

but also for legal scholars seeking alternative possibilities and paths for undermining the justifications beneath doctrinal rules.

Maureen E. Brady
Harvard Law School

Eric Lomazoff, *Reconstructing the National Bank Controversy: Politics & Law in the Early American Republic*, Chicago and London: The University of Chicago Press, 2018. Pp. 256. \$90.00 hardcover (ISBN 9780226579313); \$30.00 paper (ISBN 9780226579450); \$10.00–\$30.00 e-book (ISBN 9780226579597).

doi:10.1017/S0738248019000907

In *Reconstructing the National Bank Controversy: Politics & Law in the Early American Republic*, Eric Lomazoff takes aim at an old myth of American constitutional scholarship: that the conflict over the Bank of the United States was a simple tug-of-war about whether the bank was “necessary and proper” according to Article I, Section 8 of the United States Constitution. It is true, Lomazoff acknowledges, that historical actors did frequently use this clause in their arguments, but they referred to other clauses of the Constitution as well, and more importantly, they deployed the Constitution in ways that cannot be understood without reference to the constant political and economic change of the Early Republic. The debate about the bank, he writes, was characterized by a “dynamism” that derived from “ordinary” (i.e., non-constitutional) politics and from the bank’s own institutional development (3, 5).

Lomazoff makes a convincing case that “necessary and proper” meant different things to different people at different times. In the first debates about the bank, politicians used a two- or even a three-pronged standard for determining what was “necessary and proper.” One prong was what Lomazoff calls the *functional* standard: did the federal government need the bank to fulfill its duties? A second prong was the *federal* standard: did the federal government have any “workable options” *other than* a national bank to fulfill its duties (23)? A third prong was the *frequency* standard: did other governments frequently use this means to achieve similar goals? The bank’s enemies did not agree on which of these standards ought to be applied, and, in the end, the bank’s supporters prevailed, wielding a “loose reading” of the functional standard (29).

As Lomazoff makes clear, however, historical change meant that politicians could never really have the same debate twice. Imposing the federal standard,

for example, meant making an argument about the country's current banking capacity. After state-chartered banks had become numerous, it was far easier to argue that the federal government did not need its own bank to fulfill its fiscal duties. Moreover, by the time the federal bank's first charter expired, Republicans had become divided not just by theoretical beliefs about the Necessary and Proper Clause, but also by their varying degrees of personal financial investment in the state banks with which it competed. Thus scholars investigating legislators' constitutional arguments must take interest as well as principle into account.

Of even greater interest to Lomazoff is the argument that Republicans used a few years later when they sought to re-charter the bank. Instead of claiming that the bank was "necessary and proper" for the government's fulfillment of its *fiscal* duties, they declared that it was an exercise of the powers granted to Congress by the Constitution's Coinage Clause. They were able to use this novel argument because of institutional and historical change. Over its 20-year lifespan, the first Bank of the United States had come to exercise oversight over state banks' redemption of paper money for specie. After the War of 1812 ended, with the first bank defunct, state banks had delayed resumption of specie payments. This unique historical circumstance allowed pro-Bank Republicans to argue that a new Bank of the United States would restore gold and silver coins to circulation. Pointing to the Coinage Clause also allowed Republicans to avoid confronting intraparty divides over the Necessary and Proper Clause, fiscal policy, and federal authority in general.

Supreme Court Chief Justice John Marshall doomed this convenient Republican compromise by upholding the constitutionality of the bank so emphatically with reference to the Necessary and Proper Clause in *McCulloch v. Maryland* (1819). And in another historical twist, *McCulloch* also gave Andrew Jackson the language that he used to veto the bank's re-charter, for in Jackson's estimation, *McCulloch* confirmed that the authority to determine what was "necessary and proper" belonged to the president and Congress (152). Jackson also addressed the Coinage Clause, insisting that if Congress wanted to regulate currency, it needed to do so directly, rather than delegating its power to a corporation. Debates about the government's powers of delegation are often associated with the twentieth century, but Lomazoff finds these matters already undergoing debate in the Early Republic.

Lomazoff works from the field of political science, but historians will appreciate his insistence that analysis of the Constitution must take change over time into account. *Reconstructing the National Bank Controversy* is a welcome addition to the growing body of scholarship that interprets political affairs of the Early Republic with reference to the nuts and bolts of public finance and private enterprise, but without reducing politics to simple materialist striving (see also, e.g., Brian Phillips Murphy, *Building the Empire State* [University of Pennsylvania Press, 2015]; Stephen W. Campbell, *The Bank*

War and the Partisan Press [University Press of Kansas, 2019]; and Lindsay Schakenbach Regele, *Manufacturing Advantage* [Johns Hopkins University Press, 2019]). At times, however, Lomazoff is so insistent that constitutional scholars discard their old myths that he risks creating a new one: that economic historians are a unified group of scholars in unique possession of—in his respectful phrasing—“economic facts” (168). If, as we hope, constitutional scholarship will continue to take political *and* economic history into account, we must remember that what Lomazoff terms “economic facts” are simply combinations of evidence (however gathered) and interpretations (however derived). And with respect to both “facts” and their interpretations, historians inevitably—and healthily—remain divided.

Hannah A. Farber
Columbia University

Robert C. McGreevey, *Borderline Citizens: The United States, Puerto Rico, and the Politics of Colonial Migration*, Ithaca, NY: Cornell University Press, 2018. Pp. 264. \$45.00 hardcover (ISBN 978150171614X).
doi:10.1017/S0738248019000919

In *Borderline Citizens*, Robert McGreevey explores the tenuous nature of Puerto Ricans' claims to citizenship during the first three decades of United States colonial rule. The cases examined by McGreevey showcase intense debates that centered on two key questions: were Puerto Ricans foreigners or citizens, and what were Puerto Ricans' rights as migrants and as laborers, as a result? Given that Puerto Ricans had been under United States dominion since 1898 and were designated citizens in 1917, McGreevey shows how inclusion in the United States nation-state was far from a given and how the status of Puerto Ricans was constantly contested despite legal forms of inclusion. Throughout the book, McGreevey turns to Puerto Ricans' encounters with the colonial state to tell a story about the ways that citizenship is imposed, constructed, negotiated, and challenged, which is of great value to historians interested in how race, empire, and labor shape understandings of rights and who gets to be considered “American.”

McGreevey's narrative covers some familiar territory such as the notorious Insular Cases, which declared Puerto Rico and Puerto Ricans to be foreign in a domestic sense. However, he injects new and exciting analysis into these discussions by focusing on how labor and migration shaped perspectives on Puerto Ricans' citizenship. For McGreevey, laborers, unions, and employers