

BELLESILES'S *ARMING AMERICA* REDUX: DOES THE GUNNING OF AMERICA REWRITE AMERICAN HISTORY TO SUIT MODERN SENSIBILITIES?

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I. *ARMING AMERICA*: AN ALMOST UNPRECEDENTED HISTORICAL FRAUD

A. The Scandal

In 1996, Professor Michael Bellesiles of Emory University published a startling paper in the *Journal of American History*, claiming that the traditional view of guns in American history is “all backwards.”¹ He insisted that guns were exceptional, that gun violence—except against African Americans and Indians—was rare, that few Americans owned guns, and that gun possession was tightly controlled.² He further claimed that only clever marketing and aggressive governmental efforts to sell surplus guns immediately before and after the Civil War created a “gun culture” in America.³ In 2000, Bellesiles wrote another lengthy exploration of these claims: *Arming America: The Origins of a National Gun Culture*.⁴

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1. See generally Michael A. Bellesiles, *The Origins of Gun Culture in the United States, 1760–1865*, 83 *J. OF AM. HIST.* 425, 426 (1996).
2. *Id.* at 428–29, 432–35, 455.
3. *Id.* at 426, 448, 452, 455.
4. See generally MICHAEL A. BELLESILES, *ARMING AMERICA: THE ORIGINS OF A NATIONAL GUN CULTURE* (Alfred A. Knopf, Random House 2000) [hereinafter BELLESILES’S book].

Throughout American history, opined Bellesiles, the militia was ineffective.⁵ In the Colonial period, the government tightly regulated gun ownership and use;⁶ guns were very scarce before 1840,⁷ though few Americans hunted until the 1830s, when members of the upper class sought to imitate their British equivalents;⁸ there was essentially no civilian market for handguns before 1848;⁹ and violence between whites was rare.¹⁰

Initially, academics responded with fawning reviews of this courageous attack on the “gun lobby” and its distortion of American history.¹¹ A few troublemakers (myself included) pointed out that he was not just misinterpreting the documents of the past; he was making up his own!¹² Eventually, as academics, such as James Lindgren of Northwestern University, started to ask questions based on their own areas of specialization, Bellesiles’s attempts to defend himself became increasingly difficult to believe.¹³ He could not produce notes from his examination of probate inventories;¹⁴ this data had given a certain credibility to his initial claims of a nearly gun-free America. Worse, he could not produce any sort of spreadsheet from which the graphs in his article and book were created.¹⁵ The paper notes were destroyed in a flood and could not be restored from their mushy state.¹⁶ He had to move his family because of “threats” from angry gun nuts.¹⁷ James Lindgren’s very detailed account of this scandal illustrates the scale of the problems, including Bellesiles’s claim to have read probate inventories in archives.¹⁸ Lindgren checked the archive’s records and found Bellesiles had not visited them.¹⁹ In fact, some of the

5. *Id.* at 37, 269–97.

6. *Id.* at 73 (“Colonial legislatures therefore strictly regulated the storage of firearms, with weapons kept in some central place, to be produced only in emergencies or on muster day, or loaned to individuals living in outlying areas.”).

7. *Id.* at 264.

8. *Id.* at 322.

9. *Id.* at 378.

10. *Id.* at 81.

11. See, e.g., Editorial, *Take Another Look at Gun Rights History*, S.F. CHRON., Sept. 25, 2000, at A22; Richard Slotkin, *The Fall into Guns*, ATL. MONTHLY, Nov. 2000, at 114–18; Edmund S. Morgan, *In Love with Guns*, N.Y. REV. OF BOOKS, Oct. 19, 2000; Garry Wills, *Spiking the Gun Myth*, N.Y. TIMES, Sept. 10, 2000.

12. See Clayton Cramer, *Why Footnotes Matter: Checking Arming America’s Claims*, 1 PLAGIARY 149 (2006) (for photocopies of documents quoted by Bellesiles and what he claimed they said—often at considerable variance from any standard reading of English, see pp. 174–77).

13. James Lindgren, *Fall from Grace: Arming America and the Bellesiles Scandal*, 111 YALE L.J. 2195, 2200–01 (2002).

14. EMORY U., REPORT OF THE INVESTIGATIVE COMMITTEE IN THE MATTER OF PROFESSOR MICHAEL BELLESILES 7 (July 10, 2002) [hereinafter COMMITTEE REPORT].

15. Lindgren, *supra* note 13, at 2208–14.

16. Lindgren, *supra* note 13, at 2230 n.206.

17. John G. Fought, *Was Bellesiles Really Threatened?*, HISTORY NEWS NETWORK (Oct. 28, 2002), <http://historynewsnetwork.org/article/888>.

18. Lindgren, *supra* note 13, at 2208–14.

19. *Id.* at 2210.

probate records he claimed to read were destroyed in the 1906 San Francisco earthquake.²⁰ In another instance, Bellesiles claimed to have “count[ed] records in the Gloucester County courthouse in Chelsea, Vermont, when there is no Gloucester County or Gloucester County courthouse.”²¹ Independent verification of his summaries of probate records often found them at great variance from his claims.²²

Eventually, *William & Mary Quarterly* invited noted scholars to write papers for an issue entirely devoted to the controversy, which had moved well outside the ivory tower.²³ The papers were, for the most part, devastating. Emory University asked a panel of prominent historians to look at the controversy, and their report was even more devastating.²⁴ The committee's comments made it clear that it did not believe his responses.²⁵ In many cases, the committee members were unable to find Bellesiles's cited documents.²⁶ The committee concluded, in part:

With respect to this question, unfamiliarity with quantitative methods or plain incompetence could explain some of the known deficiencies in the construction of Table 18. One, such as the author's failure to include numbers of cases or explain the strange breakdown of data. For example, when asked for specific information about his geographic categories, he told the committee that he had included Ohio in the “Northern coast” and counted all data from Worcester County, Massachusetts as “urban.” [sic].

But in one respect, the failure to clearly identify his sources, does move into the realm of “falsification,” which would constitute a violation of the Emory “Policies.” The construction of this Table implies a consistent, comprehensive, and intelligible method of gathering data. The reality seems quite the opposite. In fact, Professor Bellesiles told the Committee that because of criticism from other scholars, he himself had begun to doubt the quality of his probate research well before he published it in the *Journal of American History*.²⁷

20. *Id.*

21. *Id.*

22. *Id.* at 2209–10.

23. See Jack N. Rakove, *Words, Deeds, and Guns: “Arming America” and the Second Amendment*, 59 WM. & MARY Q. 205 (2002); Gloria L. Main, *Many Things Forgotten: The Use of Probate Records in “Arming America,”* 59 WM. & MARY Q. 211 (2002); Ira D. Gruber, *Of Arms and Men: “Arming America” and Military History*, 59 WM. & MARY Q. 217 (2002); Randolph Roth, *Guns, Gun Culture, and Homicide: The Relationship between Firearms, the Uses of Firearms, and Interpersonal Violence*, 59 WM. & MARY Q. 223 (2002).

24. See COMMITTEE REPORT, *supra* note 14.

25. *Id.* at 12–13.

26. *Id.* at 14–15.

27. *Id.* at 17–18.

In response, Bellesiles resigned from his tenured position, and Columbia University revoked the Bancroft Prize it had awarded to Bellesiles for *Arming America*—an unprecedented event.²⁸ Bellesiles, at last report, now works as a bartender.²⁹

B. Bellesiles's Work and Its Use in Legal Decisions

Because Professor Bellesiles had the right alphabet soup after his name and a teaching position at a Carnegie R1 university, his claims rapidly started appearing in court decisions, generally on the side of a narrow understanding of the Second Amendment.³⁰ In one case, Judge Reinhardt of the Ninth Circuit cited to one of Bellesiles's law review articles, then subsequently removed the citation before the case was published in the official reporter.³¹ While Bellesiles had accurately quoted one of George Washington's letters, he grossly mischaracterized its context.³² The revised footnote in the Ninth Circuit opinion reads:

Washington in particular felt that the need was acute; in 1783 he wrote a document entitled *Sentiments On A Peace Establishment*, in which he recommended establishing a national militia that would exist along with those maintained by the individual states. Subsequently, he wrote to John Adams in the wake of Shays's Rebellion that because of the lack of a unified national military force, “[w]e are fast verging to anarchy and confusion!” Letter from George Washington to James Madison (Nov. 5, 1786), in 29 THE WRITINGS OF GEORGE WASHINGTON, 1745–1799, at 51 (John Clement Fitzpatrick ed., 1931).³³

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28. Robert F. Worth, *Prize for Book Is Taken Back From Historian*, N.Y. TIMES (Dec. 14, 2002), <http://www.nytimes.com/2002/12/14/business/prize-for-book-is-taken-back-from-historian.html>.
29. Jen Matteis, *Michael Bellesiles: Bartender, Writer, History Buff*, THE DAY (Sept. 17, 2012), <http://www.theday.com/article/20120917/NWS10/309209649> (last visited Sept. 22, 2016).
30. *State v. Hirsch*, 177 Or. App. 441, 446 (2001); *U.S. v. Spruill*, 61 F. Supp. 2d 587, 590 (W.D. Tex. 1999); *Olympic Arms v. Buckles*, 301 F.3d 384, 386 n.2 (6th Cir. 2002); *U.S. v. Emerson*, 270 F.3d 203, 218 (5th Cir. 2001).
31. David T. Hardy, *Lawyers, Historians, and “Law-Office History,”* 46 CUMB. L. REV. 1, 10 (2016).
32. *Id.* at n.60 (citing Appellants' Request for Judicial Notice at 4, *Nordyke v. King*, 319 F.3d 1185 (9th Cir. 2003), <http://www.keepandbeararms.com/Lawsuits/ReqJudNotice.pdf>; see also Order and Amended Opinion at 1117-18, *Silveira v. Lockyer*, 312 F.3d 1052 (9th Cir. 2002), as amended (Jan. 27, 2003) (No. 01-15098), <http://www.ca9.uscourts.gov/datastore/opinions/2003/01/27/0115098.pdf>. The problem is that Bellesiles misrepresented what Washington was writing about; Washington did not claim the problem was “lack of a unified national military force.”
33. *Silveira v. Lockyer*, 312 F.3d 1052, 1078 n.37 (9th Cir. 2002), as amended, No. 01-15098 (Jan. 27, 2003) Judge Reinhardt substituted a citation to Bellesiles's paper with Bellesiles's footnote from that paper, which quoted one of George Washington's letters. Bellesiles, however, misrepresented the content of Washington's letter

While the Bellesiles citation disappeared from the published version, the falsified description of Washington's letter remains. An examination of this letter (actually to James Madison, not John Adams), quoted and cited by Bellesiles³⁴ and then by Reinhardt, shows no such concern: Washington talks about "[t]he decision of the House on the question respecting a paper emission" and immediately before the quoted sentence in the Ninth Circuit's amended opinion, "[w]ithout some alteration in our political creed, the superstructure we have been seven years raising at the expen[s]e of so much blood and treasure, must fall."³⁵ After, he summarizes a letter from General Knox about how much of the population of Massachusetts seeks "that the property of the United States . . . ought to be the *common property* of all."³⁶ There is absolutely no mention of a national military force in that letter, or words to that effect.

As my examination demonstrates,³⁷ Bellesiles either intentionally falsified hundreds of footnotes (at least) or has an undiscovered severe reading disability. It is hard to take seriously legal decisions built on such an unsteady foundation.

II. *THE GUNNING OF AMERICA* BUILDS ON SAND

Pamela Haag's *The Gunning of America* claims that the first mass production gun makers, Colt and Winchester, created gun culture as a way to sell the prodigious output of their factories when there was no other practical market for their products.³⁸ She also argues that both companies chose to ignore the moral implications of what they produced because profit mattered more to them than the social consequences of their products.³⁹ Haag's book has one astonishing admission buried in one of the early endnotes:

Michael Bellesiles' *Arming America* (New York: Knopf, 2000), whose count of gun ownership, which [Churchill] concluded was quite low (19 percent), based on colonial probate records, was subsequently challenged and rejected for questionable sources and technique. Setting aside his gun inventory, this book agrees with one of Bellesiles's [sic] conclusions, namely, that the alliance between the government and the gun

34. Michael A. Bellesiles, *The Second Amendment in Action*, 76 CHI.-KENT L. REV. 61, 65 (2000).

35. Letter from George Washington to James Madison (Nov. 5, 1786), in 4 THE PAPERS OF GEORGE WASHINGTON: CONFEDERATION SERIES 331-32, <http://founders.archives.gov/documents/Washington/04-04-02-0299> (last updated Feb 21, 2017).

36. *Id.*

37. See CLAYTON CRAMER, ARMED AMERICA: THE REMARKABLE STORY OF HOW AND WHY GUNS BECAME AS AMERICAN AS APPLE PIE (Thomas Nelson 2006).

38. PAMELA HAAG, THE GUNNING OF AMERICA xiv-xv, xviii (Basic Books 2016).

39. *Id.* at xxii.

industrialists in the antebellum years was crucial to the development of a commercial market.⁴⁰

The problems of Bellesiles's work were far broader and more severe than questionable counts of guns in probate inventories. False claims of finding inventories in archives he never visited and in non-existent courthouses is a bit more than "questionable sources and technique."⁴¹ Haag's astonishing admission suggests the greater issue, which is that Bellesiles's supporters took *Arming America* at face value, and made no effort to review the voluminous literature detailing his spectacular crash and burn.

"Presupposition" is "information that is presupposed or taken for granted."⁴² Haag's book essentially commits herself to the presupposition that *Arming America's* theory of gun culture formation in America is correct. Worse, she asserts that "[t]here are very few histories or cultural histories of guns in the United States . . ."⁴³ Except of course the gun histories contained in my book, *Armed America*.⁴⁴

Furthermore, she acknowledges an emotional commitment to a cause that Bellesiles was cagy enough to avoid.⁴⁵ On the first page of the introduction, she admits "the tragedy of the Sandy Hook Elementary School shooting in Newton, Connecticut, on December 14, 2012 . . ." triggered her book.⁴⁶ She then launches into several pages of asserting that there was some guilt associated with gun manufacturing:

Nevertheless, I wanted to know what allowed Oliver Winchester and his successors not to feel at least a little encumbered by the fact that they manufactured and sold millions of "fearfully destructive" guns. We hear a great deal about gun owners, but what do we know about their makers? The gun debate has been mired in rights talk for so long—what gun owners have a right to do—that it is forgotten as a matter of conscience.⁴⁷

I do not (yet) assert that Haag has "Bellesiled" and intentionally falsified her work, but she starts with the assumption that the gun culture was created through intentional manipulation of public tastes to create a gun culture for commercial reasons: "One answer to the question 'Why do

40. *Id.* at 407–08 n.9.

41. *Id.* at 407.

42. David I. Beaver & Bart Geurts, *Presupposition*, STANFORD ENCYCLOPEDIA OF PHILOSOPHY (Apr. 1, 2011), <http://plato.stanford.edu/entries/presupposition/> (last updated Dec. 17, 2014).

43. HAAG, *supra* note 39, at 409 n.15.

44. See CRAMER, *supra* note 39.

45. HAAG, *supra* note 39, at ix-x.

46. *Id.*

47. *Id.* at x.

Americans love guns?' is, simply, that we were invited to do so by those who made and sold them at the moment when their products had shed much of their more practical, utilitarian value."⁴⁸ By this, it is assumed she meant that as America became urbanized, guns no longer served as critical a need for hunting, or defense against Indians. She seems unaware that urban America, then as now, had significant criminal violence problems⁴⁹ for which a gun might be a very practical and utilitarian tool.

Haag also exhibits a not terribly subtle hostility towards the gun business generally. "A perceptual habit of the gun industry and technology—to fracture parts, labor, and relationships into smaller pieces, to focus deeply inward, to see components over the whole—was also a habit of conscience, the innovation in technology and accountability one and the same."⁵⁰ The same can be said of any substantial business. Car manufacturers focused on selling cars and did not worry about crash survivability until state and federal governments forced them to care.⁵¹ She also takes to task Adam Smith's description of capitalism in similar terms: "Smith described complex interdependency, but he absolved the capitalist from conscious accountability for distant human fates beyond the narrow actions of his accounting."⁵² It would be surprising indeed if Haag's concerns with Sandy Hook and the evils of capitalism did not color her interpretation of documents, in much the same way that Bellesiles's implicit desire for a gun-free American Eden colored his "research."

A. The Development of American Gun Culture

1. Pistols

As part of his evidence that there was no gun culture in early America, Bellesiles claimed that, "Few pistols had been made in the United States prior to the opening of the [Colt] Hartford factory [in 1848], pistols having found little market beyond the officers in the army and navy."⁵³

As the following examples demonstrate, pistols appeared repeatedly in advertisements of the period, in many cities, usually as a sideline of manufacturers or merchants engaged in the general firearms trade—and

48. *Id.* at xviii.

49. ROGER D. MCGRATH, *GUNFIGHTERS, HIGHWAYMEN & VIGILANTES: VIOLENCE ON THE FRONTIER* 247–49 (Univ. of Calif. Press 1987).

50. *Id.* at xxiii.

51. Matthew T. Lee, *The Ford Pinto Case and the Development of Auto Safety Regulations, 1893-1978*, 27 *BUS. & ECON. HIST.* 390, 394–98 (1998).

52. HAAG, *supra* note 38, at xxiv–xxv.

53. See BELLESILES'S book, *supra* note 4, at 378. While "handgun" and "pistol" are technically interchangeable terms, common usage today distinguishes pistols from revolvers, both of which are handguns. *Id.*

always treated as common or ordinary. In 1781, Perkin & Coutty of Philadelphia advertised that they made firearms “where Gentlemen may be supplied with Guns and Pistols of the neatest and best quality, on the shortest notice”⁵⁴ John Nicholson, gunsmith, offered a variety of firearms for sale in November of 1781, including “Pistols . . . upon the most reasonable terms.”⁵⁵ Edward Pole advertised his “Military Laboratory,” which included “Musket’s [*sic*] and pistol’s [*sic*]” among the items for sale.⁵⁶ Pole’s customers included civilians, which is suggested by the offering of “Musket cartridges in blank, for the exercise of the militia.”⁵⁷

James Haslett, who made muskets for Virginia government contracts, also made pistols and sold imported pistols in Baltimore at least as early as 1806.⁵⁸ He advertised in the November 12, 1806 *Federal Gazette & Baltimore Daily Advertiser* that he offered dueling pistols for sale, some made by him, and others that were imported from London.⁵⁹

Gun dealers such as Halbach & Sons sold imported pistols, a number of which have survived from the period 1824-1833, the gunlocks of which are stamped with “McKim and Brother Baltimore.”⁶⁰ As was common at the time, some gunlocks imported from Britain were stamped with the American importer’s name.⁶¹ These gunlocks were made into pistols for the civilian market after arrival in America.⁶² The Charleston Museum has a pair of percussion lock pistols stamped with Poyas’s name on the frame.⁶³ It seems likely that he manufactured them, and, thus, they were *not* government contract pistols.⁶⁴

A list of debts owed to the estate of James Ross, a Steubenville, Ohio gunsmith who died in 1816, showed that, along with outstanding debts for repairs of guns, and apparently for purchases of long guns, he was owed

54. *Notations of Interest Found Within the Pennsylvania Gazette, continued: Items of Miscellaneous Interest*, ERICKETTENBURG.COM, http://www.erickettenburg.com/Site_3/PA_Gazette_III.html (listing numerous advertisements in the *Pennsylvania Gazette* from the 1700s including Perkin & Coutty, May 2, 1781) (last visited Feb 19, 2017).

55. Clayton E. Cramer & Joseph Edward Olson, *Pistols, Crime, and Public: Safety in Early America*, 44 WILLAMETTE L. REV. 699, 709 (2008) (citing HENRY J. KAUFFMAN, EARLY AMERICAN GUNSMITHS, 1650-1850, at 71 (Stackpole Co. 1952) (quoting John Nicholson, PA. J., Nov. 24, 1781)).

56. *An American Time Capsule: Three Centuries of Broadsides and Other Printed Ephemera*, LIBRARY OF CONGRESS, <https://memory.loc.gov/ammem/rbpebibquery.html> (Edward Pole’s *Military Laboratory* advertisement from 1789 is viewable upon searching the database) (last visited Feb. 19, 2017).

57. *Id.*

58. CLAYTON CRAMER, ARMED AMERICA: FIREARMS OWNERSHIP & MANUFACTURING EARLY AMERICA 156 (citing DANIEL D. HARTZLER, ARMS MAKERS OF MARYLAND 61, 65–68 (1977)).

59. *Id.*

60. *Id.*

61. *Id.*

62. *Id.*

63. *Id.* (citing HENRY J. KAUFFMAN, EARLY AMERICAN GUNSMITHS 1650–1850, at 76 (2011)).

64. *Id.*

\$45 for a “pair of pistols.”⁶⁵ S. E. Dyke's *Thoughts on the American Flintlock Pistol* shows ninety-one surviving flintlock pistols that are unquestionably of American manufacture in the period before 1840—and these are not government contract pistols of known patterns.⁶⁶

Business directories contained advertisements, proving merchants believed there was a sufficient market for pistols that warranted advertising. In Louisville, Kentucky in an 1837 business directory, Fletcher & Reeves advertised being “Dealers in Watches, Jewellery, Silver Ware, Military Goods, Pistols, Surveyor's Compasses, Piano Fortes, Music, &c.”⁶⁷ In St. Louis that same year, Mead & Adriance described themselves as “Importers and wholesale dealers in . . . Guns, Pistols, Cutlery, Military and Fancy Goods, generally . . .”⁶⁸

Henry A. Cargill, a Nashville merchant, advertised for almost two months on the front page of *Nashville Daily Republican Banner*, which read “Guns, Pistols, Bowie Knives. A large and splendid assortment of the above articles . . .”⁶⁹ A few months later, A. W. Spies advertised in every issue of the *New York Morning Herald* for several weeks, which read: “Hardware, Cutlery, Guns and Pistols . . . 500 Guns, 300 Rifles, 2,000 pair Pistols/Gun and sporting implements of every kind/Gun materials for Gunsmiths . . .”⁷⁰

In the same paper, on many of the same days, S. M. Pike was advertising, “Particular Notice to Sportsmen—A choice assortment of fine double and single barrel guns, rifles and pistols . . .”⁷¹ A B. Ferguson of Huntsville, Alabama, advertised in May of 1837 that he was a “Gun and Locksmith,” offering repairs and “also [had] on hand some Guns and Pistols for sale, and also a variety of gun and pistol locks . . .”⁷²

Weld's account of travels between 1795 and 1797⁷³ discussed how in the backcountry of America and Canada, “[t]he people all travel on horseback, with pistols and swords . . .”⁷⁴ While Pym Fordham was staying in Princeton, Indiana from 1817 to 1818, he also accounted of the prevalence and use of pistols. He observed that, “Yesterday 8 men on foot

65. *Id.* (citing JAMES B. WHISKER, *THE GUNSMITH'S TRADE 200* (Edwin Mellen Press, 1992)).

66. *Id.* (citing S. E. DYKE, *THOUGHTS ON THE AMERICAN FLINTLOCK PISTOL 13–60* (1974) (out of print)).

67. WILLIAM GILMAN LYFORD, *THE WESTERN ADDRESS DIRECTORY: CONTAINING THE CARDS OF MERCHANTS, MANUFACTURERS, AND OTHER BUSINESS MEN 385* (Jos. Robinson 1837).

68. *Id.* at 418.

69. *Guns, Pistols, Bowie Knives*, *NASHVILLE DAILY REPUBLICAN BANNER*, Oct.-Nov. 1837, at 1.

70. *NEW YORK, NY MORNING HERALD*, January 1838, at 1, 3–6, 9–17.

71. *Id.* at 1, 3, 4, 5, 6, 9, 10, 11, 12, 13, 15, 16, 17.

72. *Gun and Locksmith*, *HUNTSVILLE, ALABAMA FREE DEMOCRAT*, May 23, 1837, at 1.

73. See 1 ISAAC WELD, *TRAVELS THROUGH THE STATES OF NORTH AMERICA, AND THE PROVINCES OF UPPER AND LOWER CANADA DURING THE YEARS 1795, 1796, AND 1797*, at 117–19, 234 (John Stockdale 1799); 2 *id.* at 150 (John Stockdale 1800).

74. WELD 1, *supra* note 75, at 234.

armed with pistols and rifles came into the town from Harmony. They had been in pursuit of an absconded debtor from Vincennes.”⁷⁵ Fordham reported nothing surprising about eight men armed with pistols and rifles to pursue a mere debtor.⁷⁶ Fordham described an associate judge as carrying “a pair of pistols at his saddle bow; and altogether look[ed] more like a Dragoon Officer in plain clothes, than a Judge.”⁷⁷ Fordham did not report that the pistols themselves were remarkable; what was worth noting, at least to a transplanted Englishman, was that a *judge* was carrying them.⁷⁸

Fordham also described a party in the Illinois Territory that had excluded some “vulgar” party-crashers.⁷⁹ At this party on July 4, 1818, Fordham reported that “some young men armed themselves with Dirks (poignards [daggers] worn under the clothes) to resist [any] intrusion . . .” by party-crashers.⁸⁰ Attempts were made by “the rabble” to interrupt the party, “but the rumour that they were armed with dirks and pistols prevented serious mischief.”⁸¹ While the antecedent of “they were armed” is unclear, that it prevented serious mischief by “the rabble” could suggest that pistols were weapons commonly carried as to be a realistic deterrent to “the rabble.”⁸² According to Fordham (and many other travelers), the boatmen who worked the Mississippi River were a wild and dangerous population.⁸³ Fordham advised for “all travellers going alone down the river, to get one man at least that they can depend upon, and to wear a dagger or a *brace of pistols*; for there are no desperadoes more savage in their anger than these men.”⁸⁴

75. ELIAS PYM FORDHAM, PERSONAL NARRATIVE OF TRAVELS IN VIRGINIA, MARYLAND, PENNSYLVANIA, OHIO, INDIANA, KENTUCKY; AND OF A RESIDENCE IN THE ILLINOIS TERRITORY: 1817–1818, at 137 (Frederic Austin Ogg, ed., 1906).

76. *Id.*

77. *Id.* at 155.

78. *Id.*

79. *Id.* at 219.

80. *Id.*

81. *Id.* at 220.

After supper several attempts were made by some shabby looking fellows to come in, but they were prevented by the bar-keeper. The dancers kept it up most indefatigably, in spite of heat almost equal to that of the West Indies. In going away some of the gentlemen were insulted by the rabble, but the rumour that they were armed with dirks and pistols prevented serious mischief. In the night a large window was smashed to pieces, and the frame driven into the house.

Id.

82. *Id.*

83. *Id.* at 195–96.

84. *Id.* (emphasis added).

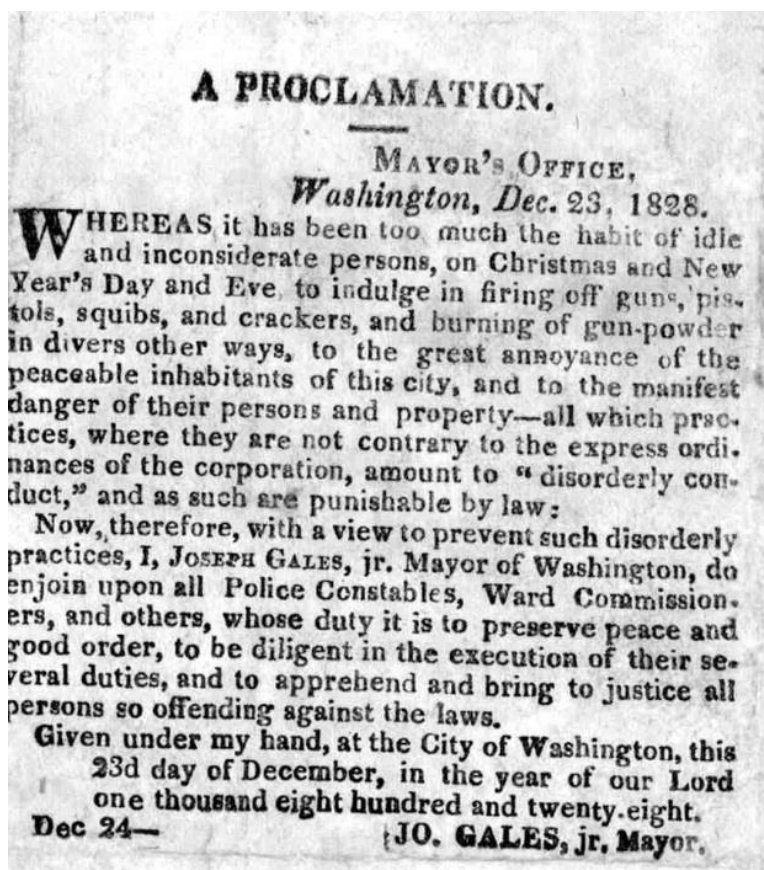
Further demonstrating the popularity of guns, two days before Christmas in 1828, Mayor Joseph Gales of Washington, D.C. issued a proclamation suggesting that guns, and specifically pistols, were common:

WHEREAS it has been too much the habit of idle and inconsiderate persons, on Christmas and New Year's Day and Eve to indulge in firing off guns, *pistols*, squibs, and crackers, and burning of gun-powder in divers other ways, to the great annoyance of the peaceable inhabitants of this city, and to the manifest danger of their persons and property—all which practices, where they are not contrary to the express ordinances of the corporation, amount to “disorderly conduct,” and as such are punishable by law:

Now, therefore, with a view to prevent such disorderly practices, I, Joseph Gales, jr. Mayor of Washington, do enjoin upon all Police Constables, Ward Commissioners, and others, whose duty it is to preserve peace and good order, to be diligent in the execution of their several duties, and to apprehend and bring to justice all persons so offending against the laws.⁸⁵

Sounds like gun culture to me!

85. *An American Time Capsule: Three Centuries of Broadsides and Other Printed Ephemera*, LIBRARY OF CONGRESS, (emphasis added) <https://memory.loc.gov/ammem/rbpebibquery.html> (last visited Feb. 20, 2017). Mayor Joseph Gales's *A Proclamation*, Dec. 23, 1828, is viewable upon searching the database.



Mayor Gales's Proclamation

In sum, newspaper advertisements throughout this period offered pistols for sale and the repair of handguns.⁸⁶ Travel accounts and newspaper reports demonstrate that pistols were commonly carried in at least some parts of the United States, and the presence of pistols was *never* a surprise. The evidence suggests that, like today, pistols were less common than long guns—but they were not, in any sense, scarce or unusual.

86. See discussion *supra* Section II.A.1; see also May 2, 1781, *Pennsylvania Gazette*, quoted in Kauffman, *Early American Gunsmiths*, 74; Edward Pole, *Military Laboratory*, at No. 34 (Philadelphia: R. Aitken, [1789]), in Library of Congress Printed Ephemera Collection, Portfolio 147, Folder 9a; Oct. 13, 1785, *South Carolina Gazette & Public Advertiser*, quoted in Kauffman, *Early American Gunsmiths*, 23; Sept. 21, 1791, *Federal Gazette*, quoted in Kauffman, *Early American Gunsmiths*, 14; Dec. 18, 1812, *Pittsburgh Gazette*, quoted in Kauffman, *Early American Gunsmiths*, 45; Jan. 8, 1818, *Somerset [Pennsylvania] Whig*, quoted in Whisker, *The Gunsmith's Trade*, 155; Merrill Lindsay, *The New England Gun: The First Two Hundred Years* 85-91 (New Haven, Conn., New Haven Colony Historical Society 1975); "Guns, Pistols, Bowie Knives," *Nashville Daily Republican Banner*, Oct. 2, 1837, through Nov. 25, 1837, 1.

2. *Travel Accounts*

The rest of this Article could be spent examining Haag's footnotes in the methodical way that I deconstructed Michael Bellesiles's *Armed America*, which eventually led to helping others do the same to his career. However, this Article focuses on Haag's presupposition that renders the validity of the rest of her research worthy of careful study, instead of simple acceptance. Accordingly, was American gun culture an antebellum creation in response to clever marketing by early industrial gun makers such as Colt, Remington, and Winchester? Haag never directly addresses Bellesiles's claim, but simply used nearly every source as evidence in support of this theory.⁸⁷

Proving the existence or absence of a pre-existing gun culture presents an interesting problem. How do you define gun culture? Haag at point distinguishes an "ordinary shooter" from the "gun crank."⁸⁸ A gun crank "was a customer with a deep psychological bond with his gun. This was a transition from imagining a customer who needed guns but didn't especially want them, to a customer who wanted guns but didn't especially need them."⁸⁹

Fortunately, Bellesiles arrayed a list of sources that demonstrated a strong gun culture well before the industrial gun makers started their marketing.⁹⁰ But (as usual) he falsely claimed the opposite.⁹¹ His astonishing claim was that most Americans, even on the frontier, did not hunt until the mid-1830s when a small number of wealthy Americans chose to ape their upper class British counterparts.⁹² An even more amazing claim is that until 1848, when Samuel Colt mass marketed the revolver, violence between whites was somewhat unusual, and murder was rare.⁹³ As evidence for these two related claims, Bellesiles asserted that, "an examination of eighty travel accounts written in America from 1750 to 1860 indicate that the travelers did not notice that they were surrounded by

87. See generally HAAG, *supra* note 38, at 407–08 n.9.

88. *Id.* at xix.

89. *Id.* at xix.

90. BELLESILES'S book, *supra* note 4, at 542–44 n.5 (listing sources of travel account attempting to show gun scarcity).

91. See *id.* at 306.

The support the image of the United States as a heavily armed and violent society, writers have picked up on a very few quotations and recycled them widely. Accuracy requires a more careful reading of these quotations in their full context. Generally stated, an examination of eighty travel accounts written in America from 1750 to 1860 indicates that the travelers did not notice that they were surrounded by guns and violence.

Id.

92. *Id.* at 322.

93. See *id.* at 81–82, 354, 378.

guns and violence.”⁹⁴ The conjunction between those last two words might mean that the travelers saw little gun violence, but because Bellesiles repeatedly denied widespread gun ownership he implicitly claims guns were rare in these accounts.⁹⁵

The remainder of this section uses eyewitness accounts of early America to demonstrate the exact opposite of Bellesiles’s claims—and includes more than a dozen of Bellesiles’s “eighty travel accounts.”⁹⁶ Though I did not read all eighty travel accounts, the first thirteen that Bellesiles cited contradicted his characterization of them.⁹⁷ As such, if the first two chocolates in the box have worms, you don’t need to sample the rest to know the chocolate factory has problems.

In every region between 1789 and 1846, memoirs and traveler accounts either treat gun ownership as common, or explicitly say that it was common.⁹⁸ No account that I found even implied that hunting was unusual or rare.⁹⁹ There is no evidence that hunting was in any sense an upper-class phenomenon; many of the accounts below are explicit that it was common or nearly universal among the lowest classes.¹⁰⁰

Bellesiles did not include accounts that describe clearly atypical occupations and travels, such as George Frederick Ruxton’s *Life in the Far West*, describing fur trapping in Utah, New Mexico, and Colorado in 1847, which is awash in guns and violence.¹⁰¹ Likewise, Bellesiles excluded John Palliser’s *Solitary Rambles and Adventures of a Hunter in the Prairies*, which accounts an 1847 hunting trip similarly awash in guns and violence.¹⁰² Both books took place within the United States, but where few Americans—other than the Indians—yet lived.¹⁰³

Bellesiles did, however, list¹⁰⁴ Isaac Weld’s account of his travels in North America between 1795 and 1797, in which Weld described how rifles worked for his British audience, who were unfamiliar with rifled weapons at that time.¹⁰⁵ Weld explained:

94. *Id.* at 306, 542–44 n.5.

95. *See id.*

96. *Id.* at 306, 542–44 n.5.

97. *See id.*

98. *See* discussion *infra* current Section; *see also* BELLESILES’S book, *supra* note 4, at 542–44 n.5.

99. *See* discussion *infra* current Section.

100. *See* discussion *infra* current Section. The examples below provide the evidence.

101. GEORGE FREDERICK RUXTON, *LIFE IN THE FAR WEST* (Leroy R. Hafen, ed., 1951).

102. *See* JOHN PALLISER, *SOLITARY RAMBLES AND ADVENTURES OF A HUNTER IN THE PRAIRIES* (C.E. Tuttle, Co., 1969).

103. *United States Resident Population by State: 1790-1850*, DEPT. OF LAB. & WORKFORCE DEV. <http://lwd.dol.state.nj.us/labor/lpa/census/1990/poptrd1.htm> (last visited March 13, 2017). Colorado, Utah, New Mexico all listed as “N/A.”

104. BELLESILES’S book, *supra* note 4, at 545 n.5.

105. WELD 1, *supra* note 80, at iv, 117–19.

An experienced marksman, with one of these guns, will hit an object not larger than a crown piece, to a certainty, at the distance of one hundred yards. Two men belonging to the Virginia rifle regiment, a large division of which was quartered in this town during the war, had such a dependence on each other's dexterity, that the one would hold a piece of board, not more than nine inches square, between his knees, whilst the other shot at it with a ball at the distance of one hundred paces. This they used to do alternately, for the amusement of the town's people, as often as they were called upon. . . . Were I, however, to tell you all the stories I have heard of the performance of riflemen, you would think the people were most abominably addicted to lying.¹⁰⁶

Weld discussed the manufacture and use of rifles for hunting, and compared Canadian hunters to their American counterparts:

The people here, as in the back parts of the United States, devote a very great part of their time to hunting, and they are well skilled in the pursuit of game of every description. They shoot almost universally with the rifle gun, and are as dexterous at the use of it as any men can be.¹⁰⁷

The difference between Americans and Canadians, according to Weld, was that Americans used American-made rifles, and preferred smaller calibers.¹⁰⁸

Bellesiles also included Francis Baily's *Journal of a Tour in Unsettled Parts of North America in 1796 & 1797*, which reported numerous accounts of guns and hunting, including not only his own guns and hunting, but those of Americans whom he met.¹⁰⁹ Baily described an "excellent tavern" on Chesapeake Bay, "which [was] frequented by parties in the shooting season, for the sake of the wild fowl with which the Susquehannah so plentifully abounds" ¹¹⁰ Baily also described Long Island's villages, which were "much frequented by different parties from New York [City], which go over to hunt, shoot, and fish" ¹¹¹

Baily accounted his visit to Washington, D.C., which was still largely wooded when he visited it in 1796.¹¹² To emphasize how far the new capital had to go before it would be a large city, Baily reported, "[g]ame is plenty in these parts, and, what perhaps may appear to you remarkable, I saw some boys who were out a shooting, actually kill several brace of

106. *Id.* at 118–19.

107. WELD 1, *supra* note 80, at 150.

108. *Id.* at 150; WELD 1, *supra* note 80, at 117–19, 234.

109. See FRANCIS BAILY, *JOURNAL OF A TOUR IN UNSETTLED PARTS OF NORTH AMERICA IN 1796 & 1797* (Augustus De Morgan ed., 1856); see also BELLESILES'S book, *supra* note 4, at 543 n.5.

110. *Id.* at 109.

111. *Id.* at 123.

112. *Id.* at 127–28.

partridges in what will be one of the most public streets of the city.”¹¹³ It was not boys out shooting that was remarkable to Baily, but that they were shooting in what would be one of the main boulevards of America’s capital.¹¹⁴

Baily described his visit to Fredericktown, Maryland, which was a “large and flourishing place” with a “large manufactory of rifle-guns carried on . . . but so great is the demand for them, that [they] could not meet with one in the whole place[.]”¹¹⁵ Baily noted the rifle-guns sold “in general from 15 to 25 dollars each, according to their style of being mounted.”¹¹⁶ Past the Allegany Mountains, Baily and his party came to Hager’s-town, which “like Frederick’s-town, [wa]s a place of great trade, and also a manufactory for rifle-guns, of which [they] bought two at twenty dollars each.”¹¹⁷

Baily’s trip down the Ohio River described how each day his party moored their boats together, “so that there were fourteen or fifteen of [them] in company: and [they] every day sent out some of them into the woods with their guns to hunt for deer, turkeys, bears, or any other animals fit for food.”¹¹⁸ Baily described a plantation in the wilderness in which they asked for food, but they could not help because “they were, in fact, in the same destitute situation in which [Baily and his party] were—obliged to depend upon their guns for subsistence”¹¹⁹ Following the events of a serious boat accident, his party became more desperate for food.¹²⁰ With their stock diminishing, they were forced to take turns and “go out every morning with [their] gun and shoot whatever [they] could find; and many a time would we lay ourselves down at night without a prospect of anything wherewith to break our fast the next morning, save what [their] guns might procure [them] the next day”¹²¹

Baily’s description of frontier Columbia, Ohio emphasized hunting as a source of food.¹²² “The inhabitants live[d] a great deal upon deer and turkeys, which they sho[t] wild in the woods”¹²³ Baily went hunting there with Dr. Bean, a settlor on Little Miami river, in which they “mounted on horses, and had each a gun”¹²⁴ Baily explained that black bears were hunted in Ohio by cutting down trees in which bears had climbed,

113. *Id.* at 128

114. *See id.*

115. *Id.* at 130–31.

116. *Id.* at 131.

117. *Id.* at 132–34.

118. *Id.* at 159.

119. *Id.* at 159–60.

120. *Id.* at 166.

121. *Id.* at 172.

122. *Id.* at 199.

123. *Id.*

124. *Id.* at 203.

“and three or four of the party with loaded rifles” would shoot the bear as he climbed out of the fallen tree.¹²⁵ Baily also made casual references to guns, such as an “old man, accompanied by his dog and his gun . . . ,”¹²⁶ and how, as his party floated down the Mississippi, the first boat in the expedition fired a gun as a signal to the others.¹²⁷ The accounts from Baily's book certainly demonstrate he was surrounded by guns and hunting.

Bellesiles additionally included the accounts of Fortescue Cuming in *Sketches of a Tour to the Western Country*, which described Cuming's journey through Pennsylvania, Ohio, and Kentucky from 1807 to 1809.¹²⁸ Throughout his journey, and with no alarm, Cuming mentioned gunsmiths, gunpowder manufacture, widespread use of guns for sport, subsistence hunting, self-defense, and occasional murder.¹²⁹ Cuming described the abundant wildlife of Kentucky, even after settlement, and noted “that little or no bread was used, but that even the children were fed on game; the facility of gaining which prevented the progress of agriculture”¹³⁰

Even though Cuming was a hunter, he expressed his admiration for the superior marksmanship of Western Pennsylvanians and Virginians:

Apropos of the rifle.—The inhabitants of this country in common with the Virginians, and all the back woods people, Indians as well as whites, are wonderfully expert in the use of it: thinking it a bad shot if they miss the very head of a squirrel, or a wild turkey, on the top of the highest forest tree with a single ball; though they generally load with a few grains of swan shot, with which they are equally sure of hitting the head of the bird or animal they fire at.¹³¹

When Aaron Burr was tried for his criminal conspiracy to detach the Southwest into its own country, one of the pieces of evidence used against him was a meeting of Mr. Blannerhassett with a number of other conspirators—all of them armed.¹³² Burr's defense attorney argued there was nothing suspicious about being armed because gun ownership was the norm in the early Republic:

125. *Id.* at 208.

126. *Id.* at 233.

127. *Id.* at 267.

128. See FORTESCUE CUMING, *SKETCHES OF A TOUR TO THE WESTERN COUNTRY THROUGH THE STATES OF OHIO AND KENTUCKY, A VOYAGE DOWN THE OHIO AND MISSISSIPPI RIVERS, AND A TRIP THROUGH THE MISSISSIPPI TERRITORY, AND PART OF WEST FLORIDA, COMMENCED AT PHILADELPHIA IN THE WINTER OF 1807, AND CONCLUDED IN 1809* (Pittsburgh Press 1810); see also BELLESILES's book, *supra* note 4, at 543 n.5.

129. See *e.g.*, *id.* at 15, 17, 22–23, 30, 36, 54, 112, 114–15, 117–18, 126, 135, 222, 265, 273, 323, 378, 414,

130. *Id.* at 156.

131. *Id.* at 30.

132. DAVID ROBERTSON, *REPORTS OF THE TRIALS OF COLONEL AARON BURR FOR TREASON AND FOR A MISDEMEANOR* 446–47, 582 (Da Capo Press 1969)).

Arms are not necessarily military weapons. Rifles, shot guns and fowling pieces are used commonly by the people of this country in hunting and for domestic purposes; they are generally in the habit of pursuing game. In the upper country every man has a gun; a majority of the people have guns every where, for peaceful purposes. Rifles and shot guns are no more evidence of military weapons than pistols or dirks used for personal defen[s]e, or common fowling pieces kept for the amusement of taking game. It is lawful for every man in this country to keep such weapons.¹³³

Rev. William C. Smith's frontier account, *Indiana Miscellany*, described settlers who were armed with guns and prepared for self-defense against Indians.¹³⁴ Smith also described the morality of the early Indiana settlements by telling how "it was a rare thing to hear . . . the report of a hunter's gun on the holy Sabbath day . . ." ¹³⁵ Smith's statement thus implied that gunfire was *not* rare during the rest of the week. During the War of 1812, Smith told of a shortage of provisions for the settlers, who had fortified their villages,

but usually they had plenty of meat. All the men were excellent hunters—some of them real experts. The country abounding in game, they kept the forts well supplied with venison and bear-meat. . . . When considered at all admissible to venture outside the fort to labor, the men went in company, taking their trusty rifles with them. . . . Some of [the women] could handle the rifle with great skill, and bring down the game in the absence of their husbands . . . ¹³⁶

Baynard Rush Hall's memoir of frontier Indiana life contained detailed descriptions of how hunting was a common part of life for most settlers, done partly for sport, and partly because it supplied fresh meat at very little expense:

Let none think we western people follow rifle shooting, however, for mere sport; that would be nearly as ignoble as shot gun idleness! The rifle procures, at certain seasons, the only meat we ever taste; it defends our homes from wild animals and saves our corn fields from squirrels and our hen-roosts from foxes, owls, opossums and other "varmints." . . . The rifle is a woodman's lasso. He carries it everywhere as (a very degrading comparison for the gun, but none other occurs,) a dandy a cane. All, then,

133. *Id.* at 582.

134. WILLIAM C. SMITH, *INDIANA MISCELLANY: CONSISTING OF SKETCHES OF INDIAN LIFE, THE EARLY SETTLEMENT, CUSTOMS, AND HARDSHIPS OF THE PEOPLE, AND THE INTRODUCTION OF THE GOSPEL AND OF SCHOOLS* 76–77 (Poe & Hitchcock 1867).

135. *Id.* at 39.

136. *Id.* at 77–78.

who came to our tannery or store came thus armed; and rarely did a customer go, till his rifle had been tried at a mark, living or dead¹³⁷

After listing a variety of wild game that were hunted in the uninhabited land between settlements, Hall listed, “‘the neighbours’ hogs,’—so wild and fierce, that when pork-time arrives, they must be hunted and shot, like other independent beasts.”¹³⁸ Hall’s many hunting references with guns, usually with rifles, suggest it was ordinary;¹³⁹ hunting was also used for catching criminals.¹⁴⁰

Hall used the imagery of guns to describe the height of the trees in the forest: “till their high heads afforded a shelter to squirrels, far beyond the sprinkling of a shot-gun, and almost beyond the reach of the rifle!”¹⁴¹ In describing how life on the frontier expanded a person’s talents relative to those who stayed in the East, Hall compared the double-barreled shotgun with the rifle, which was common in his region:

Does the chap shoot a double-barrelled gun?—so can you, if you would—but you transcend him, oh! far enough with that man’s weapon, that in *your* hands deals, at your will, certain death to *one* selected victim, without *scattering* useless wounds at a venture in a little innocent feathered flock.¹⁴²

Hall’s America was steeped in a gun culture. Hall devoted an entire chapter to the joy of target shooting with rifles, opening the chapter with: “Reader, were ever you *fired* with the love of rifle shooting? If so, the confidence now reposed in your honour will not be abused, when told my love for that noble art is unabated”¹⁴³

Hall also described target shooting matches as common, and took pride in participating in a match where the prize was a half-barrel of whiskey.¹⁴⁴ As president of the local temperance society, his goal was to shoot “for the fun of the thing,” and if he won, he would pour the whiskey

137. 1 ROBERT CARLTON [BAYNARD RUSH HALL], *THE NEW PURCHASE: OR SEVEN AND A HALF YEARS IN THE FAR WEST* 125 (D. Appleton & Co. 1843). This was around 1816 when Indiana was granted Statehood. *Indiana Statehood – Timeline*, IND. HIST. BUREAU, <http://www.in.gov/history/2477.htm> (last visited Feb. 22, 2017).

138. HALL 1, *supra* note 137, at 101.

139. *Id.* at 175, 195, 196, 198, 200, 232–34; 2 *id.* at 15, 28, 73, 167, 212, 262.

140. HALL 1, *supra* note 137, at 232–34.

141. *Id.* at 85.

142. *Id.* at 99.

143. *Id.* at 122.

144. *Id.* at 126–27.

into the local stream.¹⁴⁵ The local blacksmith was also a rifle-maker and, according to Hall, his rifles were better than those made back East.¹⁴⁶

The rifle was so common an implement, and target shooting so common a sport, that when Hall went out evangelizing in a sparsely settled part of Indiana, one of his fellow preachers switched in mid-sermon to a metaphor involving rifle matches to sway the audience: “My friends and neighbours don’t you all shoot the rifle in this settlement?”¹⁴⁷ They were becoming restless with analogies that meant nothing to them—but they understood the preacher’s analogy to a rifle match.¹⁴⁸ Hall also described Pittsburgh, in a whimsical style with literary allusions, as a place where guns are made: “some here make tubes of iron, with alternate and spiral ‘lands and furrows,’ better by far to shoot than Milton’s grand and unpatent blunderbusses”¹⁴⁹

Hall described what would have been a fatal gun accident that was narrowly averted and gave no indication that this was a shocking event.¹⁵⁰ Hall referred to pistols on several occasions with no indication that they were either rare or regarded with any particular concern.¹⁵¹ Yet Hall’s references to pistols were far exceeded by his mentions of rifles and shotguns.¹⁵² Hall’s discussions of hunting, use and misuse of guns, and target shooting occur throughout the book and are treated as common events.¹⁵³

Abraham Lincoln’s autobiographical sketch, prepared in 1860, described his family’s movement from Kentucky to Indiana around 1816, and how, “[a] few days before the completion of his eighth year, in the absence of his father, a flock of wild turkeys approached the new log-cabin, and [Abraham] with a rifle gun, standing inside, shot through a crack, and killed one of them.”¹⁵⁴ Lincoln was not much of a hunter,¹⁵⁵ but even his family, which was not wealthy by any means,¹⁵⁶ owned a rifle, and considered hunting an acceptable action for a seven-year-old.¹⁵⁷ Lincoln’s poem, *The Bear Hunt*, written around 1846 stated, “When first my father

145. *Id.* at 126.

146. HALL 2, *supra* note 139, at 28–29. Hall “compared Pittsburgh and Eastern and Down-eastern rifles with his . . . but none are so true, and none have sights that will permit the drawing of a bead so smooth and round.” *Id.* at 29.

147. HALL 1, *supra* note 137, at 287.

148. *Id.*

149. HALL 2 *supra* note 139, at 31.

150. *Id.* at 262–63.

151. *Id.* at 255, 257, 262.

152. *Id.* at 253–63, 290–91.

153. *See, e.g., id.* at 29–32, 253–57, 262.

154. 4 THE COLLECTED WORKS OF ABRAHAM LINCOLN 61–62 (Roy P. Basler ed., 1953).

155. *Id.*

156. MICHAEL BURLINGAME, ABRAHAM LINCOLN: A LIFE 16 (John Hopkins Univ. Press 2008).

157. LINCOLN 4 *supra* note 155, at 62.

settled here, 'Twas then the frontier line: The panther's scream, filled night with fear And bears preyed on the swine. But wo for Bruin's short lived fun, When rose the squealing cry; Now man and horse, with dog and gun, For vengeance, at him fly."¹⁵⁸ Another line of the poem states, "Bang,—bang—the rifles go."¹⁵⁹ Thus, it is apparent that hunting and guns were common on Lincoln's frontier.

In *Fordham's Personal Narrative*, upon his arrival at St. Vincennes, Indiana in 1817, he accounted what was considered appropriate paraphernalia for traveling in the Indiana wilderness, which included "guns and tomohawks, and all things necessary to encamp in the woods . . ."¹⁶⁰ Fordham also mentioned Indiana's "back-wood settlers, who are half hunters, half farmers."¹⁶¹ He divided the frontier population of Illinois into four categories, of which the first two relied upon hunting for their survival:

1st. The hunters, a daring, hardy, race of men, who live in miserable cabins, which they fortify in times of War with the Indians, whom they hate but much resemble in dress and manners . . . But their rifle is their principal means of support. They are the best marksmen in the world, and such is their dexterity that they will shoot an apple off the head of a companion. Some few use the bow and arrow. . . .

2^d. class. First settlers;—a mixed set of hunters and farmers. . . .¹⁶²

Suggesting it was the norm in the Illinois Territory, Fordham's letter to his brother back in Britain described his style of dress when traveling: "I wish you could see your brother mount his horse to morrow morning. I will give you a sketch. A broad-brimmed straw hat,—long trousers and moccasins,—shot pouch and powder horn slung from a belt,—rifle at his back, in a sling . . ."¹⁶³ Fordham observed that "should a war break out on our frontiers, I hope that there is not nor will be, a young Englishman among us, who would hesitate to turn out with his gun and blanket."¹⁶⁴ Fordham assumed that every "young Englishman" in the Illinois territory owned at least one gun.¹⁶⁵

While Fordham described people who hunted at least partly to sell game to others, he also indicated that hunting for one's own table was

158. 1 THE COLLECTED WORKS OF ABRAHAM LINCOLN 386–87 (Roy P. Basler ed., 1953).

159. *Id.* at 388.

160. FORDHAM, *supra* note 76, at 95–96.

161. *Id.* at 96.

162. *Id.* at 125–26.

163. *Id.* at 109.

164. *Id.* at 205.

165. *Id.*

common.¹⁶⁶ His account of a Christmas Day village feast listed wild turkeys being cooked.¹⁶⁷ That the game were hunted, not trapped, may be inferred from the following description:

The young men had their rifles out, and were firing *feux de joi* almost all the preceding night, all the day till late into the evening. It reminded me of Byron's description of the Moslems firing at the feast of the Ramadan in Constantinople:—but we backwoodsmen never fire a gun loaded with *ball* into the town,—only from all parts of it, out towards the woods.¹⁶⁸

Fordham fills his account with descriptions of settlers (including himself) engaged in hunting for sport and for food.¹⁶⁹ Most significantly of all, with respect to the supposed rarity of firearms in America, Fordham wrote a letter to potential immigrants telling them what they should and should not bring to America: “Do not bring with you any English rifles, or indeed any firearms but a pair of pistols. A good rifle gunlock would be valuable.”¹⁷⁰ While pistols might have been expensive or rare, firearms in general were readily available.¹⁷¹ It seems likely that guns in America were as cheap, or cheaper, than in Britain.¹⁷²

Anne Newport Royall's description of 1818 Alabama discussed the use of guns for self-defense and hunting as completely ordinary and incidental.¹⁷³ She wrote about the people she depicted.¹⁷⁴ Royall also described an event of bear hunting in her native Virginia,¹⁷⁵ with no indication that it was any more unusual than an American today driving a car.

Henry Rowe Schoolcraft's 1818 journey through the Ozarks also provides evidence that firearms ownership, sport hunting, and subsistence hunting were common.¹⁷⁶ Schoolcraft's description of the frontier settlement of Sugar-Loaf Prairie shows that guns and hunting were the norm:

166. *Id.* at 98, 213, 224.

167. *Id.* at 147.

168. *Id.*

169. *See id.* at 181, 200, 213, 223–25.

170. *Id.* at 237.

171. *See id.*

172. *Id.*

173. *See generally* ANNE NEWPORT ROYALL, LETTERS FROM ALABAMA 1817–1822 (Univ. of Ala. Press 1969).

174. *Id.* at 181–89, 203.

175. *Id.* at 203.

176. *See generally* MILTON D. RAFFERTY, RUDE PURSUITS AND RUGGED PEAKS: SCHOOLCRAFT'S OZARK JOURNAL 1818–1819 (Univ. of Ark. Press 1996).

These people subsist partly by agriculture, and partly by hunting Hunting is the principal, the most honourable, and the most profitable employment. To excel in the chase procures fame, and a man's reputation is measured by his skill as a marksman, his agility and strength, his boldness and dexterity in killing game, and his patient endurance and contempt of the hardships of the hunter's life They . . . can subsist any where in the woods, and would form the most efficient military corps in frontier warfare which can possibly exist. Ready trained, they require no discipline, inured to danger, and perfect in the use of the rifle.¹⁷⁷

At least some of Sugar-Loaf Prairie's hunting was commercial fur trapping,¹⁷⁸ and so perhaps this was atypical of the region—but Schoolcraft's description of other frontier settlements shows that hunting was a common part of how settlers obtained their meat.¹⁷⁹ By the time frontier Ozark children reached fourteen years of age, they “[had] completely learned the use of the rifle, the arts of . . . dressing skins and making [moccasins] and leather clothes.”¹⁸⁰ Early in his journey, much to Schoolcraft's chagrin, he attempted

to engage our hostess and her daughters in small-talk, such as passes current in every social corner; but, for the first time, found I should not recommend myself in that way. They could only talk of bears, hunting, and the like. The rude pursuits, and the coarse enjoyments of the hunter state, were all they knew.¹⁸¹

At one isolated cabin that Schoolcraft and his companion visited, the lady of the house was home alone while her husband was on a hunt.¹⁸² Schoolcraft expressed amazement that the lady of the house instructed Schoolcraft and his companion not only about “errors in our dress, equipments, and mode of travelling,” but also “that our [shotguns] were not well adapted to our journey; that we should have rifles”¹⁸³ Schoolcraft and his companion were astonished “to hear a woman direct us in matters which we had before thought the peculiar and exclusive province of men.”¹⁸⁴ Ozark women as hunters surprised a New Englander like Schoolcraft, but his comments also imply that the sex of his instructor was surprising—not widespread hunting and firearms.¹⁸⁵

177. *Id.* at 62–63.

178. *Id.* at 60, 68.

179. *Id.* at 54, 57, 63.

180. *Id.* at 74.

181. *Id.* at 54–55.

182. *Id.* at 23.

183. *Id.*

184. *Id.*

185. *Id.*

New Yorker John Stillman Wright's acidic *Letters from the West* in 1819, describe the early farmers of Cincinnati as "mostly, of indolent slovenly habits, devoting the chief part of their time to hunting, and drinking whiskey"¹⁸⁶ While Wright did not expressly say the farmers hunted with firearms, his description of them implied that hunting was *not* an upper class phenomenon, nor was it rare.¹⁸⁷ Richard Flower's *Letters from the Illinois* described the Illinois Territory in the early 1820s.¹⁸⁸ At the frontier village of Albion, Sunday amusements included "the backwoodsmen sh[ooting] at *marks*, their favourite sport"¹⁸⁹

A circa 1820 Du Pont gunpowder packaging illustration for Hagley Mills (as Du Pont gunpowder was marketed after 1814) also suggests that the market for gunpowder included some significant numbers of hunters.¹⁹⁰ While not conclusive evidence, the hunter's attire suggests a rustic, not a member of the upper class:

186. JOHN STILLMAN WRIGHT, *LETTERS FROM THE WEST: OR, A CAUTION TO EMIGRANTS* 21 (1819).

187. *Id.*

188. See RICHARD FLOWER, *LETTERS FROM THE ILLINOIS, 1820, 1821: CONTAINING AN ACCOUNT OF THE ENGLISH SETTLEMENT AT ALBION AND ITS VICINITY AND A REFUTATION OF VARIOUS MISREPRESENTATIONS, THOSE MORE PARTICULARLY BY MR. COBBETT* (C. Teulon: James Ridgway 1822).

189. *Id.* at 14.

190. E.I. du Pont de Nemours & Company, "Hagley Mills: IIF Gunpowder" (on file with Hagley Museum and Library).



191

Merchants advertised gunpowder in ways that gave indications hunters were a significant market: “Eagle Powder, for Sportsmen, Coarse and Fine, for Land or Sea shooting . . .”¹⁹²

William Blane mentioned guns and hunting several times throughout his book, *An Excursion through the United States and Canada, During the Years 1822-23*.¹⁹³ On the road across the Allegheny Mountains, he described his first encounter with rifles in the hands of some hunters:

As one of them, an old man, was boasting of his skill as a marksman, I offered to put up a half-dollar at a distance of fifty yards, to be his if he could hit it. Accordingly, I stepped the distance, and placed the half-dollar in the cleft of a small stick, which I thrust into the ground. The

191. *Id.*

192. E. Copeland, Jr., “Dupont’s Superior Gunpowder: A Constant Supply of Dupont’s Gunpowder, Warranted of the First Quality, and Assorted Sizes” (Davies, ca. 1819) (on file with Hagley Museum and Library).

193. See WILLIAM N. BLANE, *AN EXCURSION THROUGH THE UNITED STATES AND CANADA DURING THE YEARS 1822–23 BY AN ENGLISH GENTLEMAN* (Baldwin, Cradock, & Joy 1824).

hunter, slowly raising his rifle, fired, and to my great astonishment struck the half-dollar.¹⁹⁴

Rifles were common in the backcountry, as Blane could go to any house, and “the people were always ready to lend [him] a rifle, and were in general glad to accompany [him] when [he] went out hunting.”¹⁹⁵ Blane described squirrel hunting with an American on an island in the Ohio River and how the Americans were in a losing battle to exterminate them:

In parts of Ohio, the people attempted to destroy them by means of guns, dogs, and clubs. One party of hunters, in the course of a week, killed upwards of 19,000 . . . The people are very fond of the flesh of the squirrel, roasting it, and making it into pies, soups, &c . . .¹⁹⁶

Blane’s description of the backwoodsmen observed: “Every boy, as soon as he can lift a rifle, is constantly practicing with it, and thus becomes an astonishingly expert marksman. Squirrel shooting is one of the favourite amusements of all the boys, and even of the men themselves.”¹⁹⁷ Blane also wrote about the impressive marksmanship skills of the American Militia officers, remarking, “in these immense forests, where every tree is a fort, the backwoodsmen, the best sharp shooters in the world, constitute the most formidable military force imaginable.”¹⁹⁸

Americans hunted birds as well, and Blane described the normal procedure by which Americans hunted the prairie fowls: “They are delicious eating, and are killed in great numbers by the unrivalled marksmen of this country. After driving up a flock of these birds, the hunter advances within fifteen or twenty paces, raises his long heavy rifle, and rarely misses striking the bird on the head.”¹⁹⁹ After admitting that he was not as good a shot, and had to resort to shooting the prairie fowls in the body instead of the head, “the Backwoodsmen regarded my unsportsmanlike shooting with as much contempt, as one of our country squires feels, when a cockney shoots at a covey of partridges on the ground.”²⁰⁰ Blane also described the astonishment when he informed Americans that British game laws prohibited hunting deer in public lands, and even limited hunting on one’s own land, unless of a certain value, in which “[s]uch flagrant injustice appeared to them impossible . . .”²⁰¹

194. *Id.* at 88.

195. *Id.* at 145.

196. *Id.* at 95–96.

197. *Id.* at 302.

198. *Id.* at 135.

199. *Id.* at 173–74.

200. *Id.* at 174.

201. *Id.* at 175.

Karl Bernhard, Duke of Saxe-Weimar-Eisenach, visited America in 1825 and 1826.²⁰² Bernhard also referenced hunting and guns on at least eighteen pages, and he always treated it as an unremarkable event.²⁰³

Sandford C. Cox's *Recollections of the Early Settlement of the Wabash Valley*²⁰⁴ describes 1820s and 1830s Indiana, using the journals and memoirs of the early settlers, who used guns for hunting,²⁰⁵ entertainment,²⁰⁶ defense of their country,²⁰⁷ and assisting law enforcement.²⁰⁸

Philip Gosse, an English naturalist visiting Alabama in the 1830s, provided one of the more complete descriptions of the attitude of the population towards hunting and firearms:

Self-defence, and the natural craving for excitement, compel him to be a *hunter*; it is the appropriate occupation of a new, grand, luxuriant, wild country like this, and one which seems natural to man, to judge from the eagerness and zest with which every one engages in it when he has the opportunity. The long rifle is familiar to every hand; skill in the use of it is the highest accomplishment which a southern gentleman glories in; even the children acquire an astonishing expertness in handling this deadly weapon at a very early age.²⁰⁹

Gosse's account also emphasized the high level of marksmanship in America:

But skill as a marksman is not estimated by quite the same standard as in the old country. Pre-eminence in any art must bear a certain relation to the average attainment; and where this is universally high, distinction can be won only by something very exalted. Hence, when the young men meet together to display their skill, curious tests are employed, which remind one of the days of old English archery Some of these practices I had read of, but here I find them in frequent use. "Driving the

202. See 1 KARL BERNHARD (DUKE OF SAXE-WEIMAR EISENACH), *TRAVELS THROUGH NORTH AMERICA, DURING THE YEARS 1825 AND 1826* (Carey, Lea & Carey 1828).

203. See *id.* at 71, 99 (describing rifle-manufacturing and gun-boats respectively); 2 *id.* at 99, 118 (describing how emigrants "supported themselves by hunting" and one occasion when he was invited to dinner in which a wild turkey brought home from a hunt was to be eaten).

204. See SANDFORD C. COX, *RECOLLECTIONS OF THE EARLY SETTLEMENT OF THE WABASH VALLEY* (Courier Steam Book & Job Printing House, 1860). Firearms and subsistence hunting are so common in Cox's book; the journal-keepers and memoir-writers do not show any surprise about the presence or use of guns.

205. See *e.g.*, *id.* at 40, 57.

206. *Id.* at 34–35

207. *Id.* at 35.

208. *Id.* at 88.

209. PHILIP HENRY GOSSE, *LETTERS FROM ALABAMA (U.S.), CHIEFLY RELATING TO NATURAL HISTORY* 130 (London, Morgan, & Chase 1859).

nail” is one of these; a stout nail is hammered into a post about half way up to the head; the riflemen then stand at an immense distance, and fire at the nail; the object is to hit the nail so truly on the head with the ball as to drive it home. To hit at all on one side, so as to cause it to bend or swerve, is failure; missing it altogether is out of the question.²¹⁰

Gosse also described widespread hunting of squirrels, wild hog, and varmint, including opossum and raccoons, with rifles.²¹¹ Alabamans hunted for sport, food, and to protect crops from damage.²¹²

Alexis de Tocqueville’s *Journey to America*, his account of the travels that led to writing *Democracy in America*, quotes a Tennessee farmer in 1831 that:

[T]he dweller in this country is generally lazy. He regards work as an evil. Provided he has food enough and a house which gives half shelter, he is happy and thinks only of smoking and hunting.... There is not a farmer but passes some of his time hunting and owns a good gun.²¹³

Tocqueville also described a usual “peasant’s cabin” in Kentucky or Tennessee: “There one finds a fairly clean bed, some chairs, a good gun, often some books and almost always a newspaper....”²¹⁴ Guns and hunting were typical in Kentucky or Tennessee, according to Tocqueville.

Robert Baird’s *View of the Valley of the Mississippi* reads like a real estate promotional guide, emphasizing the enormous benefits of moving to these largely unsettled states—but still admits some unsavory aspects of the frontier.²¹⁵ A few instances of violence appear in Baird’s promotional work, such as St. Louis and its dueling problem, but they are usually in conjunction with a positive statement such as, “[a] great moral change is going forward here.”²¹⁶ Baird also reported a dispute at cards aboard a steamboat, “Pistols and dirks were drawn!”²¹⁷

While Baird seldom mentioned violence, he repeatedly mentioned hunting—and in a manner suggesting that the abundance of game would be

210. *Id.* at 130–31.

211. *Id.* at 132, 226–36, 270.

212. *Id.* at 256–57, 271–72.

213. ALEXIS DE TOCQUEVILLE, *JOURNEY TO AMERICA* 94 (J.P. Mayer ed., Anchor Books 1971).

214. *Id.* at 281.

215. ROBERT BAIRD, *VIEW OF THE VALLEY OF THE MISSISSIPPI, OR, THE EMIGRANTS AND TRAVELLER’S GUIDE TO THE WEST* 229 (2d ed., H.S. Tanner 1834) (describing access points to unsettled Illinois, the number of acres available to purchase, and the option of moving a family of buffalo to Illinois, but mentions there is no common school system yet).

216. *Id.* at 246.

217. *Id.* at 345.

an important factor when deciding where to settle.²¹⁸ Baird described Michigan's advantages:

The wild game of this territory is similar to that of Indiana, and the adjoining unsettled parts of Ohio. Deer, bears, beavers, otters, wolves, foxes &c. are numerous. Geese, ducks, and other aquatic fowls are exceedingly abundant. Wild [turkeys], pheasants, prairie hens, &c. &c. are to be found in great numbers and afford delicious food to the settlers in the autumn and winter.²¹⁹

Baird made similar remarks about the wild game of Illinois, Missouri, and Florida. In Missouri, Baird told of the abundance of game, describing a "semi-barbarian population" that lived off the game: "I have seen some of these men who could spend hour after hour in detailing their achievements with the 'rifle.'"²²⁰ Baird also describes steamboat passengers, including "the half-horse and half-alligator Kentucky boatman, swaggering, and boasting of his prowess, his rifle, his horse, and his wife."²²¹

Harriet Martineau's account of mid-1830s America shows that firearms and sport hunting were common occurrences along the Mississippi, and unsurprising to her:

While I was reading on the morning of the 12th, the report of a rifle from the lower deck summoned me to look out. There were frequent rifle-shots, and they always betokened our being near shore; generally under the bank, where the eye of the sportsman was in the way of temptation from some object in the forest.²²²

Gert Göbel's description of the Missouri frontier in the 1830s provides that at Christmas there were no religious observances and no gifts were exchanged:

There was just shooting. On Christmas Eve, a number of young fellows from the neighborhood banded together, and, after they had gathered together not only their hunting rifles but also old muskets and horse pistols from the Revolutionary War and had loaded them almost to the bursting point, they went from house to house. They approached a house as quietly as possible and then fired a mighty volley, to the fright of the women and children, and, if someone did not appear then, another volley no doubt followed. But usually the man of the house opened the door immediately,

218. *Id.* at 186, 238, 306.

219. *Id.* at 186.

220. *Id.* at 238.

221. *Id.* at 342.

222. 2 HARRIET MARTINEAU, RETROSPECT OF WESTERN TRAVEL 188 (London, Saunders, & Otley 1838).

fired his own gun in greeting and invited the whole company into the house After everyone had chatted for a little while, the whole band set out for the next farm, where the same racket started up anew. In this way, this mischief was carried on until morning, and since, as a rule, a number of such bands were out and about, one could often hear all night the roaring and rattling of guns from all directions.²²³

Accounts of similar practices—apparently of German origin—appeared in many states, both frontier and settled in the 1830s.²²⁴ Thus, it would seem that “Christmas shooting” took place on the frontier in the same way that Christmas caroling did in the America of my youth.

Rebecca Burlend’s narrative of the Missouri frontier in 1831 described bird hunting, and implied that it was not only common among British emigrants, but also among Americans.²²⁵ Her husband had successfully hunted a turkey—or so he thought.²²⁶ Rebecca had it mostly cooked for Sunday dinner, when their guest arrived and expressed surprise, “as those birds are difficult to obtain with a common fowling-piece”²²⁷ Mr. Burlend had bagged a buzzard, not a turkey—definitely not fit for the table!²²⁸

Frances Wright is certainly one of the most extremely pro-American British visitors of the early Republic, and her claims should be regarded with greater care than many of the other visitors. Nonetheless, her assertion, “Every man, or nearly every man, in these states knows how to handle the axe, the hammer, the plane, all the mechanic’s tools, in short; besides the musket, to the use of which he is not only regularly trained as a man but practised as a boy[]”²²⁹ suggests that the use of firearms in America was widespread, even granting a large dose of romantic hyperbole on Wright’s part.

The Anglo-Irishman Thomas Cather described emigrants headed to the frontier while crossing Michigan in 1836.²³⁰ Rifles were the norm, not the exception:

223. Walter L. Robbins, *Christmas Shooting Rounds in America and their Background*, 86 J. OF AM. FOLKLORE 48, 48 (1973) (quoting Gert Göbel, LÄNGER ALS EIN MENSCHENLEBEN IN MISSOURI 80-81 (St. Louis, [1877])).

224. *Id.* at 49–51.

225. REBECCA BURLEND, A TRUE PICTURE OF EMIGRATION; OR FOURTEEN YEARS IN THE INTERIOR OF NORTH AMERICA 25, 30 (1821).

226. *Id.* at 29–30.

227. *Id.* at 30.

228. *Id.*

229. FRANCES WRIGHT, VIEWS OF SOCIETY AND MANNERS IN AMERICA 288 (1821).

230. THOMAS CATHER, VOYAGE TO AMERICA: THE JOURNALS OF THOMAS CATHER 132 (Thomas Yoseloff ed., 1961).

[E]migrants from the old states on their way to settle in the Western forests. Each emigrant generally had a wagon or two, drawn by oxen. These wagons contained their wives, children, and *rest of their baggage*. The man walked by the side of his team with his rifle over his shoulder . . .

²³¹

British naval officer and novelist Frederick Marryat accounted of his journey to North America and described North Carolinians emigrating west in 1837:

These caravans consist of two or three covered wagons, full of women and children, furniture, and other necessaries, each drawn by a team of horses; brood mares, with foals by their sides, following; half a dozen or more cows, flanked on each side by the men, with their long rifles on their shoulders; sometimes a boy or two, or a half-grown girl on horseback.²³²

There are references to guns used for purposes other than hunting or dueling, and never treated as unusual.²³³ Marryat's account of his journey frequently mentioned Americans hunting and shooting in a way that suggests that there was nothing particularly unusual about it.²³⁴ He described how hunting was the "principal amusement of the officers" at Fort Snelling.²³⁵ Captain Scott, one of those officers, had a reputation as a very great marksman, based on his ability to throw two potatoes in the air, and puncture both of them with a single rifle bullet.²³⁶ Captain Scott's hunting did not seem to be a peculiarity of Fort Snelling being on the frontier.²³⁷ Marryat recounted Scott's hunting anecdotes involving bear and buffalo as well as a twelve-year-old in Vermont, and these accounts indicate that both hunting and gun ownership was common in Scott's youth in Vermont.²³⁸ Marryat also devotes a bit of his book to discussing dueling with guns²³⁹ and his disgust at how widely this was accepted behavior in America even among Congressmen.²⁴⁰

British immigrant Caroline Kirkland's 1839 book shows that guns and sports involving guns were widespread on her frontier. Discussing the problems of church attendance, she writes, "[M]any of the neighbours

231. *Id.*

232. CAPTAIN FREDERICK MARRYAT, A DIARY IN AMERICA 288–89 (Jules Zanger, ed., Ind. Univ. Press 1960).

233. *Id.* at 224.

234. *Id.* at 210, 217–18, 239–42.

235. *Id.* at 237.

236. *Id.*

237. *Id.*

238. *Id.* at 238–42.

239. *Id.* at 195–99, 273–74.

240. *Id.* at 195.

always make a point of being present, although a far greater proportion reserve the Sunday for fishing and gunning.”²⁴¹ Kirkland mentions long guns, pistols, and hunting in a manner that suggests they were normal parts of frontier life.²⁴² Hunting was unremarkable; Kirkland commented on a neighbor whose husband’s love of hunting left her alone and neglected.²⁴³ She also reported that in the woods, “[t]he division of labour is almost unknown” and “in absolutely savage life, each man is of necessity ‘his own tailor, tent-maker, carpenter, cook, huntsman, and fisherman’”²⁴⁴

Harriet Williams Sawyer of Maine described 1840 Indiana life. Unlike Rev. William C. Smith’s somewhat earlier version of Indiana,²⁴⁵ Sabbath-breaking was a problem: “The Sabbath in the West is much desecrated; trades are transacted; labor, it is true, is generally suspended, but the Sabbath is regarded by most as a day of recreation. Hunting and intemperance are common.”²⁴⁶

John James Audubon’s *Delineations of American Scenery and Character* described a society awash in guns and hunting. Audubon described traveling along the Ohio River:

The margins of the shores and of the river were at this season amply supplied with game. A Wild Turkey, a Grouse, or a Blue-winged Teal, could be procured in a few moments; and we fared well, for, whenever we pleased, we landed, struck up a fire, and provided as we were with the necessary utensils, procured a good repast.²⁴⁷

Audubon’s preparations for a trip in the forests of Pennsylvania, included “25 pounds of shot, some flints . . . my gun *Tear-jacket*,²⁴⁸ and a heart as true to nature as ever.”²⁴⁹ The result of this particular hunting trip include “juicy venison, excellent bear flesh . . . that daily formed [his] food”²⁵⁰ Audubon described what this area must have been like before settlement: “Bears and the Common Deer must have been plentiful, as, at the moment when [he wrote], many of both kinds [were] seen and killed by

241. MARY CLAVERS (CAROLINE MATILDA KIRKLAND), *A NEW HOME—WHO’LL FOLLOW? OR, GLIMPSES OF WESTERN LIFE* 215–16 (C. S. FRANCIS 1839).

242. *Id.* at 109, 130, 201.

243. *Id.* at 108–09.

244. *Id.* at 123.

245. See SMITH, *supra* note 148, at 76–77.

246. SHIRLEY S. MCCORD, *TRAVEL ACCOUNTS OF INDIANA 1679–1961*, at 183 (Ind. Historical Bureau 1970).

247. JOHN JAMES AUDUBON, *DELINEATIONS OF AMERICAN SCENERY AND CHARACTER* 3 (G.A. Baker & Co. 1926).

248. This speaks to my conclusion that America was and is a Gun culture; why else name their gun?

249. *Id.* at 6.

250. *Id.* at 9.

the resident hunters.”²⁵¹ Audubon witnessed an incident in which eight bears wandered into a clearing, driving away the woodsmen: “Down they all rushed from the mountain; the noise spread quickly; rifles were soon procured and shouldered; but when the spot was reached, no bears were to be found”²⁵²

Audubon's chapter on “Navigation of the Mississippi” described how boatmen would stop along the way when logs blocked their path: “The time is not altogether lost, as most of the men, being provided with rifles, betake themselves to the woods, and search for the deer, the bears, or the turkeys, that are generally abundant there.”²⁵³ The flood stage of the Mississippi and the Ohio Rivers trapped “Bears, Cougars, Lynxes, and all other quadrupeds that can ascend the trees. . . .”²⁵⁴ The animals were “[f]atigued by the exertions which they ha[d] made in reaching the dry land, they will there stand the hunter's fire, as if to die by a ball were better than to perish amid the waste waters. On occasions like this, all these animals are shot by hundreds.”²⁵⁵

Audubon described a squatter's cabin and how squatters “like most of those adventurous settlers in the uncultivated tracts of our frontier districts . . . [were] well versed in the chase, and acquainted with the habits of some of the larger species of quadrupeds and birds.”²⁵⁶ Audubon went cougar hunting with a party of squatters: “Each hunter . . . moved with caution, holding his gun ready”²⁵⁷ Audubon told of a young couple's home in the backwoods where their clothes and their furniture were “homespun” and “of domestic manufacture,” and a “fine rifle ornamented the chimney-piece.”²⁵⁸

Audubon described another family in the Louisiana bayous, but in this case it was comprised of runaway slaves.²⁵⁹ Their food supply consisted of wild plants and bear: “One day, while in search of wild fruits, he found a bear dead before the muzzle of a gun that had been set for the purpose His friends at the plantation supplied him with some ammunition”²⁶⁰

In a chapter about how the burning of forests changed the nature of the trees that grew there, Audubon told of an immense forest fire in Maine and how the settlers responded to the fire that awakened them one night:

251. *Id.* at 11.

252. *Id.* at 12.

253. *Id.* at 26.

254. *Id.* at 32.

255. *Id.* at 33.

256. *Id.* at 41.

257. *Id.* at 44.

258. *Id.* at 82.

259. *Id.* at 118–21.

260. *Id.* at 122.

We were sound asleep one night, in a cabin about a hundred miles from this, when about two hours before day, the snorting of the horses and lowing of the cattle which I had ranging in the woods suddenly wakened us. I took yon rifle, and went to the door to see what beast had caused the hubbub²⁶¹

Another chapter on Kentucky sports described how Virginians moved into the Ohio frontier: “An axe, a couple of horses, and a heavy rifle, with store of ammunition, were all that were considered necessary”²⁶² Kentucky sports included target shooting with rifles, and Audubon spent four pages describing a sport similar to Gosse’s account of “driving the nail.”²⁶³

Audubon was clearly a gun enthusiast. When a new acquaintance offered to show him the new percussion cap method of firing a gun, Audubon was keen to see it.²⁶⁴ His friend demonstrated that it could fire under water by loading and firing it in a basin of water—inside the house.²⁶⁵ Guns were a fundamental part of how Audubon was able to produce his beautiful works on natural history: “I drew and noted the habits of every thing which I procured, and my collection was daily augmenting, as every individual who carried a gun always sent me such birds or quadrupeds as he thought might prove useful to me.”²⁶⁶

Audubon devoted a whole chapter to “Deer Hunting” with rifles, distinguishing “Still Hunting” from “Firelight Hunting” and “Driving.”²⁶⁷ “*Still Hunting* is followed as a kind of trade by most of our frontier men. To be practi[c]ed with success, it requires great activity, an expert management of the rifle, and a thorough knowledge of the forest”²⁶⁸ Another section described alligator hunting, where by a “rifle bullet was now and then sent through the eye of one of the largest”²⁶⁹ Audubon devoted an entire chapter to “The Moose Hunt” in 1833 Maine, and of course, the hunt was with guns.²⁷⁰ Similarly, an entire chapter is devoted to

261. *Id.* at 206.

262. *Id.* at 57.

263. See GOSSE, *supra* note 210; AUDUBON, *supra* note 247, at 59–63. This was apparently not a new practice, nor specific to the New World. *Mourt’s Relation*, published in 1622, concerning Plymouth Colony, used this target shooting practice as a metaphor for his writing: “though through my slender judgment I should miss the mark, and not strike the nail on the head” MOURT’S RELATION: A JOURNAL OF THE PILGRIMS AT PLYMOUTH 88 (Dwight B. Heath ed., Applewood Books 1986).

264. *Id.* at 88.

265. *Id.*

266. *Id.* at 93.

267. *Id.* at 68.

268. *Id.*

269. *Id.* at 177.

270. *Id.* at 211.

“A Raccoon Hunt in Kentucky” using rifles, with a detailed and picturesque description of rifle loading.²⁷¹

Another traveler through early America was Ole Rynning, who wrote that those considering immigrating to America should bring “[s]ome rifles with percussion locks, partly for personal use, partly for sale. I have already said that in America a good rifle costs from fifteen to twenty dollars.”²⁷²

Charles Augustus Murray’s description of his hunting trip from Britain to America in the 1830s reported that both firearms ownership and sport hunting were common in rural Virginia. Murray was explicit that these hunters were ordinary farmers and not members of the upper class:

I lodged the first night at the house of a farmer, about seven miles from the village, who joined the habits of a hunter to those of an agriculturalist, as is indeed the case with all the country people in this district; nearly every man has a rifle, and spends part of his time in the chase. My double rifle, of London manufacture, excited much surprise among them; but the concluding remark of almost every inspector was, “I guess I could beat you at a mark.”²⁷³

The frontier, of course, would have more reason for firearms ownership than settled areas of the East, but even from the most settled parts of pre-1840 America, the advertisements, memoirs and travel accounts show gun ownership and hunting was unremarkable.²⁷⁴ Jonathan Vickers advertised in a Cleveland newspaper in 1821 that he had opened a “Gun Factory” where “New Rifles and Fowling Pieces will be furnished cheap, for cash”²⁷⁵ Another ad in the same issue lists, “Best Eng. Powder, Com. Amer’n [ditto] Shot & Lead.”²⁷⁶

Charles H. Haswell’s *Reminiscences of New York by an Octogenarian* described New York City life from 1816 to 1860. Haswell’s entry for

271. *Id.* at 281–86.

272. 1 OLE RYNNING’S TRUE ACCOUNT OF AMERICA 99 (Theodore C. Blegen ed., Norwegian-Amer. Hist. Assoc., 1926). Rynning makes it clear that one should bring guns both to sell (indicating that there was a demand for guns in America), and because one would need them here. *See id.*

273. 1 SIR CHARLES AUGUSTUS MURRAY, TRAVELS IN NORTH AMERICA DURING THE YEARS 1834, 1835, & 1836: INCLUDING A SUMMER RESIDENCE WITH THE PAWNEE TRIBE OF INDIANS, IN THE REMOTE PRAIRIES OF THE MISSOURI, AND A VISIT TO CUBA AND THE AZORE ISLANDS 118–19 (R. Bentley 1839).

274. *See discussion supra* current Section; *see also* 2 SIR CHARLES AUGUSTUS MURRAY, TRAVELS IN NORTH AMERICA DURING THE YEARS 1834, 1835, & 1836: INCLUDING A SUMMER RESIDENCE WITH THE PAWNEE TRIBE OF INDIANS, IN THE REMOTE PRAIRIES OF THE MISSOURI, AND A VISIT TO CUBA AND THE AZORE ISLANDS 11, 15–19, 21–24, 52, 56, 63, 112–17, 121, 126, 131, 133, 149, 277 (R. Bentley 1839) (describing travel accounts and hunting in early America).

275. CLEVELAND HERALD, Oct. 30, 1821, at [vol. III, no. 2, whole no. 106] (showing advertisements for a “Gun Factory”).

276. *Id.* (showing advertisements for “New Goods”).

November 1830 told of shooting a “ruffed grouse” at 144th Street and 9th Avenue in Manhattan, “and it was believed by sportsmen to be the last one to suffer a like fate on the island.”²⁷⁷ Haswell also described the opening of commercial hunting clubs on the island of Manhattan.²⁷⁸ This suggests that sport hunting on Manhattan was already common²⁷⁹ at a time when Bellesiles argued that sport hunting was still unusual in America.²⁸⁰

The sources from the early Republic provide persuasive evidence that firearms and hunting were the norm—not the exception. While not all of these accounts reveal evidence of “gun culture,” it is hard to read books like Audubon’s or Baynard Rush Hall’s account with a whole chapter devoted to rifle marksmanship and pretend gun culture was a late development.²⁸¹

III. SUMMARY

It is entirely possible that Haag’s book has some value with respect to understanding the development of industrial gun manufacturing and distribution. But anyone citing this book in a brief should be aware that it is built on clearly false presuppositions. Further study of Haag’s book is required to see how much her presuppositions about gun culture and the evils of capitalism might have biased her interpretation of her sources.

277. CHAS H. HASWELL, *REMINISCENCES OF NEW YORK BY AN OCTOGENARIAN (1816 to 1860)* 261 (Harper & Bros. 1896).

278. *Id.* at 261–62.

279. *Id.* at 261.

280. BELLESILES’S book, *supra* note 4, 322–25.

281. See CLAYTON CRAMER, *ARMED AMERICA: THE REMARKABLE STORY OF HOW AND WHY GUNS BECAME AS AMERICAN AS APPLE PIE* 204–35 (Thomas Nelson 2006).