

## The Constitutional Convention That Never Met: Dorr Pamphlet No. 2 and Dorr Pamphlet No. 3 (Book Review)

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## BOOK REVIEWS

THE CONSTITUTIONAL CONVENTION THAT NEVER MET, DORR PAMPHLET No. 2 AND DORR PAMPHLET No. 3. By Zechariah Chafee, Jr. Providence: The Booke Shop, pp. vii, 88, 1939; pp. v, 50, 1939.

One of the permanent and enduring political problems of the State of Rhode Island is that of constitutional reform. From 1792-1793 to date that state has been struggling to that end. In 1935, the General Assembly of that state had before it a bill for the enactment of legislation to set up machinery for a Constitutional Convention. Upon the failure of the Assembly to pass this measure, another Act was introduced the following year and was adopted. The latter Act called for a vote on the part of the people to decide whether or not the convention should be held, and the people voted "no". Apparently nothing has been done since that time. In 1935, Professor Chafee wrote a series of articles, eleven in all, in which he discussed the issues involved in the first Act. Later, the issues involved in the legislation of 1936 were discussed in five more articles. The eleven articles now have been permanently incorporated in Dorr Pamphlet No. 2, and the five articles in Dorr Pamphlet No. 3. Besides the eleven articles in Pamphlet No. 2, there is also included a chronological table and pertinent historical facts of the constitutional history of the state from 1636 to the present; also an appendix containing statistical information and documents referred to in the eleven articles. Pamphlet No. 3 contains, in addition to the five articles, a similar appendix, including the Constitution Act of 1936 and a population table of cities and towns and other information relative to the convention. The two Dorr Pamphlets are the second and third of a series. The first, *State House vs. Pent House*,<sup>1</sup> published in 1937, tells the story of the race track row and also discusses the legal problems directly created by actions of the various interests, and more, because it reveals how a defective constitution contributed to the situation.

Preceding the articles in the Dorr Pamphlets are statements giving the history of the difficulties encountered in bringing about the constitutional changes in Rhode Island, which, until 1843, was governed under the Charter granted by King Charles II. The strong opposition at that time to free suffrage and a constitution culminated in the Dorr Rebellion in 1842. The Dorrites adopted a constitution (Peoples Constitution) but were unable to wrest the government from the General Assembly. The latter, under this pressure, prepared and submitted a constitution to the electors which was adopted in November, 1842, and which, with amendments, is the present constitution of the state. This constitution extended suffrage to adult male citizens, but with a property qualification for naturalized aliens; gave one Senator to every town or city; but gave the Governor no veto power, no pardoning power, no real appointive power, and failed to provide for future conventions. Even with amendments, today, the constitution works against, rather than for, a free judiciary, and hampers home rule in Providence. Although some of the defects have been partially cured by amendments, many of the worst features still remain. The struggle for free

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<sup>1</sup> Reviewed in (1938) 12 ST. JOHN'S L. REV. 393.

suffrage in Rhode Island, that culminated in the Dorr Rebellion, may seem remote and unimportant. These articles make very clear that the desires and demands of today differ only in degree but not in kind from that of Dorr and his followers. As the author in clear, simple language poses each problem and proposes a solution, one feels the impact of a dominating, cohering note: "Shall Rhode Island have a fair and modern government?"

The accumulation of scholarly writing during the last decade concerning the Federal Constitution, especially under the stimulus of the New Deal, has overshadowed the comparatively meagre interest in state constitutions. One notable exception, however, is a group of articles in 33 *Illinois Law Review* dealing with the problems of the revision of the Illinois Constitution. There, as in Rhode Island, apparently the practical difficulties arising from partisanship and vested interests bar the way and frustrate those who believe in change. Apart from this opposition to a Constitutional Convention in Rhode Island, there are many persons who believe that the amendment process, slow and cumbersome as it is, should remain and that there is not a popular demand to revise the old constitution. It is not easy to agree with this position if one reads the pamphlets with an open mind. They are undoubtedly written to present the full case and educate the public, thereby creating a demand that the defects in the fundamental law of the state be cured.

That the author is fully aware of the practical difficulties<sup>2</sup> that hamstring constitutional reform is evident.<sup>3</sup> "The Republicans will concede nothing and the Democrats want everything."<sup>4</sup> But, perhaps, "the people will not stand forever a false democratic system in which successive elections have no result except to change the color of the pigs that have their feet in the trough."<sup>5</sup> But a community can be aroused to its best interests, and so the author, as pamphleteer, has taken his case to the people—to those who are worried like himself. Will it succeed?<sup>6</sup> Faith in the ability of democracy to protect itself says "yes". Surely the weaknesses and defects of the present system are manifest. A new constitutional deal in Rhode Island is in order. The state that produced Thomas W. Dorr, James H. Higgins, and Zechariah Chafee, Jr., *must* have men and women of ideals who can rise above partisanship (and jobs) and give it the government of which it is worthy.

These pamphlets could and should be used by teachers of government in the schools and colleges of Rhode Island, in clubs and forums, in fact, in every place where men and women study and discuss public welfare.

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<sup>2</sup> See, especially, Pamphlet No. 2, pp. 34, 35.

<sup>3</sup> For another case of frustrated constitutional reform for "practical" reasons, see (1938) 33 *ILL. L. REV.* 2. This number of the *Review* is devoted to aiding the cause of a constitutional revision in Illinois.

<sup>4</sup> Pamphlet No. 2, p. 39.

<sup>5</sup> *Id.* at 40.

<sup>6</sup> *Id.* at 33.

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