

Professor Marcus Alexander Gadson on the Dorr Rebellion

Erik Chaput: Well, welcome, everyone.

I am excited this morning to be online here with Professor Marcus Gadson, who is an associate professor of law at the University of North Carolina at Chapel Hill.

He is the author, as we're going to learn today of a wonderful new book, *Sedition: How America's Constitutional Order Emerged from Violent Crisis*.

It's about the history of constitutional crises in America and we obviously today are going to focus in on the Dorr Rebellion.

But we will get a chance to learn a little bit more about what this book has to tell us about other periods in American history and certainly how the Dorr Rebellion plays out in subsequent decades that Professor Gadson examines in his book.

So I thought perhaps our best starting point today would be to ask Professor Gadson how he thinks the telling of Thomas Wilson Dorr's attempt at extra legal reform in Rhode Island kind of fits in with what he set out to do in this wonderful new book.

And how this event in Rhode Island that we highlight here on the Dorr Rebellion project website fits in with a broader story that he captured.

Marcus Gadson: Sure.

Well, first of all, thank you so much for having me here. I'm just delighted to get to talk about this.

Let me first start by talking about what I was hoping to achieve with the book and then I'll talk about how the Dorr Rebellion fit in.

So what I was hoping to achieve with the book is I wanted to tell a story about how American constitutional law has been shaped.

And I think one of the really underappreciated features of how American constitutional law has developed over the centuries is that crisis moments where constitutional order breaks down has done a lot to shape our current constitutional order in America, more than is typically taught in school and more than most Americans realize.

And so that's the basic argument of the book, is that constitutional crisis has actually made America's constitutional order.

In the book, one of the things that I say is that one of the big causes of constitutional crisis is

over fundamental questions that are very difficult to actually compromise over and design around.

When you draft a constitution, one of the things I'd like to impress upon students is you were doing a lot more than just coming up with rules that people follow or amendments.

You were also actually coming up with dreams that you have as a society, and you were also telling us how you're going to guard against your fears.

And you are also committing to a particular vision of life.

So some of the big divides in American life have been over who count as being the American people.

So you look at the preamble of the federal Constitution and it says we the people, you know, do ordain and establish this Constitution and it's lofty language. But who are the people and who counts as a citizen?

And that is a fundamental divide in American history.

Some of the big ways that this has shown up is do racial minorities count as being part of the people?

Do women count as being part of the people?

Do non property holders count as being part of the people?

And then another big question in American life is how do the people go about changing the Constitution?

And if I were giving a civics test, the correct answer that you might expect as well, 2/3 of both houses of Congress can propose an amendment and then 3/4 of states can ratify.

But the Declaration of Independence, which is our birth certificate as a country in many ways actually is famous for saying that the people have a right to alter or abolish government.

So what does that mean?

And does that mean that people are limited to following the method specified in a current constitution, or can they step outside of that in some way?

The Dorr Rebellion fits in because it really allows me to think about both of these questions in the way that we wrestled with them early on in American history.

In the Dorr Rebellion, we had a profound debate over who are full members of the voting population who deserve to be treated as the people.

Rhode Island is actually the lone holdout by the 1840s to not write a state constitution.

Connecticut had done so years before.

So Rhode Island is still governed by a charter from King Charles in the 17th century.

And that has a very restrictive definition of suffrage that had been maintained in Rhode Island over the years.

And so people of course, rebelled against that.

And people didn't like that non property holders couldn't vote.

And this had an ethnic tinge too, as you're aware, which is that many of these people who couldn't vote were Irish immigrants coming to the state.

So that raises the question, are we going to treat non property holders and Irish Americans?

And in a fascinating nugget that we don't have time to fully unpack here, black Rhode Islanders as being part of the people.

And then what steps are the people allowed to take to change their constitution?

In the American Revolution they wrote a Declaration of Independence, put on military uniforms, got out muskets and started shooting at British Army soldiers.

So then the question becomes if the Rhode Island General Assembly won't actually call a convention, and then when it does call a convention, it sets the table to make sure that real reform isn't going to happen.

Can the people act outside of legally prescribed mechanisms to change the law?

That has been a recurring question in American history.

And so the Dorr Rebellion allows me to touch on those.

Chaput: Well, thank you, professor, that that was absolutely wonderful.

We are so honored to have your chapter online for us here and the students and the teachers that use our site.

On our site, we have a lot of material, but you've more than any other story in writing, certainly a bigger book, has really captured the Dorr Rebellion in a single chapter that I personally don't think has been equaled since William Weisig way back in the 1970s.

So we thank you for your incredible contribution here.

As you were writing this chapter, which once again is a lengthy chapter, and you really did a lot of research.

Can you tell us a little bit about your use of the Dorr Rebellion project website and the various letter collections that are online and, and, and how they might have helped you to get at some of these constitutional, major constitutional questions that that that you're laying out?

And certainly I think now that we're in the 250th anniversary here of thinking about the revolution and particularly the Declaration of Independence with the line that you just mentioned and the right to alter and abolish that does indeed also show up in some of these early state constitutions that are being drafted starting in 1777.

And this language is so connected to the to the revolution as well.

Gadson: Yes, well, the Dorr letter collection I think was just essential.

And so I can't thank you and the people who have really managed this over the years enough because without this, my chapter wouldn't have been possible.

I think I actually utilize these letters in a few ways, but perhaps the most important was I always try to emphasize to students that constitutional law, which I teach at the law school level, in some ways it's a mirror because when you hold up a constitution, it's actually a mirror.

It's telling you about us and it's about our own journey.

And it's a mistake to see these people who participated in writing constitutions as being, you know, in black and white photographs.

These were people who live lives in vivid color.

And I think one of the things that the letters did was they helped me really understand Thomas Dorr on a personal level.

And I think you have to understand him on a personal level to fully appreciate what he went through and what he led.

Just a tidbit that I found so fascinating was learning about his family drama, because it turns out, as you know very well, his family was not supportive of what he was doing by 1842.

And in fact, there's this great letter which I quote and which you also quote in your book, where his parents write him a letter, a remarkable letter, saying basically it grieves us to the heart to know that we have raised a son with such a great education who is doing something that is so calculated to the destruction of our constitutional order in Rhode Island.

And just to think that while he is having this debate, which comes very close to violence, which we can talk about, while he's having this abstract debate about who gets to write a constitution and what steps can the people take to change the constitution, he's dealing with the concrete family dispute.

I just thought, what was that like for him to have this in the background of knowing your own mother doesn't even really approve of what you're doing.

And I just think that that's the sort of thing that really gives you color into a person's life.

One of the things that helped me really appreciate about him was this guy is really committed.

And that's not a profound observation particularly, but you have to be committed to get imploring letters from your parents and to persist in the course that you're taking.

You have to be persistent in your course to write some of the letters where he is refusing to give up, even when probably anybody who's looking at this rationally knows that you're not going to succeed.

But he's still writing letters about how he's going to make a stand and how he hasn't given up.

And you just think this guy is a true believer.

Chaput: We thank you so much for picking up on that.

That's certainly when we set out to make the site years ago, we wanted to try to bring the family story as much as we could, you know, to the forefront of what we had available to show the dynamics, the interesting dynamics, as you point out, certainly would have been very interesting on a Thanksgiving or a holiday gathering, including with his sisters and brother-in-laws who were, some of the tasked to capture him so, thank you for highlighting that.

In the course of your research and using the sites to write this incredible chapter, so detailed and rich at just capturing the complexities of the rebellion in a very succinct way, anything that surprised you that you went in thinking, wow, I didn't anticipate my research taking me in this direction or things that you uncover that really perhaps other items that you had read prior to diving into the chapter and diving into the primary source research that you were a bit surprised at?

Gadson: Well, there are so many surprises that I encountered when I researched and I'll just name a couple of them.

I think one of them I've alluded to a little bit earlier, but just seeing how profoundly committed he was.

I think one of the things you think about a lot of the times in politics is that, you know, politicians posture and they're not always genuine.

But one of the things that stayed with me was when I read his treason trial transcript.

And so I read the whole thing and watching this guy who could hang for what he's done, he could get the death penalty and he has a chance to beg for mercy.

They ask him do you have anything you'd like to tell the court?

And he stands up and he basically gives them a lecture about how he's a real son of the American Revolution and how they are repudiating the American Revolution.

So this is a guy who's not willing to beg and grovel for mercy.

And I just thought, wow, again, this is such a true believer.

And he's willing to go to prison and, in fact, does go to prison where he does suffer.

So he really does believe this stuff.

And so you can't write him off.

The other surprise that I had was going in, I expected that to the extent I would be writing about race, it was going to be about Irish immigrants in America, which is, you know, has been actually a fault line historically and waves of immigration coming to America have led to all sorts of debates about what we should do in response.

But I ended up being very surprised by the extent to which some of the oldest racial divides, which is over slavery and race, ended up playing a role.

And so, as you know, he actually is somebody who has somewhat racially progressive views for his time.

He actually comes in supporting black suffrage, and he basically gets enough pushback that he ends up abandoning the push for black suffrage, which I think on one hand doesn't put him in a very good light.

But on the other hand, you see how heartbreaking the decisions he has where he actually has been passionate about ending slavery and supporting racial equality going back many years by the time of the People's Convention.

And so this is a compromise he feels like he has to make.

And that must have been heartbreaking for him.

But then seeing how the Dorr Rebellion was received in other states and in Congress, slavery totally plays a role in how some of the southern people in Congress are responding to this.

And actually, I think one of the things you find is you have many of his opponents coming from southern states and they are terrified by this idea that people who are outside of the political process could in some way change the Constitution and then have that stand by the federal government.

And South Carolina is a great example of that.

They've actually got a black majority in the way that Rhode Island has a majority of non property holders who want to vote and Irish immigrants and people who are not bought into the charter government.

And Southerners know if they let the Dorr Rebellion stand in Rhode Island, then what do they say when they're slaves say, "hey, we saw this whole altar and abolish language in the Declaration of Independence and we saw that the federal government stayed on the sidelines. You know, we actually would like a Constitution."

And so it's just interesting seeing how fears of that led Southern states to react.

It shows really how slavery and race ends up playing such a large role and debates over American constitutional law that you wouldn't normally think.

So I think if you initially asked, does slavery and race have anything to do with how people react to whether non property holders can act outside of the law to get the right to vote in Rhode Island?

You'd probably say no, but it turns out it does.

Chaput: Oh, that's wonderful.

Yeah.

It's certainly something that I, in my own work, I've tried to explore and with my students, I do use the Dorr Rebellion in the classroom to kind of give them this preview.

As you said so nicely of what's the cracks that are forming in the 1840s where white southerners are indeed petrified about the potentiality where this ideology could go and what it could lead to.

But it shows them exactly what's going to happen as you get to the middle of the 1850s with the rise of a very strong political anti slavery movement and white southerners unabashed and their repudiation of Jefferson's ideology.

And you kind of see the embryonic beginnings of that really forming.

And the congressional hearings in 1844 and 45 and the commentary from the Luther v. Borden case in 1848.

You kind of see that.

And it's going to, obviously, form into a very stark sectional divide as you get to the middle of the 1850s to the end.

Well, Professor Gadson, we are once again so appreciative of your time.

If we could close out perhaps with this, as you're thinking about the Dorr rebellion in your book and thinking about constitutional change, what do you see as the, if you had to define Dorr's legacy, what happened in Rhode Island, the outcome as you see it.

If you're thinking about a broader story that you are trying to capture in your book, what can you offer us in regards to this legacy question?

Gadson: Perhaps I think there's a couple of legacies, one for him personally and then one for American constitutional law.

One for him personally is actually watching how he goes from being a vilified figure in many circles in America in the 1840s to becoming a hero in many circles.

And so actually in Kansas in the 1850s, they have a similar situation where they struggle to write a constitution and they actually have pro or abolitionists hold their own constitutional convention and they cite the Dorr Rebellion as a precedent.

And they actually call him Governor Dorr.

So just think about giving him that honorific.

He's Governor Dorr.

He's not a usurper.

And actually, Rhode Island ends up building a monument to him and Chepachet, which is, as you know, is where he made a final stand.

And I think that was in the very early 20th century or something like that.

And now he's faded into obscurity.

But I just think it's interesting that he was able to be seen as a hero.

You think about a guy who literally raised a militia to implement a new constitution could be seen as a hero by so many Americans.

And I think that goes to show you that exactly what the proper way is to try to advocate for constitutional change has been unsettled for so much of American history.

I think in terms of American constitutional law, one of the big legacies for the Dorr Rebellion is it's really a warning that I think entrenched elite can fight a popular impulse for change and they can hold it back.

But the more they do that, the more desperate the measures they risk in response.

And so you'll recall that Dorr actually starts out, he's in the Rhode Island General Assembly, and he doesn't start out getting a militia.

He starts out, you know, writing essays and pamphlets advocating for a new constitutional convention and, you know, trying to get the General Assembly to call a convention that is actually going to lead to reform.

And he was thwarted over a number of years.

You know, he'd been doing this for at least a decade where he'd been arguing for this.

And so whenever entrenched elites, I think, stand in the way of people being able to try to make a fundamental change, the Dorr Rebellion is what you risk.

And then I think another legacy in American constitutional law is actually at the federal level.

At the federal level, we have something called the guarantee clause where we guarantee to states a government that is Republican in form.

And this has been invoked throughout American history.

Congress actually invoked it most seriously during Reconstruction to force southern states to rewrite their constitutions because they said excluding black southerners was not a republican government in form.

One of the things that the Dorr Rebellion helps do is the courts start treating the guarantee clause as a so-called political question, meaning that courts tend to be very reticent about trying to actually enforce a guarantee clause claim.

And it's been left really to the executive and to Congress to sort out.

There has been cases that have been brought over the centuries that have basically crystallized that idea that the guarantee clause is not something that courts themselves will enforce.

And you can start drawing the line from Luther versus Borden for that where the court I think is a pragmatic matter just as not want to say, well, actually the successor government in Rhode Island was never validly enacted.

And so they basically say we're not touching that larger question.

Chaput: That's wonderful.

And I should point out one of our goals and into the future is to have a new section of the site that does focus in on the Luther case.

That is something that has not been developed yet on the Dorr Rebellion project website, but it's forthcoming.

So thank you for that.

That is going to spur us to do some more updates.

So, Professor Gadson, we are so thrilled once again to be with you here and to be able to capture your insights and to put them online for our students and teachers who use this site, especially this time of year during National History Day projects that are ongoing.

And so we thank you and we look forward to kind of sharing some feedback that we get from students who can drop us a note.

And we wish you all the best as you are continuing to get out there and to promote your wonderful new book.

We're glad to play our part here.

It is a great book.

Once again, we thank Professor Gadson for being with us and we'll see you soon.