



Adams, Jefferson, and the Turbulent Election of 1800

Thursday, February 28, 2022, 7 - 8 p.m.

Visit our media library at constitutioncenter.org/constitution to see a list of resources mentioned throughout this program, watch the video, and more.

[00:00:00] Tanaya Tauber: Welcome to live the National Constitution Center, the podcast sharing live constitutional conversations and debates hosted by the center in-person and online. I'm Tanaya Tauber, senior director of Town Hall Programs. The election of 1800 marked the first ever peaceful transfer of power between political parties in American history. It also gave birth to the country's two party system that still exists today. But that's not to say it wasn't without turbulence.

Two presidential historians join us to discuss one of the most contentious and partisan elections in US history and the lessons we can glean from it even in 2022. Jeffrey Rosen, president and CEO of the National Constitution Center moderates. Joining him is Lindsay Chervinsky author of *The Cabinet: George Washington and the Creation of an American Institution* and Edward Larson author of *A Magnificent Catastrophe: The Tumultuous election of 1800, America's First Presidential Campaign*. This conversation was streamed live on [00:01:00] February 28th, 2022. Here's Jeff to get the conversation started.

[00:01:04] Jeffrey Rosen: Hello, friends. Welcome to the National Constitution Center and to tonight's convening of America's Town Hall. Thank you so much for joining us, uh, Lindsay and Ed. And, Lindsay, I'm going to begin with you. Uh, just last week you tweeted... I know there's a lot going on, but if you're looking for a break from the news, uh, join us to talk about the remarkable election of 1800. It will be a great conversation with lots of contemporary parallels. I know it will be a great conversation. And let me begin by asking you to give us a high level overview of what some of the contemporary parallels are.

[00:01:39] Lindsay Chervinsky: Well, thank you so much for that really kind introduction and for having me. It's always great to be with you in the National Constitution Center. And, of course, with Ed whose work I admire so much. I think that this period of time, uh, in American history is often overlooked. Um, of course, this election is, is so important and generally stands out as one of the markers in our textbooks.

But when [00:02:00] we think about the 1790s, it was a decade full of intense partisan division, violent political rhetoric. The concerns about real political violence. Uncertainty about the nation's future. Concerns about immigration, pandemics. The possibility of war with foreign nations. Uncertainty about our national borders and what would happen in the Western regions. And the parallels, I think just go on and on and on and on.

And at this particular moment, when we've seen contested elections, when there has been real political violence, uh, in our domestic situation and then, of course, abroad when we're looking at real violent threats to the future of democracy in Europe and abroad, I can't really think of a more apt time to be talking about the election of 1800.

[00:02:49] Jeffrey Rosen: Contested elections and political violence and home violence threats to democratic ideals abroad, it is indeed urgently important to understand this election. Ed, what are your thoughts about [00:03:00] overviews about why election of 1800 is relevant today?

[00:03:04] Edward Larson: Well, certainly I would agree with everything Lindsay said. And I, uh, think the overriding one is the partisanship, the extreme doctrinaire partnership. The sort of as we used to call it when I taught at University of Georgia, yellow dog Republicans or yellow dog Democrats. Where you would be... Where party prevailed over everything else. George Washington made a wonderful comment about this time, um, before he died about what was coming.

And he said, "You could hold up a broomstick and put the word Democrat on it. And they, they will all vote for." Um, it didn't... It... The person did not matter. That bothered Adams enormously. Um, that person didn't matter. That it was all, all about party. So that I would underscore as the strongest parallel. A **[00:04:00]** difference is that really then there wasn't a challenge to the validity of elections. There might have been violence, but there wasn't denial.

When the Federalists finally lost, they finally lost. And they didn't call an insurrection against the capital to stop the, uh, certification or, or, or taking of office of Thomas Jefferson. And indeed they went on with their, with their life though they remained partisan, don't get me wrong. And another parallel I'd put in is, they relied very heavily on the Supreme Court to save them. They had thrown out their anchor as governor Morris said.

And that's happening right now because the, um, we have a, a parallel in the... Just as while Jefferson took over the Federalists were left with total dominance in the Supreme Court. Here with, even though the Democrats have taken over, the Republicans have retained dominance in the Supreme Court and **[00:05:00]** they can work for their ends through that means. So we're finding out the true meaning of a, of a three branch government.

And so that's another parallel I add today. The final parallel that wasn't mentioned, and I agree with everything she said, was the importance of religion. How religion was a driving force. And how religion... It wasn't just political division. It wasn't just cultural division. It was also a matter of religion.

[00:05:24] Jeffrey Rosen: That is a fascinating introduction, Ed. Uh, you say in the preface to your book that, its impetus was an invitation to deliver a single lecture on the role of science and religion in the election of 1800. And we now understand how important you think that was. And your observations that despite the partisanship, the Federalists accepted the results, although they relied on the Supreme Court is deeply interesting too. I wanna explore all of that.

All right. Lindsay, let's... Um, tell the story of the election of 1800. And you're both masterful storytellers and can condense it. You can begin wherever you like, Lindsay, 'cause your book,

The Cabinet describes [00:06:00] this period when Washington brought into the newly created cabinet, uh, rivals like Hamilton and Jefferson and managed to get them to work together. How did we move from that, uh, era of, uh, bipartisan comedy to the rise of political parties, uh, that culminated in the extraordinarily contested election of 1800?

[00:06:23] **Lindsay Chervinsky:** Well, that's a great place to start. And I think it's important to really recognize that Washington intentionally selected people who had different perspectives. He knew that Jefferson was going to be more pro French and Hamilton was going to be more pro British. They had very different experiences both during the war and growing up. They had very different educational and religious and cultural backgrounds.

And they had very different ideas about even how to present as men. The concepts of masculinity were different. And he intentionally sought out those different perspectives to ensure he had diverse ideas in his cabinet. So he knew that they disagreed. [00:07:00] And to be sure, they disagreed about pretty much everything from the very beginning, but it was respectful, initially. And they knew each other, but not well.

And by bringing them together into the cabinet, Washington sort of unintentionally turned them into the very ardent foes that we know that they came to be. They both became convinced that the other was really a mortal threat to the future of the nation and, and their vision of what the republic should be. And compelled them or, or they thought this threat compelled them to start to build up the very early organizations that became eventually political parties.

Although, we should definitely say that as early as 1793 and even in 1800, the political parties we're talking about are not the same as the structures that we know today. So by bringing them together and, and forcing them to confront each other's ideas, Washington sort of accidentally crystallized this partisan divide. And Jefferson and Hamilton were certainly the figureheads behind these [00:08:00] two different ways of thinking about the future of these, these different factions.

And I believe that Washington hoped that, you know, factions would maybe rise and fall, but that they wouldn't be long term and permanent. And instead what happened with Adams' election is those factions continued to crystallize into the BB political parties that happened in the late 1790s.

And Adams' presidency without getting into too much detail here 'cause I know we need to focus on 1800, but there was a split in the Federalist Party and Hamilton was one faction and sort of Adams in the more moderate Federalist, if you will, were sort of another faction. And that made the election process 1800 very complicated. I'm actually gonna totally wuss out and allow Ed to explain the election process a little bit more.

But I think it's really important to, to know that those, um, different ideas that came to, to be represented in the election of 1800 did start as early as 1789 [00:09:00] when Washington first took office.

[00:09:02] **Jeffrey Rosen:** Thank you so much for that. Ed, before you explain the details of the process which are highly technical, give us your thoughts about the ideas that led to the rise of

what Lindsay just called factions or parties. Of- of course, we have it in the Federalist 10 Madison saying that the main evil to be avoided in the new constitution is a faction, which he defines as any group, a majority or a minority animated by passion rather than reason devoted to self-interest rather than the public good.

Madison says that religion as well as politics can be the greatest source of faction. So maybe you, you intrigued us, but tell us more about how religious d- disagreement contributed to the rise of the parties. And also maybe more about this interesting division that many of us may not have thought about among the Federalists between the Hamilton group and the, and, and the Adams group.

[00:09:50] Edward Larson: Great question. Thank you. When Madison was talking about factions... Both at the Constitutional Convention there's an ample record, everything he said in, **[00:10:00]** in Federalist No. 10 was, he said at the constitutional convention in his own record of it. Um, he wasn't thinking about political parties or what we, or the factions that Lindsay's describing.

The factions that Lindsay's describing are, are really nursing political parties. Are really structural identities, where by the 1790s you had every me- every single member of Congress, House and Senate, aligned with one caucus or the other where they were a voting block and voted as, as uniformly as the Republicans and Democrats do today in Washington. That doesn't mean... Of course, just like today, sometimes they agree on things.

Like, hopefully, most of them agree on sanctions against Russia and supporting Ukraine if you just wanna bring it to present. So there will be... There were areas agreement, but they basically were solid caucuses. So what Madison was talking about by factions, he meant, um, **[00:11:00]** people driven by a self interest. So you, you would talk about the rich and the poor. His main faction was slave owners versus non slave owners.

That he thought was the most important fact- when he was talking about faction. But if you look at the parties that formed in the 1790s, they had nothing to do with slavery. They both intentionally, intentionally bridged the gap on slavery. So when you had Jefferson, he would run with a Clinton or a Burr who were non slave owners. And Jefferson, of course, being a massive slave owner. On the other side, Adams John ran with Pinckney who were the largest slaveholders in the continental United States [laughs].

I mean, they were just like 500 slaves. So they would bridge the gap on those things. So they weren't quite the factions that Madison had been thinking about before. That's what surprised them. Yes, Washington wanted to bridge the interests. He wanted a cabinet and **[00:12:00]** appointments that would reach out to, uh, within co- within those who supported the constitution all the way from Randolph, who almost opposed it and he did oppose it in Philadelphia, across the street from where you are.

Um, only later came aboard it in, in Richmond to, all the way to somebody like Hamilton, who ardent supporters of the, of the constitution. So he had a range, uh, brought into the, brought into Washington's cabinet. But he didn't anticipate the formalization of political parties. And what

really had happened by this time, there were two parties. But while Jefferson was a nominal leader, that figurehead, whatever you wanna call him, of the one. And Hamilton was the organizing principle of the other one.

Um, they were both... And I would differentiate them from some people today. They both believed in the system. They both supported. And that's why when we get to talking about the [00:13:00] election of 1800 while in the end, Hamilton ends up backing Jefferson over Burr. Because he thinks Burr is a tyrant who won't support the structure. Instead, with Jefferson and, and Hamilton, you had people who believed and knew they believed, and knew they both believed in the American political structure created by that wonderful document, the constitution.

[00:13:25] Jeffrey Rosen: That is fascinating. That's such an important point about institutions, uh, that you make again. And just as you began by saying that the Federalists were willing to accept the election result, here you remind us that the leader of one party, Hamilton, backs the leader of the other, Jefferson, because the alternative will be a tyrant who won't support the structure.

All right, Lindsay, we st- I still wanna understand more about the ideas that divided the Hamiltonian Federalists from the Jeffersonian Democratic-Republicans. And they included, of course, uh, foreign policy and Britain rather than France. They included the Alien and Sedition Acts and free [00:14:00] speech. They included the scale of federal government. But tell us, please, what were the, uh, t- the ideological differences among the new parties?

[00:14:09] Lindsay Chervinsky: Well, to paint with a bit of a broad brush here. Generally speaking, the Jeffersonian Republicans or the Democratic-Republicans or just the Republicans, they kind of went by all three depending on what document you're looking at. Tended to be more pro French, they tended to be very anti British. So even if they were sort of ambivalent about the French Revolution, they had sort of been aghast by the intense violence. They were resentful of some of the tensions between France and the United States.

They were very, very anti British always. They generally supported the, the federal government being a little bit smaller in terms of its executive authority. For example, they had been a little bit weary of the national bank. They thought that if the federal government was to invest in supporting certain citizens, the ideal form of citizen was a farmer as opposed to a merchant or a [00:15:00] banker.

They understood that trade was essential for farmers to be able to sell their goods, but it wasn't their primary motivating factor. They were deeply against and deeply opposed to the Alien and Sedition Acts, partly because they felt that the Sedition Acts were a violation of the first amendment. But also because immigrants, the people targeted by the Alien Acts tended to support Republicans.

So it was a very politically targeted, um, movement against their base. On the flip side, Federalists tended to be more pro British recognizing that Great Britain was the nation's largest trade partner. So it made sense to have good economic relations with someone that you relied upon to have a functioning economy. They admired the banking system in, in Britain and

supported more centralized authority in, to, to govern commerce and the economy in general, which meant that they supported the federal government generally.

Investing in things like merchants and trade and infrastructure and city [00:16:00] centers. That was sort of where they saw the future of the nation going. They were much more antagonistic towards France. Uh, very wary of the revolution and the anarchy that they saw on French shore, and wary of that anarchy coming across the Atlantic. And they generally were more in favor of the Aliens Institution Acts.

Partly because that they genuinely feared the possibility of political violence spurred on by violent and partisan rhetoric in the newspapers. Perhaps, we could talk a little bit more about that as we go on. There were not this same sort of limitations about what you could print that there are today. And people printed terrible, terrible stuff. And they genuinely worried it would lead to violence. And yet there were also those partisan motivations as well.

So that's kind of where they, they broke down how those ideas manifested themselves in the campaign. They both kind of took them to the extreme. Adams supporters, or the Federalist accused Jefferson of being an atheist or suggested that he was going to [00:17:00] steal everyone's Bibles per Ed's point about religion. So they said that if Jefferson won, you know, you needed to bury your Bible in the backyard.

People accused Adams of having a hermaphroditic character or being controlled by his wife, which he was not man enough to control his household and therefore was not man enough to control the country. Um, so those are just a couple of examples of the, the pretty vile things that were printed about both sides.

[00:17:26] Jeffrey Rosen: Thank you. Fascinating, uh, summary. So vivid, uh, in giving us a sense of the clash of ideas and personalities. Ed, um, tell us more about religion. You did flag it. And, um, some of our friends in the chat box are asking about it. In addition to being accused of an atheist, what was the role of religion in the election of 1800? And also tell us about charges that Adams was a monarchist.

I've just been reading Mercy Otis Warren's wonderful history of the American Revolution and those five pages on Adams, where she accuses Adams of having betrayed his Republican principles and becoming a monarchist. [00:18:00] Drove him over the bend and he reacted with explosive fury. So tell, tell us about all that.

[00:18:05] Edward Larson: Well, starting with your last one first, the monarchism one, that ties into one other difference between the two parties and it's really at the root of it. The Democratic-Republican or the Jeffersonians incorporated, as they formed they incorporated the remnants of the anti-Federalists. There were anti-Federalists throughout. Um, probably the greatest one was the governor of New York, George Clinton, an incredible governor.

But Tom McCain in Pennsylvania, State of Pennsylvania became one. Samuel Adams in Massachusetts. John Hancock became one. Um, governor of Massachusetts and then Sam Adams, the governor of Massachusetts. Patrick Henry is... Even though Jefferson and him didn't

like each other. Jefferson was [laughs] certainly... Have we got anybody from South Carolina? Uh, Charles Pinckney, not Charles Cotesworth.

The... Pinckney, the running mate of Jeff Adams. But the Charles Pinckney. So you had this array of people and [00:19:00] they believed in states' rights. They just thought states' rights should have a bigger... Not that they didn't want a federal government. They wanted one... Most of them wanted one stronger than in the Confederation, but they didn't wanna go as far as the constitution went.

And so mon- the, the charge of monarchism is all tied in with, um, at the, at the deeper level. With the fear that the high Federalists and the Federalists, including you can draw it, they could find it. Of course, you know, you go through these writings and the trouble is all these guys wrote too much. And so you can go through Adams' writings and you can find a whole bunch of things that sound very m- monarchical.

And you catch it with the notion of they wanna suppress the states. They wanna have a s- less of a realm for the states, um, and what the states can control. And more from the central government, such as the additional army that Adams formed during the, the, the... Uh, a s- a standing army as it were [00:20:00] during his tenure as president, led by of all people Alexander Hamilton. Who would've thought that was?

Um, and that, that whole idea played into because commitment to state's rights. And so many Americans believed their liberties had come from and been protected by their states and the na- the central government was just... Or the general government as they would call it was just too far away. The other element is the religion one that you mentioned, and it ties right in the monarchical line. Because what do monarchs have? They have... This is the perception.

They have a standing army and they have an established church backing them up. And that's what they all had. And, um, whether it be the czar with the Russian Orthodox Church or the, or, um, the, the King of England with the, uh, Anglican Church. And so that was the charge on religion against Adams. That Adams was a [00:21:00] monarchist and he wanted to have an established church. Now you had that in Massachusetts. Massachusetts at the time still had an established church.

They still supported the church. Um, 'cause the constitution doesn't stop states from having... First amendment doesn't say... It says Congress can't pass any law by an established church. Only states can. So Connecticut and Massachusetts had established churches. And Adams was viewed as a supporter of a national church. Now, religiously, everybody knew Adams was not religious at all.

Um, as one of the, um, wonderful pamphlets by the, um, by one of his own people said, "Adams may be no more religious than my horse, but at least he supports the importance of having a state church that will have, um, days of prayer and fasting and, and support the public, the common wheel through an established church." Jefferson in [00:22:00] contrast was the author, famously the author of the Virginia Declaration of, of Religious Freedom.

And he had led the fight along with Madison to disestablish the Anglican Church in Virginia. This was a charge against him. Of course, they can find things in Notes of Virginia. You can find anything you want in Notes of Virginia that would question his fidelity to religion. But the, his supporters always maintained in their pamphlets that Jefferson was a church goer and at least as religious as Adams.

The truth of the matter is they had almost identical religious beliefs. They were both some sort of Unitarians, providential theists of some sort as was Washington as was Hamilton. Um, none of them were conventional Christians but the way they were presented. And the result was Jefferson in the election of 1800 got enormous supports from dissenting churches, from Methodists, [00:23:00] from, uh, Lutherans, from, uh, Catholics.

From these groups that were opposed and leery of an established church, while Adams got support from those who would support an established church. So the Presbyterians, some Anglicans in some places and, of course, the congregationalist in New England. That, a congregational church was the established church of Massachusetts.

[00:23:24] **Jeffrey Rosen:** Fascinating. So interesting about those two fears that, uh, monarchs have a standing army and an established church backing him up. So relevant and this concern, uh, that Adams, uh, wa- was a closet monarchist dissenter. Um, Lindsay, the, the, you're about to write about Adams and I'm so eager to hear your thoughts about his response to the charge of monarchism. He becomes very indignant with Mercy Otis Warren and says, "I always supported elected councils, uh, never hereditary ones."

And also tell us more about this split [00:24:00] between Hamilton and Adams. Hamilton wants to install a high Federalist. Um, what is a high Federalist? Um, and, and how are the Hamiltonian principles even more extreme than those of Adams?

[00:24:11] **Lindsay Chervinsky:** Yeah, it's a great question. And, and you're right. Adams hated those charges of monarchy because he had devoted his entire adult life pretty much to fighting against the monarchy in one way or another. And devoted his public service, spent time away from his children and his home in service of a republic. So it was a real insult to both his ideas and also his sense of sacrifice.

He already felt like it wasn't really appreciated as much as Washington's military sacrifice. And so for someone to charge him with these things was really salt in the wounds. Um, to be sure he favored a more powerful executive than some others. And he having spent a lot of time in Europe worried about whether or not the president without sort of the, the trappings and the material culture elements of [00:25:00] a monarch would be able to demand the respect of visiting dignitaries, diplomats, um, elite figures, even, you know, our own citizens.

He had been to places like Versailles in the court of St. James that were, you know, filled with, with finery and beautiful items. And so he worried that the president with his, you know, large private residences, but still nonetheless a private residence with not a whole lot of gold Gilbin would come up short in their estimation. And for that, he was often accused of being more monarchical than he actually was.

In terms of the split in the party and how that worked, a lot of it came down to personality, but also to positions on a couple of key things. Adams was very touchy. He was prone to a bit of a temper and he couldn't stand Hamilton and the feeling was mutual because they both thought they were right most of the time. And Hamilton was a bit of what we might call a mansplainer today.

Uh, especially when [00:26:00] he's talking to someone who has way more experience than he ever did. He had the audacity to lecture Adams on diplomacy and foreign policy, which takes an awful lot of chutzpah. Um, so certainly there was a personality element to that situation. The other part of it was that Adams really believed in the importance of peace and diplomacy. He recognized that the nation had no business getting into a real war. And he worried about the impact of a full standing permanent army.

He didn't actually ask for the creation of that army in the summer of 1798. That was the creation of a faction in Congress, these high Federalists that believed a, a standing army or at least a powerful army in this moment would be good for the nation. It'd be good for the nation's defenses. It would be a good place to funnel f- the nation's funds into investment and infrastructure.

They were much more gung-ho to prove themselves through warfare, especially against France. Not [00:27:00] unlike frankly today we have some factions in various political parties that are considered to be more hawkish and more eager to go to war than others. So that was certainly the same today as it was back then. And Hamilton was really in that more hawkish element. He desperately wanted military glory and military command and the army was the way to do it.

And when Adams undercut that opportunity, most of the high Federalists thought that peace was embarrassing. Sending a diplomatic envoy was showing weakness, was kowtowing to the French power and they never really forgave him of that, that effort in undercutting the army in that way through diplomacy.

[00:27:40] **Jeffrey Rosen:** Fascinating, uh, those sound like serial, uh, differences of, uh, policy. You can well imagine how threatening standing armies would be certainly to the anti Federalists who... George Mason standing up at the constitutional convention and saying standing armies are the worst thing imaginable, the greatest threat to liberty. [00:28:00] And then, um, the split among, uh, the high and low Federalists about diplomacy is fascinating as well.

All right. Ed, we're, we're doing a good job at moving up toward the election of 1800. And so far, it sounds like there are real differences of principle as well as personality among, uh, the, the candidates, uh, Jefferson and Adams. Did the whole thing end in such acrimony simply because of the clash of, uh, politics, or was it a quirk in the constitution that led to the mess in the Electoral College?

And if you think that this is the time to explain what happened, um, you can do it as concisely and clearly, uh, as, as anyone. So what, what exactly happened to result in this, uh, deadlock in, in, in Congress?

[00:28:49] Edward Larson: I, I agree with Lindsay's descriptions. Um, it was issues and personalities that drove the election of 1800. Uh, there'd **[00:29:00]** already been, of course, the election of 1796, where Washington decided to not to step down and the two most visible figures other than Hamilton, the two... But Hamilton was totally unelectable because he was too extreme. Um, the two most visible figures were John Adams and Thomas Jefferson. Uh, they were leaders of their still, I would say, faction.

But a faction in the sense of a, uh, not just one issue but a whole broad coalition of issues. One basically stood for one set of ideas and one basically stood for another and it was, and they were all incorporated. And so the election played out. and back then the, um, each elector got two votes. And the states were able to divide up their electors any way they wanted to, really. It was a matter of state, state law. Now, the idea had been...

The best you can gauge that the idea had been that **[00:30:00]** every state was given one elector for every senator and every representative. Um, so Delaware would get three say and, and, uh, Pennsylvania would get 14. Um, however, you add the number of their members of Congress and the number of, of senators together. And that general feeling was that people would have elections in each congressional district for one elector, and then two statewide for their two Senate delegation. Sort of like Maine and, and, still does it that way. And there's Nebraska.

Um, but they could just appoint him by the legislatures. And especially in those early years, if they couldn't get the election together, um, they, the legislature just appointed them. And then the idea is, well, how does the legislature appoint them? Is the governor involved? Or is it just the two houses of legislature? Or do the two houses of legislature is each Senator and, and representative in each state get one vote? Or do they do, do the Senate and the house have to agree separately in, in each state? And every state in a differently.

And so you had about half of them electing **[00:31:00]** it roughly and half of the other way. Well, then you get to the... What happened is that it was a very, very, very close election. And John Adams, uh, won, came in first and Thomas Jefferson just three votes behind him in, uh, 1796. So then the rules as they operated, whoever came in first was president as long as he had a majority of the electoral. And whoever came in second was vice president.

So John Adams was president and Thomas Jefferson was vice president, which led to a, a amazing situation where you had the leaders of the two both there. Not a ticket, but rather the leader of one faction president and the leader of the other faction is vice president presiding over the Senate, presiding every day actively. So basically you could explode every issue. It was a, it was a Tinder box for, for four years because you had Jefferson there on the spot to answer **[00:32:00]** everything that Adams was doing.

To complain about the Alien and Sedition Acts, the additional army, all these other activities. The, um, the Quasi-War with France. Um, and that just kept, kept the situation. It never ended. The campaign just continued after the election of, of 1796. It just went for four years. And everything got tighter and tighter and tighter. The next time we're gonna have that is way in the future in

1824, when John, when Andrew Jackson doesn't accept John Quincy Adams election, and there's four straight years of campaigning.

Fear is, is happening right now. When you don't accept an election, it just keeps going and it just keeps building. So that's what was happening. That's how the system worked. That's what they faced. And how the states responded to it was, over that four year period an increasing number of states decided we're not gonna let the elections take place in congressional districts.

[00:33:00] Because Adams had gotten a couple votes in Virginia. Jefferson had gotten a vote in Massachusetts. If Adams had gotten like a vote or two in North Carolina... If Virginia and North Carolina had been uniformed, Jefferson would've been president. So Wash, um, Virginia ops for winner-take-all. We're gonna have an election, but it's statewide winner-take-all. Well, Massachusetts and New Hampshire counter attack. It's an arms race. So they go winner-take-all. W-

And so you, you end up with a partisan free for all as states move. Yes, we're gonna have votes, but it's gonna take winner-take-all for the state. Not... W- The original idea was, well, if you're a split state, yeah, some elector votes will go one ways. Well, these, these electors will be able to use their own judgment and you end up with a split. That disappears so that by the election of 1800. And this is where I'll leave it to answer your question.

People no longer were **[00:34:00]** voting for who they thought would be the best elector. Nowhere. Every place you voted for a committed partisan line. People who would automatically vote the party line, not who would use their own judgment as electors. Not who were committed to vote a party line. So you had that change and how the electoral system worked. It was still every el- elected electors who didn't have elected the president. But those electors were now running in support of a party ticket.

[00:34:33] Jeffrey Rosen: Wow. That was so interesting to learn that there was a permanent campaign. That the co- yeah, the uneasy co-serving of Adams and Jefferson meant that neither party accepted the results and people continued to resist. And that there was a lot at stake in the design of the electoral system. And you described a change in the role of the Electoral College as we shifted to winner-take-all systems for partisan reasons. And that created **[00:35:00]** the explosive Tinder box that...

As if I think all Tinder boxes are explosive. Um, that, uh, resulted in the, in, in, in the blow in 1800 itself. All right. Lindsay, unless you wanna give us more background 'cause you're working off each other so well, I think it falls to you to tell us what happened, uh, in Congress when someone forgot to, uh, not vote for Aaron Burr and he and Jefferson tied and, uh, took a whole lot of votes to decide the election. Tell us that story.

[00:35:29] Lindsay Chervinsky: Ed, did you have a quick point? It looked like you were trying to say something.

[00:35:32] Edward Larson: Just a very quick point. Thank you, Lindsay. Both sides... I didn't wanna give the wrong impression. In... I just wanna make this clear. In 1796, they both accepted

the election. Nobody questioned the election. Jefferson accepted the results. Adams... They just wanted to strategize and prepare for the next campaign.

[00:35:56] Jeffrey Rosen: That's important. Thank you for that. Uh, I, I [00:36:00] overstated it by saying that they didn't accept the election results, um, and overdrawing, uh, the contemporary parallel. But they did accept the election results, but were trying very hard to overturn them. Um, and that's what led to this very close election in 1800. So, Lindsay, what, what happened?

[00:36:15] Lindsay Chervinsky: Yeah. So this is a little bit of a, uh, a mathematically complicated situation. So I'm not actually gonna dig into the number breakdown 'cause I think sometimes that's actually confusing. What, what happened as Ed so hopefully laid out for us is each s- each elector, you know, have these two votes. And the initial idea was that people would be very likely to vote for their hometown hero.

Just like today we, you know, expect if s- if there's a candidate from Texas, maybe that gives them an edge in Texas. The same concept. And so the idea was if you had one vote from home, then maybe you would have one vote from a different state. And that was intended to try and bring together national coalitions. But because there was not a clear distinction between one vote for... You know, you didn't, you didn't have a presidential [00:37:00] vice presidential ticket like we do today. You had your two candidates.

And there was an understanding. And everyone knew that Jefferson was really supposed to be the presidential candidate and Adams was supposed to be the presidential candidate. But it left a lot of room for machinations behind the scenes, which is exactly what happened. Especially, with Hamilton's meddling. Because in October of, uh, 1800 leading into the election, Hamilton published a pamphlet attacking Adams.

This is not the first ridiculous pamphlet he had published, um, and not the last ridiculous thing that he would write. But he basically, uh, wrote this screed destroying, trying to destroy Adams' reputation. Saying he was unfit for high office. He could not be trusted. He was, you know, a egomaniac. He had had a career of bad choices. Um, and what ended up happening is that in, in some ways it didn't, it came out too late to influence a lot of the votes, but it also kind of backfired [00:38:00] on Hamilton 'cause it made him look unstable.

It made him look like he was pursuing personal vendetta at the cost of his party, at the cost of, um, you know, political expediency. So there was this split. And behind the scenes, Hamilton was trying to get people to vote more for, uh, Charles Cotesworth Pinckney who was Adams' running mate. It's, the Pinckney's really needed to be more creative with their names 'cause it gets kind of confusing.

Um, but Charles Cotesworth Pinckney was his running mate. And Hamilton was trying to funnel votes to him and have some people vote for Pinckney and not for Adams. And in reverse, some, Burr was trying to get some people to vote for him and not for Jefferson to try and sort of, you know, see what he could arrange. What ended up happening because there were some of these swing votes is Adams came in third, and Burr and Jefferson tied.

[00:39:00] And that's why the election gets thrown to Congress to resolve this tie. And that's why it took so long. Um, that's why it was this protracted experience. I think we're gonna talk a little bit about the, the interim period there, where it's unclear. But that's sort of the overall structure of how it came to be not contested. Because everyone I- did accept the result, but came to be much more, uh, perhaps dramatic than anticipated.

[00:39:26] **Jeffrey Rosen:** Dramatic indeed. And thank you for taking us so well up to this precipice of the drama where the election is tied between, uh, Jefferson and Burr. And I'll just ask you, Ed, what happened next?

[00:39:42] **Edward Larson:** Yeah. Well, what this, what got to that situation as Lindsay was telling us, was that Jefferson won the election. Just he won the election. Um, his side, it wasn't because of any machinations. Certainly, the [00:40:00] machinations that, that Lindsay was talking about is Adams, uh, Hamilton was hoping some people wouldn't, wouldn't vote for, would vote for Pinckney and not for Adams and bring Pinckney ahead of Adams.

But what happened is Jefferson thanks to Burr, thanks solely to Burr. Burr was a v- v- voter for Yale. He was an amazing political animal. And he managed to flip New York State so that New York State voted for Jefferson and Burr. And they really did vote for... And we can follow them, they voted for Jefferson. They all knew... As Lindsay said, they all knew they were voting for Jefferson for president and Burr for vice president. It was a little odd.

The f- The f- It wasn't that clear on the Federalist side, but certainly on the Democratic-Republican side. They were voting Jefferson and Burr. And, um, there was lockstep. There was no effort at all to split any difference. What they should have done was to split, uh, to have someone not vote for Burr. [00:41:00] So that Jefferson were to come in first and Burr second. But because they didn't know when, when they went in, the states did, did not vote at the same time. That's an important thing to remember.

They didn't all vote on the f- first Tuesday after the first Monday in, in November. They voted whenever they wanted to. And some of this votes came in very early. Some states like Pennsylvania and New York decided their elections real early in the spring. Um, and people would follow it sort of the way we today follow, um, primary results. You get New Hampshire, you get Iowa, later on you get Virginia, you get, um, Oregon and you watch the totals bill.

Well, people over the whole period of 1800, people were watching the totals building. Adams winning and then Jefferson and Adams and... 'Cause everybody thought it was Jefferson and Adams. They thought that Pinckney and, and, and Burr were just running mates. And it kept going back and forth. And two states held [00:42:00] out. South Carolina and Pennsylvania held out to the last minute because...

And they both decided their elections by the legislator because they wanted to know what to do. They wanted to see the totals. And, um, they couldn't know because it was so close that either of those states could decide it. And, um, what happens is that Charles Cotesworth, Charles Pinckney, Charles Cotesworth Pinckney's cousin flips South Carolina much to Adams surprised. He flips it to vote for Jefferson.

He gets well rewarded. But he was a true... He believed in the ideology of the Democratic-Republican Party. He hated Adams and he didn't care much for his cousin either. So the result was that on that last day, South Carolina goes for, for, uh, Jefferson and Burr. And the result is Adams went to bed on election night thinking he'd won [00:43:00] because he thought he had South Carolina in his back pocket because of Pinckney.

That's why he picked Pinckney as his running mate. But he didn't get it. The result was when the elections came in, it was clear that Adams had lost. Adams didn't contest that. Adams didn't doubt it. The Federalist didn't doubt it. The trouble was that because the other side didn't know. If they had any room despair, they didn't want the situation where Jefferson would become president and then Adams would come into second because it was very close. They didn't know who was gonna win.

So they kept their, all their electors voting in lockstep Burr and Jefferson. And no effort was made by either Jefferson or Burr to alter that at all. And the result is that two of them, the electors, all the Democratic-Republican and electors voted for both of them. Everyone thought that Jefferson would tell somebody or Madison would tell somebody, "Don't vote for him. Cast your vote for John Hancock or somebody." [00:44:00] Um, but nobody did. Or, or...

Um, and the result was a dead tie because all these electors, even though all them knew they were voting for Jefferson, meant to vote for Jefferson for president, they cast two equal votes. And the result was a dead tie. And it goes to the... Therefore it's decided by the House of Representatives. And here's the weird thing, it's elected by the old House of Representatives. N- Today after the 12th amendment to be elected by the new House of Representatives.

But this is by the old House of Representatives. And as you know, it's not elected with each, each, um, representative getting an equal vote. It's each state gets one vote. And so if you have a majority of Democratic-Republicans, members of Congress in that state as you'd have in Virginia, well, that w- states one vote would go for Jefferson. And if you had a majority of Federalists, the only other person they could vote for was [00:45:00] Burr. And so they voted for Burr.

Well, the problem was you needed a majority of states to win under the constitution. And the trouble was, there were eight states controlled by the, um, by the Democratic Republics. There were, uh, six states controlled by the Federalists, but others were split right down the middle. So they had one... Like Vermont had one on each side. And the result is when they all voted... Oh, well, it was eight to six. Excuse me.

When they all voted, nobody had a majority. 'Cause all the, all of the Democratic, all the Federalists or all the Federalists that mattered voted dually for Burr. And all the Democratic Republicans, every one of them to a person voted for Jefferson. None of them voted for Burr for president. And the result is you ended up having nobody having a majority, um, with these split states, and the result is they [00:46:00] had to have ballot after ballot, after ballot, after ballot.

[00:46:05] **Jeffrey Rosen:** Wow. So well told and so clearly. Lindsay, I will ask you to finish the story. What was it that finally ended all of these successive ballots and made Jefferson the

present? And then... 'Cause we, we just have 10 minutes left and we've gotta... There's so much for us to talk about the contemporary parallels. I want you to begin to spell them out and I'll, I'll ask you... You, you started by saying, um, you know, what the similarities were. I'll, I'll, I'll ask you about the major difference. Why was it that both sides accepted the legitimacy of the result in 1800 in a way that they did not during our last election?

[00:46:43] Lindsay Chervinsky: Well, let me start with the result. I believe if I remember my number correctly, it was the 36th ballot that Jefferson finally, uh, won on. And, um, you know, I think there were probably a lot of factors at play here. Um, you know, Hamilton the musical likes to give Hamilton **[00:47:00]** all of the credit. And to be sure he was absolutely one of the voices that ultimately encouraged the Federalist to go with Jefferson because he felt that even if he disagreed with Jefferson on everything, Jefferson did have principles and morals.

Whereas Burr it was unclear if he was anything other than a really effective political animal as Ed said. Um, so certainly there were a lot of voices that came to that, to that agreement and that position and pushed Jefferson over the edge on the 36 ballot. The reason this moment is so remarkable is because of all of the opportunities for meddling or for wrongdoing that were not taken.

There were moments when Federalists encouraged John Adams to try and meddle in the house. He refused. Jefferson kind of kept a hands off approachish. I mean, he obviously had his, his supporters and his allies that were, you know, pushing for his cause. But he, uh, did not medal in the way that he could have. They both had dinner **[00:48:00]** prior to the announcement, prior to a final decision and committed to each other that they would respect the outcome of the election and try and preserve the outcome of the election.

And what makes this so important is they understood that the concept of a peaceful transfer of power, the concept of a sanctity of an election and, um, the- these transitions. There was no historic, you know, precedent other than 1796. Most elections that they were familiar with ended with Civil War or death. Um, they had the previous transitions they had seen in the French Revolution had been incredibly violent and destructive.

And so they knew that the American people had to learn how to do this. This was a new process. It was one that had to be cherished and carefully cultivated and enshrined in American political tradition. And that took time and care and attention. And they did not take for granted how important those things were. And I think that at least until last year, **[00:49:00]** we as American people kind of did take for granted that that just happened naturally. And they knew that it didn't.

[00:49:06] Jeffrey Rosen: Wow. That is so moving to hear about the dinner between Adams and Jefferson, where they committed to the peaceful transfer of power because they knew about the alternative. Ed, during the precious, uh, few rounds that we have left, I'll ask you why, um, both sides did accept the legitimacy of the results as you, as you started us off by saying. And then please put on the table other lessons that we can learn from how disaster was averted in 1800 and, and whether or not, uh, it might be in the future.

[00:49:40] Edward Larson: Yeah. Wonderful. And first let me just thank you for this opportunity to talk about these critical issues, and Lindsay for her incredible wisdom, which she's brought to the table here. I so appreciate it. Um, yeah, it was the commitment. And I love the way that Lindsay mentioned. They're looking at what happened in France. Um, they both were appalled **[00:50:00]** by what had happened in France.

So we're all Americans. Even if they ultimately supported the experiment in liberty in France is better than the monarchy, they were appalled by the violence. Um, they'd also had the violence in Haiti by this time and, uh, the violent revolution in Haiti. And so they, they knew... They looked at the election and, you know, all elections are messy. The election in New York for the, uh, in, that Burr had run was a messy election. Um, but they accepted. This is what the people in New York thought this is who won. Jefferson and Burr won.

People in Massachusetts thought Adams had won their state. People in Virginia thought and North Carolina thought Jefferson had won their state. And so, uh, the people this was what they accepted. That in each state, in each state. Not maybe at the national level. You could look. But... So this was an organic development. And people, um, wanted to... **[00:51:00]** I mean, Adams, you know, yeah, he could complain about this or that but overall he said, "I got beat. I got beat. I don't... You know, I think they lied. I think they did all sorts of things during the campaign but I got beat and Jefferson won."

Just like Jefferson four years earlier, you know, "They lied about me. They called me an atheist, which isn't true. They did all sorts of things. And... But my mistake was I didn't answer them. And I'm gonna learn and I'm gonna answer them next time." So they accepted the election as fundamental to the very core, even more than free speech, even more than freedom of religion.

More than anything the core of America's democracy of having elections and accepting the outcome and they were committed to it. And then... So they... So Adams just went away quietly at night. He didn't try to foam in a revolution. John Marshall is handpicked chief justice. He comes in and gives the oath of office to Jefferson. And, and after J- And Jefferson then chooses to be **[00:52:00]** conciliatory.

He doesn't give a burn the bridges approach. He says, "We're all Republicans. We're all, um, Federalists." And he reaches out. And even, even amazingly John Marshall goes home and writes a letter. He says, "My gosh, the guy's halfway sensible. I mean, I, he had a, he had a great speech." And then Jefferson tried to then chose to lead from the middle. He didn't lead as an extremist. He let the, the ad- added Navy continue.

He, he fought against the barbary pirates, which was, uh, a pet issue for the, for the new Englanders who backed us. He brought Federalist in. He kept some Federalist office holders. He tried to govern from the middle and build a consensus party and it worked. By the time of the next election, Pinckney now ran as their candidate. And Pinckney got smashed by Jefferson.

[00:53:00] Jefferson by this time had had the Louisiana purchase. Um, he'd have, he'd had victory after victory. He lowered taxes. He got rid of the Alien and Sedition Acts. But he tried to lead from the middle to draw us together. And it was really... Honestly, um, I believe that that,

that first term of Thomas Jefferson was one of the greatest terms in office of any president ever in American history.

[00:53:27] Jeffrey Rosen: Wow. So important to quote from Jefferson and his in- inaugural as you did. We're all Republicans. We're all Federalists. Not every difference i- of a opinion is a difference of principle. And then to remind us of how he governed from the middle. And that laid the groundwork for that incredibly moving reconciliation, which you described in your book, where Adams and Jefferson as, uh, old men write these beautiful letters about philosophy and spirituality and books and music and, um, their joint commitment to the American idea.

Well, **[00:54:00]** it's time for closing thoughts in this wonderful discussion. I'm, I'm loath to close as, [laughs] as, uh, as Lincoln said. But we, we have to, uh, end on time. Um, so I'll, uh, ask, uh, each of you to sum up. And, you know, I, I began by asking about similarities, but maybe in your closing thoughts te- tell us about differences between now and then that might give us pause today and allow us to learn from their choices. Lindsay, closing thoughts in this wonderful conversation.

[00:54:27] Lindsay Chervinsky: Well, I consider this in my previous answer. But to me, I think the biggest difference is that both Adams and Jefferson were firmly committed to doing what was best for the future of the nation. Now they had different ideas about how to maybe get there in practice, but they believed in the importance of their survival of the country. And were willing to, you know, take their knocks to lose as Ed said, um, and to go home.

And, you know, that was a really important part of the American tradition for a really long time. You know, I think of the election of **[00:55:00]** 2001, you know, Gore quite literally had to certify the results after he had previously lost. And, uh, that... We have seen a, a shift in the last several years of people not willing to accept the outcome of the elections. And so to me, that is the biggest difference.

One that I hope can, that we can return to because it is the core of the American tradition to accept the outcome and the sanctity of elections. Um, and is what has made the republic extraordinary. I mean, flawed, of course, but also extraordinary

[00:55:29] Jeffrey Rosen: Beautifully put. Thank you so much for that. Ed, the last word in this great discussion is to you.

[00:55:34] Edward Larson: I agree with everything Lindsay just said. And I just look at these people and they could have nitpicked. They honestly could. Je- Adams could have honestly nitpicked about the election in New York. There'd been plenty of reports 'cause that election was all the way back in the spring. They knew about irregularities in the 7th Ward of New York, which may have tipped the election.

But, no, he realized that overall this was basically a fair election and they both had their chance.

[00:56:00] And therefore much like Gore or much like Richard Nixon in 1960, when he knew of the problems in Illinois, he knew of the problems of the vote in Texas, but he went ahead and he certified that election as well. Now, of course, the contrast elections are, is n- is 1860 where the losing side simply would not accept it and I- left the dang union, um, resulting in a civil war.

So you need to try your best, fight your hardest. And, boy, Jefferson and Hamilton and Adams, these guys and Burr they fought their hardest. But when it was all over, they said, "Well, the election's over. Let's go... We'll go on for the next one." Um, and they, they didn't lay partisanship aside. They still kept going. But to me, I sort of compared them to today. If went today... When I look at people like Nancy Pelosi on one side or [00:57:00] Mitch McConnell on the other.

They are both fierce partisans. They will do whatever they can in the, in the Congress, in the Senator of the house to advance their principles. But in the end they recognize elections. They're not like Josh Hawley or some or, or half the members of the Republicans in the House of Representatives who simply don't accept elections. Um, and that's traders. But with, with Mitch McConnell and Nancy Pelosi, you get people who play the game hard. They play it the American way.

[00:57:31] Jeffrey Rosen: Play the game hard, but play it the American way. Wonderful way to end this great discussion. Uh, thank you so much, uh, Lindsay Chervinsky and Ed Larson for spreading so much light. And thank you friends for taking an hour out in the middle of your evenings to learn from history. It is so urgently important in these extraordinarily challenging times where the ideals of the declaration and the constitution are being challenged at home and abroad for us to take the time to deliberate and to learn from **[00:58:00]** great historians who can spread the light of reason and allow us to be our best selves. Thank you, Ed. Thank you, Lindsay. Thank you, friends. I look forward to convening again very soon. Goodnight everyone. Thank you.

[00:58:17] Tanaya Tauber: This episode was produced by Melody Raul, Lorna Orrick, John Guerra and me, Tanaya Tauber. It was engineered by Dave Staats. Visit constitutioncenter.org/debate to see a list of resources mentioned throughout this episode. Find the full line of, of our upcoming shows and register to join us virtually. You can join us via Zoom, watch our live YouTube stream or watch the recorded videos after the fact in our media library at constitutioncenter.org/constitution. As always we'll share those programs on the podcast too. So be sure to subscribe so you never miss an episode. If you like this show, you can help us out by rating and reviewing us on Apple Podcast or by following us on Spotify. Find us back here next week. On behalf of the National Constitution Center, **[00:59:00]** I'm Tanaya Tauber.