

GUNS, GUN CULTURE, AND THE ROOTS OF THE SECOND AMENDMENT

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Introduction and Key Questions

Before the publication of *Arming America* in 2000, it had been considered axiomatic among scholars of the American colonial and early national periods that Americans were generally armed and very adroit in the use of their firearms.¹ Michael Bellesiles's book, it seemed, very much destroyed that certainty: "[He] has virtually shattered every assumption that many historians accept and most gun enthusiasts hold dear concerning guns and their role in American history," opined John Grenier in one of many rave reviews.² "[. . . N]o one else has put [the facts] together in so compelling a refutation of the mythology of the gun or in so revealing a reconstruction of the role the gun has actually played in American history," wrote Edmund Morgan in the *New York Review of Books*.³ When in 2001 *Arming America* also won the Bancroft Prize, Bellesiles seemed to have a secure academic future ahead of him.

It was during that same time, however, that many questions and criticisms began to surface, calling into question not only Bellesiles's findings but also his methods and, finally, even his academic honesty. Emory University convened an investigative committee to examine the charges made against Bellesiles and to report on whether he had fabricated or falsified his data and whether he had "engaged in other serious deviations from accepted practices in carrying out or reporting results from research [. . .]."⁴ While the committee could not "speak of intentional fabrication or falsification" of research data, it did find "evidence of falsification," and it also stated that Bellesiles's work did not live up to professional standards of historical scholarship.⁵ Following that committee report, the Trustees of Columbia University voted to rescind the Bancroft Prize, and only weeks later, the publisher, Alfred A. Knopf, disowned the book. Bellesiles, in a statement published October 25, 2002, resigned his teaching appointment at Emory.

Following that scandal, *Arming America* was largely discredited as a scholarly contribution. Nonetheless, some questions remain. How prevalent was gun ownership in early American history? What shape did gun culture have during that time? And, perhaps most important for the

constitutional and political development of the United States, where did the Second Amendment to the U.S. Constitution come from? Hence, I find that we cannot entirely ignore *Arming America*, its flaws notwithstanding, as it “compels us to re-examine how and why Americans have developed an enchantment with firearms, whenever the mania began.”⁶

More important, perhaps, than the question of the “mania” are the questions of constitutional history that underlie the issue. After all, the Second Amendment reads, “A well-regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.” One would assume that a provision featured in so prominent a place as the Bill of Rights must have some sort of societal background. Thus, it seems very likely that guns must have been present in some number, and that some kind of gun culture must have surrounded whatever firearms were extant. It will be the purpose of this project to shed some light on these unanswered questions of constitutional history by elucidating the cultural origins of the Second Amendment.

Methodology

In this project, I will attempt to solve a mystery of constitutional history by using the tools of social and cultural historians. I believe this approach to be novel, as most histories of the Second Amendment focus on the constitutional precursors of the amendment rather than its cultural roots.⁷ Even Michael Bellesiles’s focus—though his work and the controversy around it are unquestionably stimuli of my own project—was rather different. I will be asking whether and how cultural phenomena came to be set in constitutional stone.

Flawed as Bellesiles’s use of his probate sources was, it was nonetheless innovative.⁸ The wide availability of probate inventories for many places covering almost the entire colonial period (and well into the nineteenth century) makes them a suitable source for the inquiry into the preponderance of certain household items.⁹ Indeed, it may well be the only source we have in order to get some sort of statistical idea of how widespread firearms really were. That said, a caveat is in order: While probate inventories are immensely valuable sources, they do not necessarily list all items someone might have owned, and hence they paint an incomplete picture. Moreover, there is no way to measure how complete or incomplete any one inventory may have been. Counting guns in inventories will, however, give us at least the minimum number of guns owned by the probated population. It is here that we encounter the next difficulty: the fact that the decedent population is on average older and wealthier than the population in general. This opens the door to a po-

tential age and wealth bias that will be very hard to measure. Despite these complications, some number, even with caveats attached, will be better than groping in the dark.

In order to keep the project manageable, I decided to research only two original colonies rather than all thirteen, and to do so for ten distinct years during the eighteenth century.¹⁰ I chose Massachusetts and South Carolina. The former was one of few states whose militia, a major user of firearms, did not fall entirely into a state of decrepitude. The latter had by the early eighteenth century a slave population that outnumbered the free population; this, one would assume, put a premium on the possession of firearms.¹¹ Furthermore, I dropped Barnstable, Plymouth, Middlesex, and Worcester counties in Massachusetts, as the universe for all the counties in all the years would have been close to four thousand cases for this state alone.¹² For South Carolina, the situation was different insofar as all probate matters were handled centrally in Charleston before 1785, making a distinction between individual counties both unnecessary and impossible.¹³

The Bellesiles controversy clearly demonstrated that careful adherence to the rules of historical social research and statistics is vital to survival in this minefield of modern-day political interests. In order to make the results as reliable as possible, I drew a random sample from a listing of all (as far as possible) probate inventories in a specific county and year. That listing, however, had first to be compiled, as nothing of the sort existed in most cases. The samples were drawn large enough to have a margin of error of ± 5 percent and a confidence level of 95 percent, both standards widely accepted for purposes of historical statistics.¹⁴ Once the inventories were sampled, I then proceeded to examine for the presence of firearms and slaves, in the process encoding them in a format suitable for use with SPSS, a statistical analysis software program.

Presence of Guns

The analysis yielded interesting first results. On the whole, arms were more prevalent in South Carolina than in Massachusetts. There were differences, however, depending on whether the county was on the coast or in the backcountry: Nantucket County, an island off the Massachusetts coast, showed guns in only very few of the sampled inventories, while the incidence in Berkshire and Hampshire was high.

Some further insights are possible by taking into account the key-dates of the samples.¹⁵ There is no clearly observable general trend of rise or fall in the incidence of guns in inventories. However, occurrence in Essex seems to have been rising slightly but continuously, while in Suffolk it seems to have been in a slow but equally continuous decline. There

is one characteristic common to Massachusetts generally and its counties individually: The frequency of guns enumerated in inventories peaks in 1759.¹⁶ This development might be due to British war efforts, which became much more concerted after the recall of Lord Loudoun in 1758. Massachusetts also cooperated much more willingly after William Pitt had promised (partial) reimbursement for the cost of war borne by the colonies.¹⁷

South Carolina samples show three significant peaks, in the years 1740, 1743, and 1765. These coincide with important historical events. In 1739, South Carolina experienced the Stono Rebellion, a slave uprising that cost dozens of lives and reinforced a climate of fear.¹⁸ When the first rumors of insurrection surfaced, the colonial legislature mandated that white male inhabitants of the state carry guns to church on Sundays.¹⁹ The peak in 1765 is probably due to the Cherokee War, which engulfed South Carolina in 1760 and 1761.²⁰

In addition to simple frequency distributions, statistics can also yield more complex calculations. For example, they can be used to detect relationships between different variables. Perhaps the single most interesting question in this situation is whether or not there is a correlation between the existence of slaves and the existence of guns in an inventory. Answers to this question can be found by cross-tabulating the two variables and computing certain statistical indicators of correlation. For the entire sample, there is indeed a rather weak correlation, which, however, is very significant statistically.²¹ Interestingly, that correlation becomes even weaker if only South Carolina is taken into account.²²

I am currently preparing the data gathered from Massachusetts and South Carolina probate records for an analysis of social factors. To that end, the total monetary values of the sampled inventories have been included in the data matrix. However, because many different currencies were used in both states during the eighteenth century, and because the currency used in valuing the inventories was mostly not clearly stated, careful preparations are necessary. First, I will need to determine which currency was most likely in use in cases where it was not clearly stated. Next, I will have to convert all values into sterling values to make comparison possible. For that comparison to make sense, I will then code the total sterling values of the inventories for different wealth classes.

Gun Culture

The larger part of this project will be concerned with the “history of the evolving role of guns in American culture” in the eighteenth century.²³ This question seems to present itself very strongly: If nobody used guns, if nobody had any attachment to them, if they were of no value, where

did the Second Amendment come from? It certainly did not come out of the blue, but so far scholars' focus has been mostly on the constitutional precursors, highlighting the incorporation of provisions from the English Bill of Rights into the revolutionary state constitutions and thence into the first ten American amendments. I will attempt to shed some light on the cultural link that kept the legal regulations alive throughout the century.

One of the first steps here must be to ask: What is understood by the term "gun culture?" In scholarly literature, the expression "gun culture" is frequently used but in most cases remains entirely undefined.²⁴ Some authors understand "gun culture" as a group of people rather than a phenomenon: "The American gun culture is a seemingly unified aggregation of individuals, mainly white, small-town males who evidence a longstanding personal attachment to guns, gun ownership, and gun habits [. . .]."²⁵ Still others reject the term entirely as "misleading," though they do not offer better alternatives.²⁶ Indeed, "gun culture" is a problematic term, not only because it has rarely been defined, but also because it often carries a strongly negative connotation.²⁷

I understand "gun culture" as a neutral term, and I believe it can be a useful analytical concept. Culture can be defined as "[. . .] a system of shared beliefs, values, customs, behaviors, and artifacts that the members of a society use to cope with their world and with one another, and that are transmitted from generation to generation through learning."²⁸ Applied to "gun culture," this definition suggests that one must look for such shared beliefs, values, customs, behaviors, and intergenerational transmittance relating to one specific artifact—the gun. Accordingly, it will be necessary to look at what customs governed gun use and possession, what behaviors were associated with such use and possession, and whether guns served as status symbols or just as necessary tools of daily life. These are just some of the questions that come to mind, and many more will eventually be asked.

A historic culture is accessible to the historian through its remnants, which present something of a snapshot that can be examined long after the culture has changed or evolved. These remnants might be artifacts, such as the guns themselves, or written material that testifies to the beliefs, actions, feelings, values, and customs of a bygone age. The focus of this project will be on written sources, which will allow considerable insights. Laws, books, newspapers, pamphlets, and magazines, for example, allow the historian to peer into the public sphere of a historic society and to find out what occupied people in their daily lives. Transcripts of legislative and judicial debates illuminate the rationale behind certain decisions, while diaries and business and probate records permit insights into the private sphere. The picture these records present, and of

which I will attempt to show some examples, is anything but coherent at first glance.²⁹

The laws of both Massachusetts and South Carolina are ambivalent about guns. On the one hand, guns were seen as necessary instruments of the militia in the defense of the colony. Hence, legislatures frequently enacted laws requiring able-bodied males—often between the ages of sixteen and sixty—to arm themselves for their militia service.³⁰ Musters and training were a regular part of these men's lives, and even active duty was not infrequent during the many colonial and Indian wars of the century.³¹ These necessities also created a market for all sorts of manuals, instructing militiamen in the correct and efficient use and care of their firearms.³² In the Southern colonies, slavery was a major reason for the maintenance of the militia. In South Carolina, for example, in the context of the Stono Rebellion of 1739, the legislature required men to carry firearms not only *to* church on Sundays, but also *into* the church, and enlisted the help of parsons in prosecuting those who did not comply.³³

On the other hand, however, there is ample evidence that guns were also seen as dangerous. Massachusetts specifically outlawed firing guns in Boston, when the General Court resolved that “[. . .] by the indiscreet firing of guns laden with shot and ball within the town and harbour of Boston, the lives and limbs of many persons have been lost [. . .],” ordering “that no person shall [. . .] discharge any gun or pistol [. . .] within the town of Boston [. . .].”³⁴ Hunting and fowling, too, came under regulation, as eager hunters decimated the populations of deer and birds.³⁵

Duelling was yet another case in which practices of gun use occupied colonial legislatures at different times. Massachusetts outlawed the practice in 1719 because it disturbed the king's peace, brought dishonor to God, and was contrary “to the precious life of man.”³⁶ In addition to this legal ban, churchmen vocally condemned the practice, attacking the conviction that killing in a duel was legitimate: “How comes this [duel] not to be a *murder*? It is indeed an *aggravated* and *complicated murder*!” wrote the ministers of Boston after a mortal duel in 1728.³⁷ Despite this opposition to solving affairs of honor in such manner, duels seem to have been a presence in public life during the 1700s. Not only were the details of duels occasionally published as pamphlets: They also were a common part of adventure stories such as *The Amours and Adventures of Two English Gentlemen in Italy* and compilations such as *A Collection of Moral and Entertaining Stories, Calculated for the Instruction and Entertainment of Youth*.³⁸ While these various sources certainly overemphasize the importance of duels, they nonetheless underscore the extent to which duels captured the imagination of Americans during the eighteenth century.

With a clearer picture of the role firearms played in American society throughout the eighteenth century, I will proceed to mine the papers of

the debate over the ratification of the Bill of Rights and, more specifically, the part of the Bill of Rights that was to become the Second Amendment. This analysis will allow a much better understanding of how early American gun culture influenced the conception, writing, and codification of this addition to the Constitution. It may also allow new insights into how the founding generation may have understood this amendment's meaning, operation, and reach.

In the end, this project will shed light on gun use and gun possession, on contemporaries' views of guns and their relevance to daily life in the eighteenth century. It will address legal precedence on the path to the Second Amendment. But it also casts a wider net: It will illuminate the ways in which cultural practices influenced the making of the Bill of Rights, and in doing so will bring us closer to understanding the lives, hopes, and fears of Americans in the late eighteenth century.

Notes

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¹ Michael A. Bellesiles, *Arming America: The Origins of a National Gun Culture*, 1st ed. (New York, 2000).

² John Grenier, "Review of *Arming America: The Origins of a National Gun Culture*," *Journal of Military History* 65, no. 4 (2001): 1105f.

³ Edmund S. Morgan, "In Love with Guns," *New York Review of Books* 47, no. 16 (2000).

⁴ Hanna H. Gray, Laurel T. Ulrich, and Stanley N. Katz, "Report of the Investigative Committee in the Matter of Professor Michael Bellesiles" (Atlanta, GA), 2.

⁵ Gray and others, "Report of the Investigative Committee," 19.

⁶ Bertram Wyatt-Brown, "Going Off Half-Cocked: A Review Essay of *Arming America*," *Journal of Southern History* 68, no. 2 (2002): 427.

⁷ For the constitutional history of the Second Amendment see for example: Leonard W. Levy, *Origins of the Bill of Rights, Contemporary Law Series* (New Haven, CT, 1999); John K. Rowland, "Origins of the Second Amendment: The Creation of the Constitutional Rights of Militia and of Keeping and Bearing Arms" (Ohio State University, 1978); Charles J. Asbury, "The Right to Keep and Bear Arms in America: The Origins and Application of the Second Amendment to the Constitution" (University of Michigan, 1974); Bernard Schwartz, *The Great Rights of Mankind: A History of the American Bill of Rights* (New York, 1977); Joyce Lee Malcolm, *To Keep and Bear Arms: The Origins of an Anglo-American Right* (Cambridge, MA, 1994).

⁸ Gloria L. Main has addressed these flaws in "Many Things Forgotten: The Use of Probate Records in *Arming America*," *William and Mary Quarterly* 59, no. 1 (2002).

⁹ The different forms of probate records—wills, administrations and inventories—are discussed more fully in Gloria L. Main, "Probate Records as a Source for Early American History," *William and Mary Quarterly* 32, no. 1 (1975). For further methodological considerations, see mainly Alice Hanson Jones, *American Colonial Wealth: Documents and Methods* (New York 1977); Alice Hanson Jones, "American Probate Inventories: A Source to Estimate Wealth in 1774 in Thirteen Colonies and Three Regions," in *Probate Inventories: A New Source for the Historical Study of Wealth, Material Culture, and Agricultural Development: Papers Pre-*

mented at the *Leeuwenborch Conference (Wageningen, 5–7 May 1980)*, ed. A. M. van der Woude and Anton Schuurman (Wageningen, 1980); Gloria L. Main, "The Distribution of Consumer Goods in Colonial New England: A Subregional Approach," *Dublin Seminar for New England Folklife Annual Proceedings* 12 (1987); Gloria L. Main, "The Standard of Living in Colonial Massachusetts," *Journal of Economic History* 43, no. 1 (1983); Gloria L. Main, "The Standard of Living in Southern New England, 1640–1773," *William and Mary Quarterly* 45, no. 1 (1988); Gloria L. Main, *Tobacco Colony: Life in Early Maryland, 1650–1720* (Princeton, NJ, 1982); Jackson T. Main, "The Distribution of Property in Colonial Connecticut," in *The Human Dimension of Nation Making: Essays on Colonial and Revolutionary America*, ed. James Kirby Martin (Madison, WI, 1976); Jackson T. Main and Gloria Lund Main, "Economic Growth and the Standard of Living in Southern New England, 1640–1774," *Journal of Economic History* 48, no. 1 (1988).

¹⁰ I chose the years 1752, 1759 and 1765, being before, during and after the French and Indian War, as well as 1771, 1779, and 1786, similarly covering the Revolutionary War. Furthermore, I drew a random sample of four years out of the period 1732 (the year records in South Carolina begin to be denser) to 1743 (the year before the outbreak of King George's War), resulting in the years 1735, 1739, 1740, and 1743. Berkshire County was carved out of Hampshire only in 1761. Accordingly, data is available only for the last four years.

¹¹ Lawrence D. Cress, *Citizens in Arms: The Army and the Militia in American Society to the War of 1812, Studies on Armed Forces and Society* (Chapel Hill, NC, 1982), 7, 12. United States Bureau of the Census, *Historical Statistics of the United States, Colonial Times to 1970, Bicentennial ed.* (Washington, DC, 1975) II:1168.

¹² Barnstable and Plymouth Counties represent the southeastern coastal counties which, I believe, are sufficiently represented by Bristol, Dukes, and Nantucket Counties. Middlesex contains densely settled areas near Boston and rural areas further inland. These are very similar to Essex and Suffolk Counties. Worcester is a landlocked county very similar to Hampshire and Berkshire Counties. Furthermore, the records for both Worcester and Middlesex were in very bad shape: Those for Middlesex were organized alphabetically rather than chronologically, making the sampling process very complicated. The records for Worcester were too disordered to be of use.

¹³ The governor and secretary of the province acquired this power of ordinary during the proprietary period, creating a unique situation in the English colonies. In mainland North America, as in all other colonies, probate was administered locally. Charles H. Lesser, *South Carolina Begins: The Records of a Proprietary Colony, 1663–1721*. (Columbia, SC, 1995), 129, 290, 294.

¹⁴ Heinz Sahner, *Schliessende Statistik*, 5th ed. (Wiesbaden, 2002), 35f; Roger Schofield, "Sampling in Historical Research," in *Nineteenth-Century Society*, ed. E.A. Wrigley (Cambridge 1972), 156.

¹⁵ Because there were too few cases per year, Dukes and Nantucket Counties have been sampled for the entire century and not for individual years (Dukes had 243 for the entire century, Nantucket 185). Hence, inferences about temporal dimensions are not possible here.

¹⁶ Hampshire and Berkshire have different peaks in 1740 and 1765, respectively. Most likely, these are outlier cases due to very slim statistical bases in those years.

¹⁷ Fred Anderson, "A People's Army: Provincial Military Service in Massachusetts During the Seven Years' War," *William and Mary Quarterly* 40, no. 4 (1983): 14–21.

¹⁸ Walter B. Edgar, *South Carolina: A History* (Columbia, SC, 1998); Robert Olwell, *Masters, Slaves & Subjects: The Culture of Power in the South Carolina Low Country, 1740–1790* (Ithaca, NY, 1998), 21. David D. Wallace, *The History of South Carolina* (New York 1934) II:373.

¹⁹ *An Act for the Better Security of this Province Against the Insurrections and Other Wicked Attempts of Negroes and Other Slaves* [. . .], 1739 S.C. Acts No. 659. Also see note 33.

²⁰ On the Cherokee War, see Robert M. Weir, *Colonial South Carolina: A History, A History of the American Colonies* (Millwood, NY, 1983), 269–75; Wallace, *The History of South Carolina II*:21–37.

²¹ Cramer's $V=0.284$, $p<0.001$.

²² Cramer's $V=0.116$, $p=0.001$.

²³ Robert H. Churchill, "Guns and the Politics of History," *Reviews in American History* 29, no. 3 (2001): 335. See also Samuel Watson, "Review of *Arming America*," *Kentucky Historical Society Register* 99 (2001): 305.

²⁴ See for example Michael A. Bellesiles, *Arming America: The Origins of a National Gun Culture*, 1st ed. (New York, 2000); Richard Hofstadter, "America as a Gun Culture," *American Heritage* 21, no. 6 (1970).

²⁵ Gregg L. Carter, *Guns in American Society: An Encyclopedia of History, Politics, Culture, and the Law* (Santa Barbara, CA, 2002), 243.

²⁶ William R. Tonso, *Gun and Society: The Social and Existential Roots of the American Attachment to Firearms* (Washington, DC, 1982), 15. Later, Tonso sees "gun culture" as a group: William R. Tonso, *The Gun Culture and Its Enemies*, 1st ed. (Bellevue, WA, 1990).

²⁷ Tonso, *Gun and Society*, 3.

²⁸ Daniel G. Bates and Fred Plog, *Cultural Anthropology*, 3d ed. (New York, 1990), 7.

²⁹ At the time of writing, much of the projected source material has not been sighted in depth. This is just a collection of interesting tidbits which presented themselves at first reading.

³⁰ See for example *An Act for Regulating the Militia*, 1693 Mass. Acts No. 30.

³¹ During the French and Indian War, for example, one third or more of eligible men participated in active service. Fred Anderson, *A People's Army: Massachusetts Soldiers and Society in the Seven Years' War* (Chapel Hill, NC, 1984), 3. For all of New England, Anderson sees the number as between 40 and 60 percent: Fred Anderson, *Crucible of War: The Seven Years' War and the Fate of Empire in British North America, 1754–1766*, 1st ed. (New York, 2000), 288.

³² See for example *The New Exercise of Firelocks and Bayonets [. . .]* (=Evans 1914). New London, CT, 1717; William Breton, *Militia Discipline: The Words of Command, Directions for Exercising the Musket, Bayonet, & Cartridge [sic] [. . .]* (=Evans 3634). Boston, MA, 1733.

³³ *An Act for the Better Security of this Province Against the Insurrections and Other Wicked Attempts of Negroes and Other Slaves [. . .]*, 1739 S.C. Acts No. 659. This act is not printed in the South Carolina Session Laws, nor is it included in the *Statutes at Large*. See Thomas Cooper and David J. McCord (eds.), *The Statutes at Large of South Carolina* (Columbia, SC, 1836) III: 525. It is printed, however, in the *South Carolina Gazette* for August 11 to August 18, 1739.

³⁴ *An Act to Prevent the Firing of Guns Charged with Shot or Ball in the Town of Boston*, 1746 Mass. Acts Chap. X. The Massachusetts legislature also banned hunting on Boston Neck, as "[. . .] the limbs and lives of several persons have been greatly endangered in riding over Boston Neck, by their horses throwing of [sic] them, being affrighted and starting at the firing of guns by gunners that frequent there after game [. . .]." *An Act to Prohibit Shooting or Firing Off Guns Near the Road or High-way on Boston Neck*, 1713 Mass. Acts No. 209.

³⁵ See for example *An Act for the Preservation of Deer, and to Prevent the Mischiefs Arising from Hunting at Unseasonable Times*, 1769 S.C. Acts No. 1103; *An Act for the Better Regulation of Fowling*, 1717 Mass. Acts No. 275.

³⁶ *An Act for the Punishing and Preventing of Duelling*, 1719 Mass. Acts No. 299. No reliable statistics exist for the number of duels fought in America during the eighteenth century. Robert Baldick suggests that in America, duelling became a serious problem only in the nineteenth century. However, he also states that legislatures considered it sufficiently seri-

ous to act upon as early as 1719. Robert Baldick, *The Duel; A History of Duelling* (New York, 1965), 116.

³⁷ *He That Would Keep God's Commandments Must Renounce the Society of Evil-doers: A Sermon Preached at the Public Lecture in Boston, July 18th 1728* (=Evans 3102), iii. (Emphasis in the original.)

³⁸ See for example Ralph Harding, *A Concise but Candid Relation of Circumstances, Previous, and Relative to a Duel, On Board the King George Transport September 2d, 1777* (=Evans 15257). New York, 1777; *The Amours and Adventures of Two English Gentlemen in Italy; With a Particular Description of the Diversions of the Carnival in Venice, Also the Duels They Fought, the Dangers They Escaped, and Their Safe Arrival in England* (=Evans 28188). (Worcester, MA, 1795); *A Collection of Moral and Entertaining Stories, Calculated for the Instruction and Entertainment of Youth* [. . .] (=Evans 33533). (Northampton, MA, 1798).