

U.S. Constitutional Law I(D)

Spring 2026

UNIVERSITY
OF MIAMI



Optional: Luther v. Borden and the
Dorr Rebellion

Article IV § 4

The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

Luther v. Borden/Dorr Rebellion (1841-1842) (CB 139)

Struggle for power between rural landowning interests and urban interests

Colonial times:

- Voting limited to White males who owned real property worth at least \$134 (figure set in 1798)
- Relatively democratic in one sense: largely agricultural population, small farms, so most White males (80% of adult White male population) could vote
- Excluded: women, Black people

Luther v. Borden/Dorr Rebellion (1841-1842)

By 1840s:

- 1633 Colonial Charter still in effect as state's constitution
 - 200+ years old; outdated
- Population much more urban; most White males ineligible to vote (11,000 out of 26,000 White males could vote)
- Landowning elites blocked efforts to expand voting rights
- Small Black population (<3%) mainly in Providence
 - Something on the order of 1,000 in Providence
 - Fair degree of property ownership but subjected to systematic discrimination

Luther v. Borden/Dorr Rebellion (1841-1842)

1841: Two competing Conventions and state constitutions:

“Freemen’s Convention”

- Sanctioned by state legislature
- Drafted new constitution with very modest extension of franchise

Luther v. Borden/Dorr Rebellion (1841-1842)

“People’s Convention”

- Initiated by John Dorr and supporters; not authorized by Rhode Island law
- Elections to Convention held
 - Voting advertised as for all men
 - In practice Black people turned away
- Black community in Providence presented petition for franchise at the Convention
- White abolitionists supported petition; defeated
 - Franchise extended to all White men with year’s residence, with Dorr’s agreement (a switch from his earlier position)
 - Promise of statewide vote after adoption of new convention, on question of Black suffrage

Luther v. Borden/Dorr Rebellion (1841-1842)

- January 1842: In statewide vote, People's Convention constitution approved by 13,944 in favor, 52 against.
- March 1842: Freeman's Convention loses by 8,689 (against) and 8,013 (for)
- April 1842: Rival elections for governor:
- State:
 - Election leads to Samuel King as governor
- People's Convention Group:
 - Election leads to John Dorr as governor

Luther v. Borden/Dorr Rebellion (1841-1842)

- May 1842: King declares martial law; legislature requests federal troops to put down People's Convention.
- President Tyler declines but holds out prospect of federal enforcement of Guarantee clause
- Dorr leads attack on state arsenal
 - King defeats them with assistance of state militia
 - Some 200 or so of the troops supporting King were members of Providence Black community

Luther v. Borden/Dorr Rebellion (1841-1842)

- September 1842: state extends suffrage in new constitution
- New electorate:
 - Expressly includes Black males
 - All native born males owning real property of at least \$134
 - All native born males who didn't own land eligible if
 - Owned \$134 in personal property and paid poll tax (\$1/about \$30 today)
 - Had two years' residency
 - Naturalized males required to have \$134 in real property (aimed at excluding Irish)

Luther v. Borden/Dorr Rebellion (1841-1842)

1843: Dorr sentenced to life imprisonment for treason in state court

1843: Lower federal court finds for defendants in trespass case:

- Luther asserted trespass by members of King's forces
- Defendants asserted trespass justified as part of RI government militia efforts to put down rebellion

1844: U.S. Presidential election: RI electorate increased by 50% compared to 1840 election.

1845: Dorr Released; civil rights later restored and conviction set aside.

1849: Luther v. Borden decided in Supreme Court

Luther v. Borden/Dorr Rebellion (1841-1842)

Luther v. Borden (CB 139):

- Lawsuit raises political question
- Congress has the power of recognition of state governments, through power, through seating/not seating representatives
- Suppose President had called out militia to support one government or the other: should the Court question that decision?