 2005), <https://www.npr.org/templates/story/story.php?storyId=4460172> [<https://perma.cc/G5B9-KNUM>].

Beginning in the reign of Louis XIV it had fought a series of wars, almost single-handed, against most of its neighbors, never succeeding in imposing its hegemony, but also never decisively beaten.

In the North American theaters of those wars, France had been the bogeyman, despotic and Catholic, of Britain's colonies. But once the Thirteen Colonies revolted, France helped them, at first on the sly, then openly. France's motive was *realpolitik*: the enemy of her long-time enemy Britain, must be her friend. But numbers of the French officers who fought in the American Revolution were sincerely devoted to its cause. The most famous was Lafayette, the 19-year-old marquis who sailed to the United States on a ship he had bought with his own money. He met George Washington in August 1777. The American commander-in-chief made some apologies for the rag-tag state of his army, whereupon Lafayette said the perfect thing: "I am here, sir, to learn and not to teach."³³ Lafayette considered his American experience a lesson in valor, and civic spirit. Morris, who was a congressman at the time, met him five months later, and commented on his "mature judgment" and "solid understanding."³⁴

After Lafayette returned to France, he named his children George and Virginia, spoke English at home, and employed an American Indian as his page. He also interested himself in reforming his homeland, in order to make it more like the country that had impressed him so.

Morris reconnected with his old acquaintance when he arrived in Paris in 1789. He thus had an excellent vantage for viewing the earliest days of the French Revolution, via both America's favorite Frenchman and Talleyrand, his lover's lover. Morris attended the opening ceremonies of the Estates General, summoned by Louis XVI to meet at Versailles in May. As the Third Estate, representing commoners, began to take matters into its own hands, politics became the theme of Parisian conversation: "States General Chit Chat" reads one entry in Morris's diary.³⁵ In July, he rode in a carriage with Adelaide de Flahaut to see the ruins of the Bastille the day after it was stormed.

Talleyrand was an ambitious cleric with reformist views and Lafayette was consulting with Thomas Jefferson, the U.S.'s minister to France, shortly to return home, on a Declaration of the Rights of Man and the Citizen. The king, absolute monarch though he was, seemed open to change. Maybe France could have a constitutional government, guaranteeing rights and popular input, not unlike the United States.

Morris never believed it. At the most superficial level, he was skeptical of the political actors involved. Lafayette was no longer an ardent young volunteer, but a man with responsibility—he had been put in charge of a newly created National Guard—and no greater man, like Washington, to guide him. Morris did not think

33. See BROOKHISER, *supra* note 30, at 44.

34. *Id.*

35. 1 MORRIS (Davenport), *supra* note 17, at 98.

he was up to his new role. “He means ill to no one,” he wrote in his diary, but “[i]f the [s]ea runs high, he will be unable to hold the [h]elm.”³⁶

Louis XVI struck Morris as, if possible, even more irresolute: he described him in a letter to Washington as a “small beer [c]haracter. . . .at the slightest shew of [o]pposition he gives up every [t]hing, and every [p]erson.”³⁷

Morris went to see Talleyrand give a speech in the National Assembly—the Third Estate reconstituted as a new legislature. He heard “a great [d]eal of noisy [d]ebate on various [s]ubjects, if indeed such [c]ontroversy may be dignified with the [n]ame of [d]ebate.”³⁸ The Assembly had a small right wing, devoted to preserving the *ancien regime*, led by a cleric, the Abbe Maury. Morris called him an “ecclesiastical scoundrel,” whose followers “have the word ‘valet’ written on their foreheads in large characters. Maury is formed to govern such men, and such men are formed to obey him, or anyone else.”³⁹

But Morris had as little faith in the French people as he had in their leaders. The French struck him as passionate, and therefore fickle. “A Frenchman loves his King,” he explained to an American correspondent, “as he loves his Mistress to Madness, because he thinks it great and noble to be mad. He then abandons both the one and the other most ignobly because he cannot bear the continued [a]ction of the [s]entiment, he has pers[u]aded himself to feel.”⁴⁰

Morris’s French friends were not lacking in intelligence. They had read Locke and their homegrown thinkers: Montesquieu, Rousseau, the *encyclopedistes*. Morris was not impressed. The only school for politics, he thought, was experience. “[N]one know how to govern,” he explained to one companion at dinner, “but those who have been used to it, and such men have rarely either time or inclination to write about it.”⁴¹ Morris’s friends Jay and Alexander Hamilton had helped write most of the Federalist Papers only two years earlier. More important to Morris was the fact that they had served in the state legislature and in Congress, while many of their older revolutionary peers had sat in colonial assemblies as well. Morris himself belonged to the third generation of officeholders in his family: his father had been the judge of a colonial admiralty court, while his grandfather had been a colonial governor. America’s leaders were supported in turn by constituents who had been voting and debating about politics all their adult lives.

36. *Id.* at 223.

37. Letter from Gouverneur Morris to George Washington (Jan. 24, 1790), in 5 THE PAPERS OF GEORGE WASHINGTON, PRESIDENTIAL SERIES (JANUARY 1790–JUNE 1790) 48–58 (Dorothy Twohig et al. eds., 1996).

38. 1 MORRIS (Davenport), *supra* note 17, at 232.

39. 1 GOUVERNEUR MORRIS, THE DIARY AND LETTERS OF GOUVERNEUR MORRIS 390 (Anne Cary Morris ed., 1888).

40. 1 MORRIS (Davenport), *supra* note 17, at 567.

41. 1 MORRIS (Morris), *supra* note 39, at 353.

The conclusion, which Morris came to as early as July 1789, was that the French “want an American Constitution . . . without reflecting that they have not American Citizens to support” it.⁴²

There were Americans on the spot who were more hopeful than Morris. Jefferson, who saw the earliest days of the French Revolution, was impressed by the virtue of the Paris mob. “There was a severity of honesty observed,” he wrote to John Jay, “of which no example has been known. Bags of money offered on various occasions through fear or guilt, have been uniformly refused.”⁴³ Thomas Paine, the British émigré whom Morris had known in Pennsylvania and who reappeared in his life in France in November 1789, was more hopeful yet. Paine defended the French Revolution against the attacks of Edmund Burke in *Reflections on the Revolution in France* (published in November 1790) with his rejoinder, *The Rights of Man* (the first part published in February 1791). Morris, who always admired Paine’s literary voice, found “good [t]hings” in his book, though he did not entirely agree with it (or with Burke’s).⁴⁴ After Louis XVI was deposed in the fall of 1792, Paine was elected to a new revolutionary legislature, the National Convention; his fellow delegates greeted him with cheers of *Vive Thomas Paine*.⁴⁵

Events proved Morris right, his friends, French and American, wrong. The French Revolution was marked by instability, inflation, and bloodshed. (Morris’s diary describes riots, mob violence, and executions second-hand, though he did witness the head of one unlucky politician being paraded through the streets on a pike.) The only thing successive revolutionary regimes were good at was warfare, defending France from the enemies who pounced on it, then overrunning them in turn. In the summer of 1792, Lafayette, despairing of seeing a liberal constitutional monarchy, abandoned his troops in the field, hoping to find asylum in Holland. He was captured by the Prussians and Austrians, with whom France was then at war, and imprisoned in a fort in what is now the Czech Republic. Talleyrand, who had been excommunicated by the Catholic Church for the Revolution’s anti-clerical policies, was allowed to emigrate to England, where he lived for a time, before moving on to the United States. Louis XVI, tried as Louis Capet, was guillotined in January 1793. Paine, who had spoken in favor of sparing his life (he should be sent instead to the United States, Paine argued, where he could be rehabilitated as a republican), was arrested at the end of 1793, and slated for death. He did survive, however, because the guards passed his cell by accident on the day he was to be executed. Only Jefferson, viewing events from afar, remained sanguine.

42. 1 MORRIS (Davenport), *supra* note 17, at 136.

43. THOMAS JEFFERSON, *THE LIFE AND SELECTED WRITINGS OF THOMAS JEFFERSON* 448 (Adrienne Koch & William Peden eds., 1944).

44. 1 MORRIS (Morris), *supra* note 39, at 156.

45. JOHN KEANE, *TOM PAINE: A POLITICAL LIFE* 351 (1995).

Morris, protected by diplomatic immunity, stayed at his post in Paris, observing the turmoil, helping Americans openly (he could not do much for Paine) and aristocratic French friends secretly (he briefly harbored Adelaide and her son in his lodgings). After he left the country, he wrote a dark summary of his tenure to George Washington. "I saw misery and affliction every day and all around me without power to mitigate or means to relieve, and I felt myself degraded by communications I was forced into with the worst of mankind."⁴⁶

The United States of Morris's day was not trying to promote democratic republicanism in France by force. Americans, and some important Frenchmen, were trying to promote it by example. Morris died convinced that they had failed. After the fall of Napoleon, he delivered an oration in New York City hailing the restoration of the monarchy, in the person of Louis XVIII, the executed king's younger brother.

Was Morris right in the long run? For the last 150 years France has been ruled by republican governments (apart from four years' occupation by Nazi Germany). France's republicanism is different from ours; France does not have "an American constitution." But it enjoys a government of rights and self-rule, very different from what it had in Morris's day.

The debate between realists and idealists is largely a debate over means: what, if anything, can one country do to influence another? It is also a debate about human nature: is it broadly speaking the same everywhere, or drastically different from place to place, depending on culture and history?

Morris's experience in revolutionary France offers a vivid voice on the realist side. The debate, however, is not closed.

CONCLUSION

Why should we pay attention to Morris's thoughts on these, or any matters? For the same reason that the Constitutional Convention put him on the Committee of Style, and the committee assigned him to write its draft.

Morris's words, spoken or written, are always clear; they can also be concise, inspiring, funny, scathing. He employed all five qualities during the convention's debates, and the first three in drafting the Constitution itself.

I began with Clinton Rossiter's judgment that Morris was one of four indispensable delegates in Philadelphia. I end with a judgment of mine: there are four great writers in the American founding, and they are Benjamin Franklin, Thomas Jefferson, Thomas Paine, and Gouverneur Morris. You will not always agree with what he says, but you will always pay attention, and remember afterwards. He may not solve a problem, but no one better takes you into it.

America was lucky to have him then, and historians who want to understand America and its past are lucky to have him now.

46. See SWIGGETT, *supra* note 18, at 293.