fourteen- or fifteen-year-old Sally seduced her master and merrily bore his children. Surely the relationship was more complicated than that, with all the patriarchal and legal power on his side and nothing but youth and willingness to please on hers. Had Merchant and Ivory reversed the roles of seducer and seduced and had they included the presence of a strong woman like Abigail Adams, we might have glimpsed a Jefferson who could display passion and profound emotional engagement only in situations where he was completely in charge. The dangers and vulnerability of intimacy for him would have been limited by the disproportionate power and dominance he wielded in his domestic setting. We might, in short, have seen Jefferson as a powerful patriarchal slaveowner, a perhaps not unsurprising character after all. Instead, Merchant and Ivory give us a slightly more manly version of the usual pious portrait of a perfectly rational creature of the Enlightenment—Gary Cooper, in a periwig.

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The Electoral College is a classic illustration of an institution that develops in a manner quite different from what its framers conceived. The delegates to the 1787 Constitutional Convention assumed that the Electoral College would serve as an elite board to select the two outstanding personalities in the country. The person with the highest tally in the Electoral College, and thus the most popular man in the nation, would become president of the nation, and the second most popular individual, vice president. By requiring each elector to cast two votes, one of which had to be for a candidate from a state other than his own, the framers forestalled the possibility of the thirteen states selecting thirteen favorite sons. The aim was to preclude provincialism, and, as James Madison put it, "the second best man in this case would probably be the first, in fact" (in Max Farrand, ed., The Records of the Federal Convention of 1787, rev. ed. [New Haven, 1966], II, 114). Although the electors would not assemble together but meet in their respective state capitals to vote, in each instance their eyes would be directed to the out-of-state choice they were required to make.

The advent of political parties radically changed the situation. Electors were no longer expected to be individual sages making an independent selection; rather, they became faithful minions executing voting instructions from the electorate or the state legislatures. Each elector's second choice was by no means the nation's first; the college became a means of balancing a national ticket to attract support on as wide a geographical range as possible. The founders may not have anticipated the emergence of political parties and, in
fact, decried factionalism as a blight on the body politic, yet by the end of George Washington's second administration it was clear that the division between Federalists and Republicans heralded an entirely different role for the Electoral College from its original.

The author of *The Origins of the Twelfth Amendment* has carefully examined the implications of the transformation of the Electoral College. Tadahisa Kuroda, a professor at Skidmore College, notes that the rise of political parties infused a spirit of democracy into the American system of government, but manifestation of that spirit in the Electoral College threatened to undermine the people's choice of a chief executive. Given the natural desire of the majority party to land both the presidency and vice presidency, that party's electors were prone to cast all their votes, or nearly all, equally for both their party's candidates. Because there was no separate designation of the vote for president and vice president, these two candidates would thus receive about the same number of Electoral College votes. At the same time, however, electors for the minority party, knowing that they could not secure victory for their own man in any case, could easily swing their vote—especially their second vote—for the vice presidential candidate of the opposing party, thereby defeating the primary choice of the majority party. Better still, the minority could strike a deal with the opposing vice presidential candidate to elect him president in return for concessions.

Hence there was genuine danger that the politicization of the choice of chief executive, combined with the dual vote in the Electoral College, would corrupt the electoral system, as the 1800 elections demonstrated. Thomas Jefferson and Aaron Burr, the Republican Party's candidates for president and vice president respectively, received an equal number of votes in the Electoral College, as a result of which the final choice was conveyed to the House of Representatives, voting by states. This outcome led to a sordid campaign by several Federalists to promote the election of Burr in preference to their nemesis, Jefferson. That their plan did not succeed is attributable, not to their integrity, but to their failure to plot their scheme at the Electoral College stage when a single Federalist vote would have resulted in Burr's election and frustrated the popular will.

Such is the genesis of the Twelfth Amendment to the Constitution, adopted in 1804, which henceforth required separate votes for president and vice president in the Electoral College. Otherwise, the system was left intact, except for reducing the choice in the event of a contingency election in the House of Representatives from among the top five candidates to the top three. The Republican majority rejected a Federalist proposal to institute district elections of electors. The system of winner-take-all in a state was not tampered with, since it seemed to promise electoral supremacy to the majority Republican party for years to come. For the same reason, according to the author, short shrift was given to a suggestion for popular elections without the device of the Electoral College. Some elaboration here might have helped readers to gauge how much support there was for this proposal. Although some of the smaller states charged that the proposed changes
under the Twelfth Amendment restricted their chances of electing a candidate for the presidency, their complaint did not keep the requisite majority from adopting the amendment.

Tadahisa Kuroda has painstakingly traced the influence of political parties on the operation of the Electoral College and has demonstrated the considerations that prompted Jefferson and his congressional Republicans to limit the scope of the changes proposed. Kuroda’s review is exhaustive, and if there is room for criticism, it is that the book’s detail is, on occasion, too extensive and could have been curtailed to advantage. But for anyone interested in seeing how political developments prompted early constitutional change and how politics operated to restrict that change to the barest minimum, this book offers a comprehensive and absorbing account. A point of criticism directed to the publisher rather than the author is that, when notes are consigned to the back of the book, it is helpful to know to which pages they relate. The omission of suitable running heads compels the reader to flip back to find where the notes belong.

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Shlomo Slonim


These two volumes carry publication of The Papers of John Marshall from Marshall’s last months as John Adams’s secretary of state to his twelfth year as chief justice. The volumes stand out. Their materials rise to the important drama of Marshall’s life, one of the serious events of the young republic. Marshall, Federalist and constitutionalist, begins his judicial navigation of Democratic-Republicanism, which the revolution of 1800 had entrenched in the legislative and executive branches. It is a public drama spiced with personal animus between Marshall and Thomas Jefferson. But these papers are worthy of their occasion. They are remarkably free of gossip, spite, and malice. Indeed, the judicial opinions and various reports diagnose with precision the constitutional issues as well as some of the political issues (if the two can be separated) at stake. The letters supply invaluable political punctuation and political summary. From such public-spirited documents, private and public, one obtains a clear picture of Marshall’s powers. There appear an almost inhumanly prudent and sober self-restraint, a relentless determination