

Northwestern University School of Law
Law and Economics Papers

Year 2005

Paper 9

Fall from Grace: Arming America and the
Bellesiles Scandal

James T. Lindgren*

*Northwestern University School of Law, jlindgren@law.northwestern.edu

This working paper is hosted by The Berkeley Electronic Press (bepress) and may not be commercially reproduced without the permission of the copyright holder.

<http://law.bepress.com/nwwps-lep/art9>

Copyright ©2005 by the author.

Fall from Grace: Arming America and the Bellesiles Scandal

James T. Lindgren

Abstract

Before there was a scandal, there was a book - Michael A. Bellesiles's *Arming America: The Origins of a National Gun Culture*. *Arming America* is a well-written and compelling story of how early Americans were largely unfamiliar with guns until the approach of the Civil War. It tells a wide-ranging, detailed, but relatively unnuanced story of gunlessness in early America. Bellesiles writes: "The vast majority of those living in British North American colonies had no use for firearms, which were costly, difficult to locate and maintain, and expensive to use." His primary evidence was low counts of guns in probate records, gun censuses, militia muster records, and homicide accounts. According to Bellesiles, in early America there were very few guns. Privately owned guns were mostly in poor working condition. By law, guns were not kept in the home but rather stored in central armories, and guns were too expensive for widespread private ownership. He even claims that men generally were unfamiliar with guns and that they did not want guns - preferring axes and knives instead, in part because guns were so inaccurate that they were of little use. He argues that axes made very good weapons in hunting, and in battle, people considered "the ax the equal of a gun." Bellesiles claims that states enacted laws that restricted gun ownership to white Protestants who owned property. White-on-white homicide was rare in colonial America, according to Bellesiles, and guns were rarely the weapon used in homicides. Guns were not culturally important, either: Travel narratives do not show that guns were part of everyday life, even on the frontier. At least in probate records, women did not own guns. He further claims that the background of the Second Amendment shows that the Anti-Federalists had no problem with restricting militia membership to those above the lower social classes. Last, with a few exceptions, the militia were extremely ineffective. Unfortunately, except for the last claim of militia ineffectiveness, all 15 of these major contentions of *Arming*

America turn out to be false. Two meta-arguments by Bellesiles might have direct public policy applications (though, as a work of history, *Arming America* does not directly advocate any gun policies). One is that guns and violence go together. In early America, he claims, we had very low gun ownership and low homicide rates; after the Civil War, we had lots of guns and high homicide rates. The second is that if guns were not widely owned, then it is unlikely that gun owning was understood as an individual right in the Second Amendment. In this review article, I examine the following questions: How Common Was Gun Ownership? Was Homicide Rare? Were Privately Owned Guns Mostly in Poor Working Condition? How Expensive Were Guns? How Effective Were Guns, Bladed Weapons, and the Militia? Were Guns Kept in the Home? Were Guns Common in Travel Accounts? How Central Are the Errors to the Thesis of *Arming America*? Since the book's publication, scholars who have checked the book's claims against its sources have uncovered an almost unprecedented number of discrepancies, errors, and omissions. Indeed, the review ends with an appendix documenting over 200 specific errors in *Arming America*. When these are taken into account, a markedly different picture of colonial America emerges: Household gun ownership in early America was more widespread than today - in a much poorer world. *Arming America* claims that we did not have a gun culture before the Civil War, but that we have had one since then. There is an obvious conceptual problem with this thesis: What would it mean to have - or not have - a gun culture? It is hard to judge the truth of this claim without deciding on what a gun culture is. Bellesiles gives us some hints of what he means, but he never clearly states his criteria. This is an unfortunate way to frame the inquiry. Cultural analysis is not an all-or-nothing proposition. America had one form of gun culture in the late eighteenth century, it had another form of gun culture in the late nineteenth century, and it has another form today. Although Bellesiles never defines what he means by having a gun culture, he puts great store in owning guns, familiarity with guns, and the prevalence of guns in popular culture - such as in magazines, television, and movies. If having a gun culture requires gun-lover magazines and violent film and television crime stories (or the contemporary equivalent), then we have a gun culture today, but did not two centuries ago. If, instead, having a gun culture means growing up in households with guns, learning how to shoot them, widespread participation in military training where guns are used, and using guns as a tool (such as for vermin control), then we definitely had more of a gun culture in the eighteenth century than we do today. *Arming America* is an impressive book, especially to those not versed in the materials that Bellesiles wrote about. It is extremely well-written for a book that covers so many apparent specifics of gun ownership and use. Superb

historians praised it on its release. Yet even from the beginning, there were those who found disturbing differences between *Arming America* and its sources. As time has passed and other scholars have entered the debate, these errors - which once looked like such serious defects that they could not be true - have been confirmed. The book and the scandal it generated are hard to understand. How could Bellesiles count guns in about a hundred Providence wills that never existed, count guns in San Francisco County inventories that were apparently destroyed in 1906, report national means that are mathematically impossible, change the condition of most guns in a way that fits his thesis, misreport the counts of guns in censuses or militia reports, have over a 60% error rate in finding guns in Vermont estates, and have a 100% error rate in finding homicide cases in the Plymouth records he cites? We may never know the truth of why or how *Arming America* made such basic errors, but make them it did. As scholars, we must content ourselves with correcting errors and searching for the realities of gun ownership, use, and social meaning.

Book Review

Fall from Grace:

Arming America and the Bellesiles Scandal

James Lindgren[†]

Arming America: The Origins of a National Gun Culture. By Michael A. Bellesiles.* *New York: Alfred A. Knopf, 2000. Pp. 603. \$30.00.*

Bellesiles has dispersed the darkness that covered the gun's early history in America. He provides overwhelming evidence that our view of the gun is as deep a superstition as any that affected Native Americans in the 17th century.

—Garry Wills, *New York Times*¹

[†] Stanford Clinton Sr. Professor of Law, Director of the Demography of Diversity Project, Northwestern University School of Law. Chair, AALS Section on Law and Social Science. J.D., University of Chicago; B.A., Yale University; currently Ph.D. student, Sociology, University of Chicago. This Review was funded by the Searle Fund at Northwestern University. I would like to thank the many unnamed people who contributed to my understanding of *Arming America*, but particularly those whose work is discussed here—Randolph Roth on homicides, Robert Churchill on militia arms and gun censuses, Justin Heather on edge weapons and probate, Eugene Volokh on legal history, and Clayton Cramer on travel accounts, gun ownership restrictions, and other matters. I am also indebted to those who located and carefully examined documents in Contra Costa County—David Golden, Betty Massei, Dean McCloud, Kathy Beals, and Kathleen Mero—and to David Golden and the staff of the History Center for their help during my research visit there. While this Review deals mostly with issues other than probate records, the probate discussion in particular is based on James Lindgren & Justin L. Heather, *Counting Guns in Early America*, 43 WM. & MARY L. REV. (forthcoming 2002), where most of that discussion first appeared. I benefited from the comments of participants on that paper at faculty workshops at Yale, Princeton, Columbia, Chicago, William & Mary, Pennsylvania, Berkeley, Indiana, North Carolina, and Virginia. This Review reflects the state of the dispute in January 2002, although there are occasional citations to works published later.

* Professor of History, Emory University.

1. Garry Wills, Editorial, *Spiking the Gun Myth*, N.Y. TIMES, Sept. 10, 2000, § 7, at 5.

Before there was a scandal, there was a book—Michael A. Bellesiles's *Arming America: The Origins of a National Gun Culture*. In this Review, I not only discuss the book, benefiting from some of the substantial published and unpublished literature on it, but review a little of the controversy—at least the controversy as I understand it at the beginning of 2002.

Let me state my biases up front: I dislike guns; I have never owned a gun; I have not touched one since the age of nine. Yet I don't understand the passion that people bring to the issue of their regulation. My own prior writing on guns has been on the pro-gun-control side of the dispute, and some of it is so free from passion as to be soporific.²

Arming America is a well-written and compelling story of how early Americans were largely unfamiliar with guns until the approach of the Civil War. It tells a wide-ranging, detailed, but relatively unnuanced story of gunlessness in early America. Bellesiles writes: “[T]he vast majority of those living in British North American colonies had no use for firearms, which were costly, difficult to locate and maintain, and expensive to use.”³

According to Bellesiles, in seventeenth-, eighteenth-, and early nineteenth-century America there were very few guns.⁴ Privately owned guns were mostly in poor working condition.⁵ By law, guns were not kept in the home but rather stored in central armories,⁶ and guns were too expensive for widespread private ownership.⁷ He even claims that men generally were unfamiliar with guns and that they did not want guns⁸—preferring axes and knives instead, in part because guns were so inaccurate that they were of little use. He argues that few settlers hunted,⁹ and implies that axes made very good weapons in hunting.¹⁰ According to *Arming America*, in battle “the ax [was often considered] the equal of a gun.”¹¹

Bellesiles claims that states enacted laws that restricted gun ownership to white Protestants who owned property.¹² White-on-white homicide was rare in colonial America, according to Bellesiles, and guns were rarely the weapon used in homicides.¹³ Guns were not culturally important, either:

2. James Lindgren, *Organizational and Other Constraints on Controlling the Use of Deadly Force by Police*, 455 ANNALS AM. ACAD. POL. & SOC. SCI. 110 (1981); James Lindgren & Franklin E. Zimring, *Regulation of Guns*, in 2 ENCYCLOPEDIA OF CRIME AND JUSTICE 836 (Sanford H. Kadish ed., 1983).

3. MICHAEL A. BELLESILES, *ARMING AMERICA: THE ORIGINS OF A NATIONAL GUN CULTURE* 110 (2000).

4. *See, e.g., id.* at 445 tbl.1.

5. *See, e.g., id.* at 13, 109.

6. *Id.* at 73.

7. *Id.* at 106.

8. *See, e.g., id.* at 390.

9. *Id.* at 110.

10. *Id.* at 313 (attributing to a hunter the statement that axes made very good weapons).

11. *Id.* at 67.

12. *Id.* at 74-75.

13. *Id.* at 81, 353.

Travel narratives do not show that guns were part of everyday life,¹⁴ even on the frontier, and few people even wanted to own guns.¹⁵ At least in probate records, women did not own guns.¹⁶ Since there were few guns, the laws passed in the early nineteenth century restricting the right to carry concealed weapons were directed at knives,¹⁷ not guns. He further claims that the background of the Second Amendment shows that the Anti-Federalists had no problem with restricting militia membership to those above the lower social classes.¹⁸ Last, with a few exceptions, the militia were extremely ineffective.¹⁹

Two meta-arguments by Bellesiles might have direct public policy applications (though, as a work of history, *Arming America* does not directly advocate any gun policies). One is that guns and violence go together. In early America, he claims, we had very low gun ownership and low homicide rates; after the Civil War, we had lots of guns and high homicide rates.²⁰ The second is that if guns were not widely owned, then it is unlikely that gun owning was understood as an individual right in the Second Amendment.

Since the book's publication, scholars who have checked the book's claims against its sources have uncovered an almost unprecedented number of discrepancies, errors, and omissions. When these are taken into account, a markedly different picture of colonial America emerges: Household gun ownership in early America was more widespread than today (in a much poorer world).

Arming America is changing the way that some historians think about their own profession and how some scholars in fields allied to history regard historical research and publishing. Understanding this book and the scandal it generated is important for scholars and teachers across the social sciences, humanities, and law. Any graduate or professional student who aspires to be an academic might profit by exploring the twists and turns of the Bellesiles scandal.

I. BEFORE THE BOOK

In 1996 a well-regarded, but relatively obscure, historian at Emory University, Michael A. Bellesiles, published an article in the *Journal of*

14. *Id.* at 305-22.

15. *Id.* at 389-90.

16. *Id.* at 267.

17. *Id.* at 309.

18. *Id.* at 223.

19. *Id.* at 87-88, 140-41, 146-53, 178-79, 182-83, 193-98.

20. *See id.* at 434, 436.

American History (JAH).²¹ It urged a mostly novel thesis about early America—that there were few guns and that there was no gun culture until the approach of the Civil War. His primary evidence was low counts of guns in probate records, gun censuses, militia muster records, and homicide accounts.

The data fit together almost too neatly. In particular, if anyone had looked closely at the probate data, they would have seen that it did not look right. The regional differences were suspiciously slight; the increases over time were extremely regular; the study did not indicate which counties were in which categories; and in most unconventional fashion, the probate data were published with no sample or cell sizes. The results were directly contrary to the existing literature counting guns in probate records,²² including one source Bellesiles cited but did not discuss,²³ all of which had found substantial numbers of guns.

Last, the 1765-1790 data were mathematically impossible if there were more than about 200 cases in his sixteen Southern counties over the twenty-six-year period,²⁴ which any scholar familiar with probate records would have known had to be true many times over. If the *JAH* had insisted on cell counts (which would have been conventional), the impossibility of the 1765-1790 data would have been fairly obvious.²⁵ This entire scandal might have been avoided in 1996 with more conventional editing at the *JAH*.

The response by historians to the 1996 *JAH* article was varied. At a meeting of the Crime and Justice Network of the Social Science History Association, historians discussed how such a piece of work could get through peer review. The consensus was that probably none of the experts in the room (many of whom were quantitative historians) had been asked to review it. The Organization of American Historians, on the other hand, had

21. Michael A. Bellesiles, *The Origins of Gun Culture in the United States, 1760-1865*, 83 J. AM. HIST. 425 (1996).

22. GLORIA L. MAIN, *TOBACCO COLONY: LIFE IN EARLY MARYLAND, 1650-1720*, at 242 (1982); Anna Hawley, *The Meaning of Absence: Household Inventories in Surry County, Virginia, 1690-1715*, in *EARLY AMERICAN PROBATE INVENTORIES* 23, 27-29 (Peter Benes ed., 1987); Judith A. McGaw, "So Much Depends upon a Red Wheelbarrow": *Agricultural Tool Ownership in the Eighteenth-Century Mid-Atlantic*, in *EARLY AMERICAN TECHNOLOGY: MAKING AND DOING THINGS FROM THE COLONIAL ERA TO 1850*, at 328, 340 (Judith A. McGaw ed., 1994).

23. ALICE HANSON JONES, *AMERICAN COLONIAL WEALTH: DOCUMENTS AND METHODS* (1978).

24. For a full discussion of this point, see James Lindgren & Justin L. Heather, *Counting Guns in Early America*, 43 WM. & MARY L. REV. (forthcoming 2002) (manuscript at 53-54, on file with author). See also *infra* note 207.

25. For example, if Bellesiles had listed fewer than 200 estates for sixteen Southern counties for the twenty-six years 1765-1790, it would have been obvious that the count could not be correct. There would be more than 200 estates in just a few years of one large Southern county. If Bellesiles had listed a plausible count of, for example, 3000-8000 cases from the South, then the overall mean of 14.7% would have been obviously impossible, since he reports only 1200 cases from the frontier, the only region below the mean. See *id.* (manuscript at 51-54 & nn.105-13).

a different response: They awarded the article the prize for the best article published in the *JAH* that year.²⁶ This bipolar response to Michael Bellesiles's work on guns continued until recently—those who are most expert on the subject of guns in early America or tend to understand numbers best were most skeptical about Bellesiles's work, while those who know less about guns or less about numbers were most enamored of it.

Bellesiles's surprising thesis had a few detractors online, mostly among pro-gun activists and scholars unaffiliated with universities,²⁷ but most historians were impressed. Alfred A. Knopf, perhaps the top nonacademic publisher of serious books of history, agreed to publish a much-expanded version of the article. The educated public first learned of the forthcoming book in a long, positive article in the *Economist* in the summer of 1999,²⁸ over a year before the book came out. The *Economist* article was followed by a similarly positive article in the *New York Times* in the spring of 2000, still five months before the book's publication.²⁹

The response to the *Economist* article was overwhelming. The president of the National Rifle Association, Charlton Heston, criticized Bellesiles and his forthcoming book, saying, among other things, that Bellesiles had “too much time on his hands.”³⁰ The tone of anti-intellectualism in the NRA response was patent—and made an easy target for Bellesiles and his colleagues. Substantively, Heston criticized Bellesiles's reliance on probate records, because of their incompleteness.³¹

In what was to become a pattern, Bellesiles responded in two very different ways—a political response and a response claiming expertise and care in his work. First, he obtained (or at least received) a public declaration of support from other professors. A group of forty-seven law professors and historians signed a public letter to the NRA expressing a moderately pro-

26. OAH Binkley Stephenson Award Winners, at <http://www.oah.org/activities/awards/binkleystephenson/winners.html> (last visited Apr. 17, 2002).

27. The most thorough and persistent critic since the 1996 article was published has been Clayton Cramer, some of whose criticisms are confirmed in this Review. See Clayton E. Cramer & Dave Kopel, *Disarming Errors*, NAT'L REV., Oct. 9, 2000, at 54; Clayton E. Cramer, *Firearms Ownership & Manufacturing in Early America* (Apr. 4, 2001), at <http://www.claytoncramer.com/ArmingAmericaLong.pdf> [hereinafter Cramer, *Firearms Ownership*]; Clayton E. Cramer, *Gun Scarcity in the Early Republic?* (Nov. 19, 2001), at <http://www.claytoncramer.com/GunScarcity.pdf>.

28. *Arms and the Man*, ECONOMIST, July 3, 1999, at 17.

29. Anthony Ramirez, *The Lock and Load Myth: A Disarming Heritage*, N.Y. TIMES, Apr. 23, 2000, § 4, at 3.

30. David Bowman, *The Reasonable Gun Nut*, SALON.COM, Sept. 7, 2000, at <http://www.salon.com/books/feature/2000/09/07/bellesiles> (reproducing a transcript of a taped interview with Michael Bellesiles). In this interview, Bellesiles stated:

I wrote him [Heston] an open letter because he wrote an editorial in *Guns & Ammo* attacking my research from a very postmodern perspective: Evidence doesn't matter. He said I had too much time on my hands. I pointed out that I write history and what use people make of it is their business, not mine.

Id.

31. *Id.*

gun-control view.³² Second, Bellesiles made his own statements supporting his methods. Defending the use of probate records against criticisms of incompleteness, Bellesiles made some unusual claims. He said that probate inventories recorded absolutely everything in an estate, even property given away during life, and that wills recorded gifts given away up until the time the will was written.³³ These statements conflict not only with common sense, but with what is written by every probate scholar that I have read or that Bellesiles cites in *Arming America*.³⁴ When initially pressed about problems with the probate records, Bellesiles's response was to defend his reliance on them more vigorously with claims that plugged potential holes in his argument. These claims, however, were not only unsupported but ultimately proved to be false.

When *Arming America* was published in September 2000, it was treated to some rave reviews. First, it was welcomed to the front page of the *New York Times Book Review* with an uncritical review by Garry Wills.³⁵ Then Edmund Morgan wrote an enthusiastic review in the *New York Review of Books*.³⁶ Other positive reviews followed.

The only early negative reviews were in conservative, libertarian, or gun aficionado magazines or websites, most prominently the *National*

32. Differing Views on the Second Amendment (Apr. 3, 2000), at <http://www.kentlaw.edu/news/advisory/adv000403.html>.

33. See Bowman, *supra* note 30. Bellesiles told *Salon*:

I'd like to know what his evidence is. When Professor Heston gets his Ph.D. and does the research, I might be open to persuasion. This is one area of law that in colonial America was far stricter and much more rigorously enforced than it is today. Cheating on probate was a very great crime because resources were thinly stretched. When someone died, every single item owned—everything, even broken things—was recorded. Guns had to be listed. So unless Charlton Heston can come up with evidence that they made an exception for guns, he should keep quiet. The British Common Law saw guns as belonging to the state. The state had all priority rights over firearms. They could appropriate them at any time without recompense. There was actually greater value placed on recording firearms than any other single item.

Id.; see also BELLESILES, *supra* note 3, at 13, 267, 484-85 n.132 (claiming that gifts before death were recorded); Ramirez, *supra* note 29 (explaining that Bellesiles questioned the evidence for Gary Kleck's argument that guns would have been passed on before death).

34. Bellesiles is virtually alone among historians who work with probate records in thinking that they are more or less complete. Compare BELLESILES, *supra* note 3, at 13, 109, 266, with Lindgren & Heather, *supra* note 24 (manuscript at 56-59) (explaining the general consensus among scholars that probate inventories are incomplete). Bellesiles offers no evidence for the idea that probate records are so detailed that they record both all estate assets and most lifetime gifts. Nor does he offer any evidence for the idea that firearms were more likely to be listed in probate inventories than other items. On both issues, the historians he cites directly contradict his claims. See Lindgren & Heather, *supra* note 24 (manuscript at 56-59). Clothes and land, for example, were frequently omitted. *Id.*

In *Arming America*, Bellesiles raises few hints that probate inventories are not complete. There is, however, an eloquent general comment about the limitations of using quantitative records. BELLESILES, *supra* note 3, at 262.

35. See Wills, *supra* note 1.

36. Edmund S. Morgan, *In Love with Guns*, N.Y. REV. BOOKS, Oct. 19, 2000, at 30.

*Review*³⁷ and *Reason*.³⁸ By January 2001, an extraordinary number of errors had been identified in the book and were being discussed on history and constitutional law discussion lists, including Bellesiles's claim to have examined records that did not exist and his use of data that were mathematically impossible.

Nonetheless, apparently without looking into any of these claims, in April 2001 Columbia University awarded the Bancroft Prize for history to *Arming America*, along with two other books. It was not until a year after the book's release that the academic journals began publishing some devastating critiques—by Robert Churchill in *Reviews in American History*,³⁹ Joyce Malcolm in the *Texas Law Review*,⁴⁰ Randolph Roth, Ira Gruber, and Gloria Main in the *William and Mary Quarterly*,⁴¹ and Justin Heather and me in the *William and Mary Law Review*.⁴²

II. THE BOOK

A. *What Is a Gun Culture?*

Arming America claims that we did not have a gun culture before the Civil War, but that we have had one since then. There is an obvious conceptual problem with this thesis: What would it mean to have—or not have—a gun culture? It is hard to judge the truth of this claim without deciding on what a gun culture is. Bellesiles gives us some hints of what he means, but he never clearly states his criteria. This is an unfortunate way to frame the inquiry. Cultural analysis is not an all-or-nothing proposition. America had one form of gun culture in the late eighteenth century, it had another form of gun culture in the late nineteenth century, and it has another form today.

Although Bellesiles never defines what he means by having a gun culture, he puts great store in owning guns, familiarity with guns, and the prevalence of guns in popular culture—such as in magazines, television, and movies. If having a gun culture requires gun-lover magazines and violent film and television crime stories (or the contemporary equivalent), then we have a gun culture today, but did not two centuries ago. If, instead,

37. Cramer & Kopel, *supra* note 27.

38. Joyce Lee Malcolm, *Concealed Weapons*, REASON, Jan. 2001, at 47.

39. Robert H. Churchill, *Guns and the Politics of History*, 29 REVS. AM. HIST. 329 (2001).

40. Joyce Malcolm, *Arming America*, 79 TEX. L. REV. 1657 (2001) (book review).

41. Forum, *Historians and Guns*, 59 WM. & MARY Q. 203 (2002); Ira D. Gruber, *Of Arms and Men: Arming America and Military History*, 59 WM. & MARY Q. 217 (2002); Gloria L. Main, *Many Things Forgotten: The Use of Probate Records in Arming America*, 59 WM. & MARY Q. 211 (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).

42. Lindgren & Heather, *supra* note 24.

having a gun culture means growing up in households with guns, learning how to shoot them, widespread participation in military training where guns are used, and using guns as a tool (such as for vermin control), then we definitely had more of a gun culture in the eighteenth century than we do today.

An analogy to horse-riding might be helpful. If one examines familiarity with horses and the use of horses, there was obviously much more of a horse culture in the eighteenth century than there is today. But if one measures a horse culture by the expressed sheer love of horses, the romance of the cowboy on horseback, magazines about riding, and the variety of games and competitions involving horses (racing, rodeos, polo, off-track betting, newspaper odds, and so on), there is probably more of a horse culture today—even though very few people ride. I would say that we had more of a horse culture in early America, but it was different in kind: Then, horses were more important as tools and as transportation, rather than as objects of recreation, love, and fetishism.

It would be more accurate to say that we have a different form of gun culture today than we did in the eighteenth century. It is not even obvious how useful the concept of a gun culture is. It is more important to understand the claims that give meaning to Bellesiles's concept of a gun culture—how many guns there were, what condition they were in, where they were stored, who owned them, how much they cost, how accurate they were, how they were used, and what they meant to their owners.

In perhaps the strongest part of the book, Bellesiles describes the marketing savvy of Samuel Colt,⁴³ who helped create the romance of the gun with the advertising campaign for his revolver pistol in the two decades before the Civil War. In the mid-nineteenth century, guns became mass-produced, much easier to load between shots, and more lethal. Bellesiles also shows how the outlaws and legends of the American West—the James Gang, Buffalo Bill, and many others—first learned their craft in the Civil War and its precursor in Kansas. If Bellesiles had confined his argument to describing a switch from simpler guns manufactured one at a time to more sophisticated mass-produced guns, and from a gun culture in which guns were a tool to one in which guns were an object of romance, then he probably would have encountered little dispute.

What made the book such a sensation was his description of guns in the seventeenth, eighteenth, and early nineteenth centuries. He claimed that guns were exceptional rather than common, in poor condition even in private hands, not stored in the home but rather in central armories, too expensive to be owned outright by most men, and restricted by law to the Protestant upper and middle classes. None of this is true.

43. BELLESILES, *supra* note 3, at 377-83.

B. *How Common Was Gun Ownership?*

The most contested portions of *Arming America* involve the book's most surprising claim, that guns were infrequently owned before the mid-1800s. As I show below, the claim that colonial America did not have a gun culture is questionable on the evidence of gun ownership alone. Compared to the seventeenth and eighteenth centuries, it appears that guns are not as commonly owned today. Whereas individual gun ownership in every published (and unpublished) study of early probate records that I have located (except Bellesiles's) ranges from 40% to 79%; only 32.5% of households today own a gun.⁴⁴ This appears to be a much smaller percentage than in early America—in part because the mean household size in the late eighteenth century was six people,⁴⁵ while today it is just under two people.⁴⁶ The prevailing estimate of 40% to 79% ownership differs markedly from Bellesiles's claim that only about 15% owned guns.⁴⁷ In the remainder of this Section, I explain why.

1. *The Gun Censuses*

Bellesiles bases his claims of low gun ownership primarily on probate records and counts of guns at militia musters.⁴⁸ He also discusses censuses of all guns in private and public hands, but on closer examination, none of these turns out to be a general census of all guns.

The trend is set in Bellesiles's first count of guns in an American community—the 1630 count of all the guns in the Massachusetts Bay Colony of about 1000 people. Bellesiles's account is quite specific: “In 1630 the Massachusetts Bay Company reported in their possession: ‘80 bastard musketts, . . . [10] Fowlinge peeeces, . . . 10 Full musketts’ There were thus exactly one hundred firearms for use among seven towns

44. This results from my analysis of the March 2001 release of the National Opinion Research Center's *General Social Survey, 2000* [hereinafter 2000 NORC GSS]. The data are also available at Nat'l Opinion Research Ctr., General Social Survey, at <http://www.icpsr.umich.edu/GSS/> (last visited Apr. 8, 2002). According to the survey, 32.5% of households owned any gun, 19.7% owned a rifle, 18.6% owned a shotgun, and 19.7% owned a pistol or revolver. 2000 NORC GSS, *supra*. Only 1.2% of respondents refused to respond to the question. *Id.*

45. Inter-Univ. Consortium for Political & Soc. Research (ICPSR), Census Data for the Year 1790, <http://fisher.lib.virginia.edu/cgi-local/censusbin/census/cen.pl?year=790> (last visited Aug. 10, 2001).

46. 2000 NORC GSS, *supra* note 44.

47. BELLESILES, *supra* note 3, at 445 tbl.1.

48. Bellesiles emphasized probate records when he summarized his argument in a November 3, 1997, interview with the *Emory Report*: “‘Contrary to the popular image, few people in the United States owned guns prior to the 1850s,’ Bellesiles said. ‘Probate and militia records make clear that only between a tenth and a quarter of adult white males owned firearms.’” Michael Terrazas, *Bellesiles Lays Blame for U.S. Gun Culture at the Feet of Samuel Colt*, EMORY REP., Nov. 3, 1997, http://www.emory.edu/EMORY_REPORT/erarchive/1997/November/ernovember.3/11_3_97Bellesiles.html.

with a population of about one thousand.”⁴⁹ If you go to the pages of the *Records of Massachusetts Bay* cited by Bellesiles, however, you find that this list of guns was something quite different. It was not a list of guns owned by freemen or the company “in their possession” in America, or even a list of guns owned by the company in England. Rather, as stated on page 2 of volume 1 of the original handwritten records, it is a list of “Armes ffor 100 men” that the company wanted to ship over to America.⁵⁰ On the previous page, page 1, there is a list of “Apparell ffor 100 men.”⁵¹ The pages record their early plans for the trip, even before they got their charter. They planned to have clothes and arms for each and every man.

This list of 100 guns for 100 men is no more an inventory of all the guns for 1000 people actually in the Massachusetts Bay Colony than the list of apparel for 100 men is a list of all the colony’s clothes. It is just not true that the other 900 residents were unarmed nudists. On the contrary, the list indicates that every man should be both clothed and armed.

Quite suspiciously, the date is wrong—Bellesiles cites the date of the list as 1630, rather than 1628-1629 as in the original cited text.⁵² Had Bellesiles listed the date correctly as 1629 (or 1628 in the old calendar), careful scholars would have suspected that it was not a list of guns in the Massachusetts Bay Colony, because the government and most of the people of the colony did not come to America until 1630. If he had made only one of two errors, either error would have been plain to a sophisticated reader. By making two errors (both the substance and the date) rather than one, they would both escape notice—unless someone checked the source (as did Clayton Cramer originally).

Other sources confirm that gun ownership in Massachusetts Bay was high. According to surviving probate records from Essex County, Massachusetts, from 1636 to 1650, 71% of male estates owned guns, as did 25% of female estates.⁵³ Somehow plans in England to arm each and every man—100 guns for 100 men—are turned by Bellesiles into a nonexistent census of guns actually “in their possession” in the colony, showing only 10% of the colonists as being armed—thus fitting his general claim that few Americans were armed.

49. BELLESILES, *supra* note 3, at 63.

50. 1 RECORDS OF THE GOVERNOR AND COMPANY OF THE MASSACHUSETTS BAY IN NEW ENGLAND 26 (Nathaniel B. Shurtleff ed., AMS Press 1968) (1853).

51. 1 *id.* at 23-24.

52. 1 *id.* at 25-26.

53. In the earliest years of those estates, 1636-1650, Justin Heather and I counted sixty-one probate inventories—all but two of which were sufficiently itemized to be used. Fully 25% of the eight female inventories had guns. Among the fifty-one itemized male inventories, 71% contained guns. Lindgren & Heather, *supra* note 24 (manuscript at 66 n.178) (citing 1 PROBATE RECORDS OF ESSEX COUNTY, MASSACHUSETTS, 1635-1664, at 3-130 (George Dow ed., 1916)).

There are other “gun censuses” from which Bellesiles reports data. Robert Churchill, who has analyzed them closely, describes problems with one of them:

The Provincial Congress of Massachusetts conducted another census in 1775. According to Bellesiles, the returns showed “that there were 21,549 guns in the province of some 250,000 people.” Here again, the records describe something different. The Provincial Congress asked town officials and militia commanders to “take an exact state of their numbers and equipments” of the “several companies of their regiments.” This was, in other words, a census of the arms in the hands of the militia. The exact size of the associated militia is not reported, but it is unlikely that it greatly exceeded 30,000 men. Thus, 70 percent of the Massachusetts men who joined the armed political movement to nullify the Coercive Acts possessed arms.⁵⁴

Contrary to Bellesiles’s claims, this was not a general gun census, but rather a count of guns in the hands of the militia, which might also have excluded many guns not suitable for militia service.

Churchill also describes similar problems with Bellesiles’s characterization of federal gun censuses, such as the census of 1803.⁵⁵ Although none of Bellesiles’s gun censuses turns out to be a gun census of all military-style arms owned by each citizen, Robert Churchill has located a few actual gun censuses of men in the 1770s in several Rhode Island and New Hampshire towns. These few extant New England gun censuses suggest that gun ownership was slightly higher than the percentages generally observed in New England probate records.⁵⁶

2. *The Militia Counts*

Bellesiles tells many stories of militia gunlessness. But these stories are often unsupported by the sources that Bellesiles cites as evidence.⁵⁷ Robert Churchill offers the following example in his review of *Arming America* in *Reviews in American History*: Bellesiles describes the problems that Connecticut faced in its efforts to raise troops for an invasion of Canada in 1746. Bellesiles wrote that “Connecticut finally raised its six hundred troops, 57 percent of whom did not have guns.”⁵⁸ Churchill discovered that

54. Churchill, *supra* note 39, at 333 (citations omitted).

55. *Id.* at 333-34.

56. Robert H. Churchill, Gun Ownership in Early America as Reflected in Manuscript Militia Returns (Sept. 2001) (unpublished manuscript, on file with author).

57. The most extensive work on this problem has been done by Robert Churchill. See Churchill, *supra* note 39; Churchill, *supra* note 56.

58. BELLESILES, *supra* note 3, at 141.

Bellesiles had switched the numbers around: “In the records he cites, . . . four of ten companies reported the state of their arms, and a fifth gave a partial return. Of the 454 men covered by the returns, 371 (81.7 percent) were armed.”⁵⁹ Of the five units reporting their arms, two were 100% armed and the worst armed of the other three was 57% armed. It is hard to know exactly what Bellesiles did, but he may just have seized on the number of the worst armed unit and reported that number for all units, but only after flipping it to 57% *unarmed*. By misleadingly counting the worst-armed unit as the entire company and flipping the results from armed to unarmed, Bellesiles is able to make a very well-armed Connecticut militia (82% armed) appear to be a mostly unarmed militia (43% armed).

Elsewhere, Churchill offers other instances. For example, Bellesiles discusses a 1744 return of militia arms from Worcester County, Massachusetts. He claims that four companies were “Intirely Deficient”⁶⁰ in their firearms, when all they lacked was ammunition.⁶¹

Consider another story of militia gunlessness told by Bellesiles:

When news of Lexington reached New Haven, Benedict Arnold inspected his troops and found them largely unarmed. He threatened to break into the town arsenal in order to arm his men, but the town’s selectmen relented and opened the doors to his militia, with Arnold supervising the distribution of Brown Besses.⁶²

The source that Bellesiles cites tells a different tale: “In New Haven, the enthusiasts were not thwarted, although Benedict Arnold had to threaten to break open the powderhouse before town leaders supplied his volunteers with ammunition.”⁶³ The striking story of Benedict Arnold’s men lacking guns (as opposed to ammunition) and of Arnold himself distributing Brown Besses appears to have been invented.⁶⁴ Bellesiles then uses this story to

59. Churchill, *supra* note 39, at 333 (citation omitted).

60. BELLESILES, *supra* note 3, at 150; *infra* note 61.

61. Posting of Robert H. Churchill, churchil@uscom.com, to H-OIEAHC@h-net.msu.edu (Sept. 19, 2001) (copy on file with author). Churchill wrote:

Bellesiles cites a 1744 militia return from Worcester County, Massachusetts. He claims that 8 of 21 companies that “filed a report on their firearms” reported that they were “entirely deficient.” In the original document the colonel of the regiment reported the state of the arms and ammunition of each company. He noted that four of the companies were “entirely deficient as to arms.” He reported the other four as “entirely deficient as to ammunition.” Bellesiles has thus altered the language in the original to advance his thesis of gun scarcity.

Id. (citation omitted).

62. BELLESILES, *supra* note 3, at 181.

63. HAROLD E. SELESKY, WAR AND SOCIETY IN COLONIAL CONNECTICUT 228-29 (1990); see Churchill, *supra* note 61 (discussing this source).

64. Churchill, *supra* note 61.

show that even the best-armed colonies such as Connecticut “faced a shortage of firearms from the very first day of the conflict.”⁶⁵

Both of the last two examples show a persistent problem with Bellesiles’s accounts—he repeatedly reports evidence of a lack of ammunition as a lack of guns. Bellesiles thus creates the impression that the sources he describes support his stories of gunlessness.

There are also serious methodological problems with Bellesiles’s main militia arms data over time.⁶⁶ Bellesiles presents his Massachusetts gun militia data as if they were counts of all privately owned guns in Massachusetts, which they were not.⁶⁷

First, Bellesiles confuses absence from the annual muster with gunlessness. If half of the adult men showed up at muster and they were 90% armed, Bellesiles would infer that only 45% of the adult male population of the colony as a whole was armed. This would make sense only if every man who did not appear at muster did not own a gun. One would expect two sorts of people to fail to show up—older or sicker men, who would be likely to have had substantial experience with guns earlier in their lives, and wealthier men, who were both more likely to risk the fine for skipping muster and more likely to own guns.

Further, Bellesiles confuses arms produced at militia musters with arms owned. There were many guns that would have been suitable for shooting birds (“fowling pieces”) or vermin, or for hunting larger animals, that would not meet the standards of the day for battle muskets, which were very heavy with extremely long barrels. It is somewhat akin to confusing an M-16 with a shotgun. In addition, the average family size in the North was six people in 1790.⁶⁸ Households with more than one adult male might have had only one gun or only one military-style gun, and, as a result, one or more men in that household would show up unarmed in Bellesiles’s data.

Last, Bellesiles anachronistically compares gun ownership to the general population, a fairly obvious interpretive “life cycle” error. With average family sizes of six,⁶⁹ most women and children would have lived in a household with guns. By comparing gun ownership to the general population, boys who would grow up to own guns as frequently as their fathers are counted as not owning guns. Instead of comparing his percentages to the number of households, he dilutes his percentages with children, counting white male children who would grow up to own a gun as nonowners.⁷⁰ To take such an individualistic approach in the presence of

65. BELLESILES, *supra* note 3, at 181.

66. *See id.* at 447 tbl.3.

67. Churchill, *supra* note 61.

68. *See supra* note 45 and accompanying text.

69. *See supra* note 45 and accompanying text.

70. *See BELLESILES, supra* note 3, at 447 tbl.3.

such large family sizes is the kind of anachronistic move that one would not expect a historian to make. That would be like comparing home ownership today to the general population and counting children who live in homes owned by their parents as not being homeowners—or even worse, computing fertility rates by including men and little children in the base.

3. *The Probate Records*

The dispute over the probate records, which has been the primary topic in the public debate for the last year, is essentially settled. Four scholars—Robert Churchill in *Reviews in American History*,⁷¹ Randolph Roth in *William and Mary Quarterly*,⁷² and Justin Heather and I in the *William and Mary Law Review*⁷³—confirm serious errors in *Arming America* and confirm each other's counts. Certainly, in most fields, that would settle the matter (until new data surfaced). The only other scholars who questioned our probate data were unable to explain their conclusions and have backed away from them.

Probate inventories are appraised lists of assets at death. They were used to disclose property available for creditors, to achieve any necessary title-clearing, and to ensure a proper distribution of assets among the members of the large families that prevailed in early America.⁷⁴ In an article forthcoming as of this writing,⁷⁵ Justin Heather and I compare the relative frequency of gun ownership in these inventories to the presence of other commonly owned items. As for the methodology of drawing inferences from probate records, we suggest that the ownership of any item of interest should be compared to the ownership of other commonly owned items, since probate inventories are inherently incomplete.⁷⁶

Gun ownership was particularly high compared to ownership of other common items. For example, in 813 itemized male inventories from Alice Hanson Jones's 1774 national database, 54% of estates listed guns, compared to only 30% of estates listing any cash, 14% listing swords or edge weapons, 25% listing Bibles, 62% listing any book, and 79% listing any clothes.⁷⁷

Guns are thus more common than Bibles in several databases that Heather and I examined. Further, guns are generally found in roughly as many probate estates as books of any kind, a finding suggesting that guns,

71. Churchill, *supra* note 39.

72. Roth, *supra* note 41.

73. Lindgren & Heather, *supra* note 24.

74. For more on probate inventories, see 3 JONES, *supra* note 23, at 1847-60; and McGaw, *supra* note 22, at 339-43.

75. Lindgren & Heather, *supra* note 24.

76. *Id.* (manuscript at 16-21 & tbl.2, 28-29 tbls.3-4).

77. *Id.* (manuscript at 28 tbl.3).

like books, were very commonly owned by early American families. Based on the 1774 probate records, the frequency of gun ownership (54% of male estates, 50% of both male and female estates combined) was roughly midway between the ownership of any coins or other money (about 30% of male estates) and the ownership of clothes (about 79% of male estates).⁷⁸ If gun ownership really was about two-thirds of the level of clothes ownership (and about five-thirds of the level of cash ownership), then gun ownership was roughly as common as was generally thought to be the case before *Arming America* was published. Contrary to *Arming America*'s claims about probate inventories in seventeenth- and eighteenth-century America, there were high numbers of guns, guns were much more common than swords or other edge weapons, women in 1774 owned guns at a rate (18%) higher than Bellesiles claimed men did in 1765-1790 (14.7%), and 83-91% of gun-owning estates listed at least one gun that was not old or broken.⁷⁹

For the probate data from Providence, Rhode Island (1678-1726),⁸⁰ Bellesiles misclassified over 60% of the inventories he examined.⁸¹ He repeatedly counted women as men, counted guns in about a hundred wills that never existed, and claimed that the inventories evaluated more than half of the guns as old or broken when fewer than 10% were so listed.⁸² Heather and I found that nationally, for the 1765-1790 period, the average percentage of estates listing guns that Bellesiles reported (14.7%) is not mathematically possible given the regional averages he reported and known minimum sample sizes.⁸³

Bellesiles argued that guns were rarely listed in probate inventories—according to him, only 14.2% of 1200 frontier inventories in the 1765-1790 period included guns, and 53% of the guns were explicitly listed as broken or otherwise defective.⁸⁴ To support this claim, Bellesiles has put a report on his website that recounts frontier estates from Vermont, where four of his six frontier counties are located. Bellesiles finds only forty-five estates

78. *Id.* (manuscript at 25, 28 tbl.3).

79. *Compare id.* (manuscript at 25 & n.62, 28 tbl.3, 42 tbl.8, 49), with BELLESILES, *supra* note 3, at 445 tbl.1.

80. 6, 7 & 16 EARLY RECORDS OF THE TOWN OF PROVIDENCE (Horatio Rogers et al. eds., Providence, Snow & Farnham City Printers 1894-1901).

81. Lindgren & Heather, *supra* note 24 (manuscript at 48-49 & nn.84-94).

82. *Id.*

83. *Id.* (manuscript at 51-54 & nn.105-13).

84. BELLESILES, *supra* note 3, at 13, 266-67, 445 tbl.1. This statement appears to be false. A preliminary analysis of complete data from four of his six frontier counties and partial data from the other two counties suggests that fewer than 15% of 1765-1790 frontier estates with guns list only old, broken, or dysfunctional guns, and fewer than 15% of the guns listed are old or dysfunctional. See James Lindgren & Justin Heather, Vermont Data File, 1770-90 (Feb. 1, 2002) (unpublished data, on file with author).

listing guns, missing seventy estates with guns altogether.⁸⁵ Among his forty-five estates, he also misses several pistols. Further, he misreports the description of several guns, making them appear to be in worse condition than they are listed.⁸⁶ He misses all of the twenty-six gun estates in Windsor County, even though Windsor County is in his sample.⁸⁷ He misses every gun estate in Rutland County from 1786 through 1790.⁸⁸ He claims to count records in the Gloucester County courthouse in Chelsea, Vermont, when there is no Gloucester County or Gloucester County courthouse.⁸⁹ The courthouse in Chelsea, Vermont, is the Orange County courthouse, but Bellesiles misses all five gun estates in its records during the period, assuming these are supposed to be in his sample.⁹⁰ Bellesiles gets one of the locations of the Windsor County records wrong—there are none in the town of Windsor.⁹¹ Last, fewer than 15% of the guns, not 53% as he lists for frontier counties in 1765-1790, are listed as broken or defective.⁹²

Bellesiles's responses to criticisms of his probate data have been inadequate. In the paperback edition of the book, he has quietly dropped all of the originally challenged claims from Providence, Rhode Island, without acknowledging his previously published errors.⁹³

Justin Heather and I have analyzed part of Bellesiles's nineteenth-century probate data and are finding the same disturbing pattern that exists in Bellesiles's data for the previous two centuries. In particular, in his Table 1,⁹⁴ Bellesiles reports gun counts for forty counties, including San Francisco County. In correspondence⁹⁵ and in a report on his website from February through early September, 2001, Bellesiles claimed to have examined the San Francisco probate records at the San Francisco Superior Court. Repeated inquiries to the San Francisco Superior Court have all yielded a version of the same answer: They do not have the probate records that Bellesiles claimed to have counted there because they were destroyed in the 1906 San Francisco earthquake and fire.

85. Compare Michael A. Bellesiles, *Vermont Probate Records, 1770-1790* (Oct. 12, 2001), at <http://www.emory.edu/HISTORY/BELLESILES/>, with *infra* Appendix, Section L (listing examples).

86. See *infra* Appendix, Section K.

87. See *infra* Appendix, Section L.

88. See *infra* Appendix, Section L (collecting data from book II of the Rutland District manuscript probate records).

89. Bellesiles, *supra* note 85.

90. Lindgren & Heather, *supra* note 84.

91. Bellesiles, *supra* note 85.

92. Compare BELLESILES, *supra* note 3, at 266-67, with Lindgren & Heather, *supra* note 84.

93. Compare MICHAEL BELLESILES, *ARMING AMERICA: THE ORIGINS OF A NATIONAL GUN CULTURE* 109-10 (Vintage Books 2001) (2000), with BELLESILES, *supra* note 3, at 109-10.

94. BELLESILES, *supra* note 3, at 445 tbl.1.

95. In correspondence with me on November 30, 2000, Michael Bellesiles wrote that he examined the records for San Francisco at the San Francisco Superior Court, a claim repeated in an essay on using probate records that was on his website from February 2001 through mid-September 2001. E-mail from Michael Bellesiles to author (Nov. 30, 2000) (on file with author).

Representatives of the History Center at the San Francisco Public Library, the Bancroft Library of the University of California, the Sutro Library, the Family History Center Libraries, and the California Genealogical Society agree that they know of no surviving runs of San Francisco probate inventories for the years Bellesiles claimed to have counted—1849-1850 and 1858-1859—because (as most note) they were destroyed in 1906.⁹⁶ Kathy Beals, an author who has written a book on pre-1906 San Francisco probate records,⁹⁷ reports that a list of the names of those who left wills from the 1850s exists, but that there are no known runs of inventories or property lists.⁹⁸ A few scraps of other probate records exist from 1880 through 1905, but nothing of substance before 1880.⁹⁹ Rick Sherman, the Research Director of the California Genealogical Society in Oakland, California, confirmed the unanimous belief that such records do not exist.¹⁰⁰ Bellesiles has repeatedly stated that he used only complete runs of inventories, not a few inventories discovered here or there, as did Alice Hanson Jones in her study of New York probate records.¹⁰¹

In January 2002, Bellesiles publicly claimed on Emory's Academic Exchange to have located some of the long-lost San Francisco inventories from the 1850s in the Contra Costa County History Center in Martinez, California.¹⁰² Bellesiles claimed that the staff did not even know that they had any probate inventories, even though, as the staff points out, they are part of the core of the collection.¹⁰³ He also supplied copies of these supposed San Francisco inventories to journalists. I have reviewed these documents and the original files from which they were copied; there is nothing in them to suggest that they are San Francisco County estates. Several documents that Bellesiles copied clearly reveal themselves to be Contra Costa County estates. The staff of the History Center has reviewed Bellesiles's claims carefully and concluded that every estate he found was a

96. Telephone Interviews with various librarians, History Center at the San Francisco Public Library, Bancroft Library of the University of California, Sutro Library, and Family History Center Libraries, and with Rick Sherman, Research Director, California Genealogical Society (July 7, 2001 through Sept. 10, 2001); E-mail from Rick Sherman, Research Director, California Genealogical Society to author (July 9, 2001) (on file with author).

97. KATHY BEALS, *SAN FRANCISCO PROBATE INDEX, 1880-1906: A PARTIAL RECONSTRUCTION* (1996).

98. E-mail from Kathy Beals to author (July 10, 2001) (on file with author); E-mail from Kathy Beals to author (July 11, 2001) (on file with author).

99. E-mail from Kathy Beals to author, *supra* note 98.

100. E-mail from Rick Sherman to author, *supra* note 96.

101. See *Odyssey with Gretchen Helfrich* (WBEZ radio broadcast, Jan. 16, 2001), <http://www.WBEZ.org/services/ram/od/od-010116.ram>; Posting of Michael A. Bellesiles, mbelles@emory.edu, to H-OIEAHC@h-net.msu.edu (Jan. 9, 2001) (copy on file with author).

102. Michael Bellesiles, Emory Academic Exchange (Jan. 22, 2002), at http://www.emory.edu/ACAD_EXCHANGE/2002/decjan/whatsnew.html; see Betty Massei, Notes on Supposed San Francisco Records in the Contra Costa County Historical Society History Center, at <http://www.cocohistory.com/frm-news.html> (last updated Jan. 27, 2002).

103. Massei, *supra* note 102.

Contra Costa County estate. I have confirmed their conclusion. In the original files, there are well over a hundred documents establishing that these are Contra Costa estates. There are many petitions to and orders of the Contra Costa County Probate Court. There is not one petition to or order of the San Francisco Probate Court. Further, the staff casts serious doubt on Bellesiles's claim to have done substantial work in their archives before recently.¹⁰⁴ Emory University's history department was so embarrassed by Bellesiles's claims that it sent a letter apologizing to the Contra Costa County History Center for Bellesiles's comments.¹⁰⁵

Neither part of *Arming America's* study of seventeenth- and eighteenth-century probate data is replicable, nor is Bellesiles's study of probate data from the 1840s and 1850s. In terms of paragraphs, the probate study is only a small part of the book—about twelve paragraphs in the text discuss the probate evidence, plus textual footnotes and the entire page of data in Table 1.¹⁰⁶ Yet it is the most dramatic and potentially persuasive evidence he offers. The probate data are the *only* data purporting to show systematic changes in gun ownership over long periods of time (1765-1859), a crucial part of *Arming America's* central claim that gun ownership was very low in the seventeenth and eighteenth centuries and grew gradually in the few decades before the Civil War. Further, the probate data are by far the most important evidence purporting to show that guns in private hands were mostly in poor working condition.

Moreover, it would not be proper simply to omit a discussion of probate data now that it is clear that they undercut the conclusion of *Arming America*—that would be the suppression of contrary evidence. One may speculate what the book might have been without the probate data, but it is not possible to ignore the fact that this important body of evidence exists. The patterns in the actual probate data from colonial America are potentially devastating to *Arming America's* central arguments. The fact that gun ownership was much higher in the seventeenth and eighteenth centuries than Bellesiles claims it was on the eve of the Civil War renders the main story in *Arming America* incoherent. If guns were already more common in the eighteenth century than Bellesiles says they were on the eve of the Civil War, then his narrative of how we got from low gun ownership to high gun ownership collapses into the opposite story of a shift from high gun ownership to somewhat lower gun ownership.

Also potentially devastating to the arguments in *Arming America* are the conditions of guns in probate records. In every database Heather and I

104. *Id.*

105. See Ron Grossman, *Emory Can Wait No Longer: Historian Is Under Investigation*, CHI. TRIB., Feb. 13, 2002, at C5 (describing the apology from James Melton, chair of Emory's history department).

106. BELLESILES, *supra* note 3, at 13, 74, 79-80, 109-10, 148-49, 262, 266-67, 386, 445 tbl.1.

have looked at (including the databases Bellesiles cites in *Arming America*), at least 83% of estates with guns have guns that are not listed as old or in poor working condition.¹⁰⁷ A more coherent story would have been that America went from fairly ineffective guns to fairly effective mass-produced guns, but that is not Bellesiles's main story; more to the point, such a story would have been largely uncontroversial.

The importance of the probate data is suggested in the reviews and press accounts: the *New York Times* ("Mr. Bellesiles's principal evidence"),¹⁰⁸ the *Washington Post* (Bellesiles's "freshest and most interesting source"),¹⁰⁹ the *New York Review of Books* ("The evidence is overwhelming. First of all are probate records."),¹¹⁰ the *New Republic* ("[T]he core of his argument depends on statistics: government censuses of militia members and a sample of probate records . . ."),¹¹¹ and *Reason* (Bellesiles's "main proof for the absence of firearms").¹¹²

Bellesiles himself emphasized probate records when he summarized his argument in a November 3, 1997, interview with the *Emory Report*: "'Contrary to the popular image, few people in the United States owned guns prior to the 1850s,' Bellesiles said. 'Probate and militia records make clear that only between a tenth and a quarter of adult white males owned firearms.'" ¹¹³

In articles on *Arming America* both in law reviews and especially in the popular press, Bellesiles's evidence from probate records was the single most commonly mentioned source of quantitative evidence supporting his thesis. Scholars have quickly made use of Bellesiles's undercounts of guns in probate records to support their views of the Second Amendment.¹¹⁴

Thus, while the probate data are discussed on only about thirteen pages in the book,¹¹⁵ they are recognized by some reviewers as the single most important class of evidence among the many classes of evidence that Bellesiles discusses. Admittedly, others put more weight on this evidence than does Bellesiles. Not surprisingly, Bellesiles and his supporters are now

107. See Lindgren & Heather, *supra* note 24 (manuscript at 25, 28 tbl.3, 42 tbl.8, 49); Lindgren & Heather, *supra* note 84.

108. Ramirez, *supra* note 29.

109. John Whiteclay Chambers II, *Lock and Load*, WASH. POST, Oct. 29, 2000, at X2.

110. Morgan, *supra* note 36, at 30.

111. Jackson Lears, *The Shooting Game*, NEW REPUBLIC, Jan. 22, 2001, at 30, 32.

112. Malcolm, *supra* note 38, at 48.

113. Terrazas, *supra* note 48.

114. See, e.g., Michael C. Dorf, *What Does the Second Amendment Mean Today?*, 76 CHI.-KENT L. REV. 291, 312 (2000); Robert E. Shalhope, *To Keep and Bear Arms in the Early Republic*, 16 CONST. COMMENT. 269, 274 (1999); Koren Wai Wong-Ervin, *The Second Amendment and the Incorporation Conundrum: Towards a Workable Jurisprudence*, 50 HASTINGS L.J. 177, 184-85 (1998).

115. See *supra* note 106 and accompanying text.

claiming that the probate data are relatively unimportant.¹¹⁶ Yet without the probate data, his book runs the risk of falling into the genre that Bellesiles has called “dueling quotations.”¹¹⁷ One cannot just wish the probate data away; it points strongly against the main narrative of *Arming America*.

C. *Was Homicide Rare?*

Bellesiles claims that, in step with low gun rates, homicide rates were low until the Civil War. Bellesiles claims that “[w]hites rarely assaulted other whites in the colonies and almost never killed one another.”¹¹⁸ These claims are not only unsupported by the evidence he offers, but also false. Randolph Roth, who has studied homicide rates throughout early America, exposes this error in his review in the *William and Mary Quarterly*.¹¹⁹ Roth points out that homicide rates during much of the seventeenth century were actually higher than they are today. In other places and times in early America, rates were similar to those today:

The homicide rate for adult European colonists in New England before King Philip’s War was as high as the rate in the United States today, 7-9 per 100,000 adults per year. Before the Pequot War, the rate was higher still: roughly 110 per 100,000 adults per year, or 11 to 14 times the rate today. A number of those colonists were murdered by Native Americans, but the homicide rate was still very high if one discounts those murders, as Bellesiles does.¹²⁰

How does Bellesiles make such a basic error? In part, he just presents false counts in the records he cites or makes claims that could not possibly be supported by the evidence on which he relies. For example, Bellesiles claims that “in forty-six years Plymouth Colony’s courts heard five cases of assault, and not a single homicide,”¹²¹ citing the standard published version of seventeenth-century records of Plymouth Colony courts.¹²²

116. See Michael A. Bellesiles, *Arms and the Ancestors*, WALL ST. J., Apr. 4, 2001, at A25; Kevin R. Hardwick, *Colloquy*, CHRON. HIGHER EDUC., Feb. 22, 2002, at <http://chronicle.com/colloquy/2002/guns/183.htm>; Posting of Chris Waldrep, cwaldrep@sfsu.edu, to H-LAW@h-net.msu.edu (Dec. 12, 2001) (copy on file with author); Posting of Jack Rakove to H-LAW@h-net.msu.edu (Apr. 18, 2001) (copy on file with author).

117. BELLESILES, *supra* note 3, at 262 (“Without such efforts at quantification, we are left to repeat the unverifiable assertions of other historians, or to descend into a pointless game of dueling quotations—matching one literary allusion against another.”).

118. *Id.* at 81; see also *id.* at 353 (claiming that there were only five murders in Vermont from 1760 to 1790).

119. Roth, *supra* note 41, at 234.

120. *Id.* at 235.

121. BELLESILES, *supra* note 3, at 82.

122. 1-10 RECORDS OF THE COLONY OF NEW PLYMOUTH IN NEW ENGLAND (Nathaniel B. Shurtleff et al. eds., Boston, William White 1855-1861).

There are many homicide cases heard in Shurtleff's *Records of the Colony of New Plymouth Colony in New England*, and they are relatively easy to find. One need only look in the indices to find the murder and manslaughter prosecutions. As Randolph Roth writes:

The records cover 1633-1691, with some gaps. Bellesiles does not state which 46 years he studied, but every contiguous period of 46 years contains homicides. The 11 homicides are in 1:96-97; 2:132-34; 3:70-72, 73, 82, 143, 205, 5:159, 167-68, 264-65, 6:82, 113, 141-42, 153-54; 7:305-07. A probable homicide appears in 2:170-71, and 3 suspicious deaths that may have been homicides in 3:202-03, 217-18, 4:32-33, 5:141. The 3 multiple murders during King Philip's War are in 5:204-06, 209, 224. Three additional murders in Plymouth Colony appear in William Bradford, *Of Plymouth Plantation, 1620-1647*.¹²³

Relative to other crimes, homicide prosecutions appear to be common. Bellesiles misses *every* homicide prosecution in these records.

Nearly as stunning is Bellesiles's claim: "[D]uring Vermont's frontier period, from 1760 to 1790, there were five reported murders (excluding those deaths in the American Revolution), and three of those were politically motivated."¹²⁴ The source he cites for this count is the Vermont Superior Court records. He presumably meant the Vermont Supreme Court, since Vermont had no Superior Court in that period. But he could not possibly have used these Supreme Court records to count murders for thirty-one years in Vermont, from 1760 to 1790. As Roth explains about the Vermont Supreme Court:

[T]hat court did not open until December 1778, and its minutes from September 1782 to August 1791 have been missing since the early twentieth century. In fact, Vermont, together with the rest of New England, had an elevated homicide rate during the American Revolution, and 70 percent of known adult homicides and probable homicides in Vermont, 1760-1790, were committed with guns.¹²⁵

Thus, Bellesiles could not have counted Vermont murders during 1760-1790 in the source he cites because that source did not exist for more than half of the period and is lost for most of the rest of the period. Where did Bellesiles come up with his numbers for thirty-one years of Vermont data? We may never know.

123. Roth, *supra* note 41, at 234 n.31 (citations omitted).

124. BELLESILES, *supra* note 3, at 353.

125. Roth, *supra* note 41, at 236 (citations omitted).

These are not the only problems with Bellesiles's accounts of murder. His counts in his main table of homicide data (Table 6)¹²⁶ do not add up. He relates that he has 735 cases of homicide and that he drew 501 cases from one source and "an additional 184 cases"¹²⁷ from a list of newspapers. But this still leaves Bellesiles exactly fifty cases short of his total of 735 cases. Where did the other fifty cases come from? Readers are left to speculate.

Finally, Bellesiles's unsupported claim that homicide rates rose after the Civil War¹²⁸ is much too simple a story. Just as the gun culture and the romance of the gun were supposedly taking over (in the decades after the Civil War), homicide rates were actually plummeting throughout much of the country, while in the Reconstruction South murder was rising.¹²⁹ The relationship between guns and homicides over time is so complex that it cannot be reduced to the easy formula put forward in *Arming America* that high gun ownership and high homicide rates go together.

D. *Were Privately Owned Guns Mostly in Poor Working Condition?*

While it is not surprising that government-owned guns might be rusting away in armories during peacetime, Bellesiles claims that guns in private hands were also mostly old or broken. For example, he claims that 53% of the guns in frontier probate inventories were listed as broken or defective: "An examination of more than a thousand probate records from the frontiers of northern New England and western Pennsylvania for the years 1765 to 1790 revealed that only 14 percent of the inventories included firearms; over half (53 percent) of these guns were listed as broken or otherwise defective."¹³⁰ Bellesiles makes a similar claim about the guns listed in Providence, Rhode Island, probate inventories: "More than half of these guns are evaluated as old and of poor quality."¹³¹

Neither claim is true. Justin Heather and I have completed a careful analysis of data from four of the six counties in Bellesiles's 1765-1790 frontier sample (those from Vermont) and a partial analysis of inventories from the other two counties (those from Western Pennsylvania). So far the rate of guns "listed" as old or broken is less than 15%, not the 53% that

126. BELLESILES, *supra* note 3, at 450.

127. *Id.*

128. *See id.* at 434, 436.

129. *See* ERIC H. MONKKONEN, MURDER IN NEW YORK CITY 9-10 (2000). Randolph Roth is finding the same pattern as Monkkonen in many areas outside New York City, except in the South, where homicide was increasing. Randolph Roth, Toward Better Ways To Count Guns, Panel Presentation Before the Social Science History Association (Nov. 2001).

130. BELLESILES, *supra* note 3, at 13.

131. *Id.* at 109.

Bellesiles claims.¹³² Bellesiles's own website report on guns in frontier Vermont now shows very few listed as old or broken.¹³³

As to the Providence, Rhode Island, data, Bellesiles has dropped the claim from the hardback edition of *Arming America* that the guns in the inventories were evaluated as old or broken and now claims that the majority of guns are so low-valued that he reappraises them as old or broken.¹³⁴ There are a number of problems with this claim. Most important, historians should not reappraise 300-year old guns that they have never seen based solely on evidence of their monetary value. Bellesiles does not provide a sufficient basis for his reappraisal. He does not reappraise a few very low-valued guns. Rather, he appraises the median-priced gun in Providence as old or broken. The best evidence we have for what a typical gun cost in Providence, Rhode Island, is the very probate data showing that guns cost about one pound.¹³⁵ This is consistent with other data, as I show in the next Section. A new military-quality weapon in a time of war might go for two to three times that amount, but that does not mean that an ordinary working gun or fowling piece in a time of peace would go for more than about a pound. In addition, Bellesiles should have at least disclosed the fact that he made such a reappraisal in his original publication. Instead, he claimed this reappraisal only after his error was exposed.

Finally, as to the frontier data on dysfunctional guns, Bellesiles says that they are *listed* as such. It is not possible to change this claim based on a reappraisal. Of the estates that Heather and I examined, 83-91% of them listed guns that were not described as old or broken.¹³⁶ This does not, of course, indicate that most of these guns were of military quality or even suitable for battle. Many were undoubtedly fowling pieces, better suited for hunting birds. But this is solid evidence that many Americans owned functioning guns.

E. *How Expensive Were Guns?*

Michael Bellesiles claims that guns were too expensive for widespread private ownership, a claim that has often been repeated by positive reviewers.¹³⁷ Bellesiles writes that "a flintlock cost £4 to £5."¹³⁸

132. Lindgren & Heather, *supra* note 84.

133. Bellesiles, *supra* note 85.

134. Compare BELLESILES, *supra* note 93, at 109, with BELLESILES, *supra* note 3, at 109.

135. See 6, 7, 13 & 16 EARLY RECORDS OF THE TOWN OF PROVIDENCE, *supra* note 80.

136. See Lindgren & Heather, *supra* note 24 (manuscript at 25, 28 tbl.3, 42 tbl.8, 49); Lindgren & Heather, *supra* note 84.

137. See, e.g., Paul Finkelman, *Taking Aim at an American Myth*, 99 MICH. L. REV. 1500, 1501 (2001) (book review).

138. BELLESILES, *supra* note 3, at 106.

Of course, everything was expensive in colonial America for a populace that was very poor by today's standards. Reviewers apparently failed to note that Bellesiles provides no source for his claim about what guns cost. Yet good evidence exists, and it conflicts with Bellesiles's claim.

First, there are auction data. In North Carolina auctions in 1774, a simple "gun" sold for less than £1 (median price: £0.8).¹³⁹ This was roughly the same as a table, a chair, a dictionary, a great coat, or a saddle.¹⁴⁰ Comparing the cost of buying a simple shotgun or pistol at Wal-Mart today to buying these other items would suggest that guns were not relatively more expensive then than they are today.

We also have extensive probate data from the colonial period, most of which shows median prices for guns not listed as old or broken from just under £1 to about £1.5.¹⁴¹ Further, with median probated estate sizes in 1774 of more than £200,¹⁴² a gun at about £1 was a relatively minor expense. Even if one rightly assumes that probated estates are skewed toward the wealthier decedents, an analysis of the effect of wealth shows that guns were listed in substantial portions of estates above the very poorest.¹⁴³ Only for estates below £10 did fewer than thirty percent of inventories list guns. And, whatever the cost, people bought guns before other seeming essentials. In the earlier colonial period, Gloria Main and Anna Hawley both found more guns than tables or chairs or stools.¹⁴⁴ When men could afford to buy a gun, they did.¹⁴⁵ This suggests either that they were very useful tools or that they had an important social meaning (for example, to reinforce their owners' masculinity or provide peace of mind)—or both.

Randolph Roth mentions a newspaper ad from 1785 for 3000 new British muskets at only \$3 apiece, a very low price compared to other common items. Here is Roth's account:

Gun dealers, for their part, knew that they had to appeal to farmers, gardeners, and small-game hunters who fired shot as well as to militiamen who had to own military-grade, ball-firing weapons. For instance, when Joseph and William Russell of Providence, Rhode Island, advertised the sale in 1785 of 3,000 "EXCELLENT NEW

139. 3 JONES, *supra* note 23, at 1691-720.

140. *Id.*

141. *See, e.g., id.*; Lindgren & Heather, *supra* note 84.

142. *See* Lindgren & Heather, *supra* note 24 (manuscript at 32 tbl.7).

143. *Id.*

144. *Id.* (manuscript at 6-10 & nn.9-24) (citing MAIN, *supra* note 22, at 288-89 tbls.C.3-4; and Hawley, *supra* note 22, at 28).

145. *Id.* (manuscript at 6-10 & nn.9-24, 32 tbl.7).

BRITISH MUSKETS” for three dollars each, they hastened to add that at least 600 were “neat Fowling Pieces.”¹⁴⁶

Almost all of the existing evidence suggests that in a world where nearly everything was expensive, guns were not particularly so. They were within the reach of most families, especially if the families thought them more important than having a table or a chair, as many apparently did, since guns were roughly as commonly listed in probate inventories as these seeming essentials. Part of Bellesiles’s confusion may stem from looking at the prices of new military weapons in a time of war, and not accounting for condition, temporary shortages, or type of weapon. A more typical price for an ordinary used gun in colonial America would have been £1, not the £4 to £5 asserted in *Arming America*.

F. *How Effective Were Guns, Bladed Weapons, and the Militia?*

Arming America’s accounts of military actions, militia ineffectiveness, and battle weaponry show similar problems in the use of evidence, though Bellesiles’s overall view of the militia is a standard one. As to the ineffectiveness of militia compared to regular army troops, Bellesiles offers an extreme, unnuanced version of the standard view, but his view is widely shared. To present a more balanced analysis of the historical record would take greater expertise on the history of militia than I have and more space than one section of a review. But to give one example, George Washington, who according to Bellesiles was unrelentingly negative about militia,¹⁴⁷ actually had an ambivalent view of militia—as is evident in Mark Kwasny’s excellent analysis, *Washington’s Partisan War*.¹⁴⁸

Yet even where Bellesiles is more or less correct, he takes his evidence further than it will bear. As Clayton Cramer has discussed, he quotes Washington out of context on the poor state of militia reporting for duty¹⁴⁹ without noting that Washington was only referring to a few troops out of a large number about which he was not complaining.¹⁵⁰ What Washington clearly treated as exceptional is taken by *Arming America* as the norm.

146. Roth, *supra* note 41, at 232 (quoting Advertisement, BOSTON GAZETTE, Mar. 7, 1785).

147. BELLESILES, *supra* note 3, at 159, 193-95.

148. MARK V. KWASNY, WASHINGTON’S PARTISAN WAR, 1775-1783, at 16 (1996) (“Washington presented a more complex attitude toward the use of the militia in the Revolutionary War than the traditional description allows.”); *see also id.* at 17, 83, 110, 135, 185.

149. *See* BELLESILES, *supra* note 3, at 159. Bellesiles wrote:

Colonel Washington reported on the militia to Governor Dinwiddie: “Many of them [are] unarmed, and all without ammunition or provision.” In one company of more than seventy men, he reported, only twenty-five had any sort of firearms. Washington found such militia “incapacitated to defend themselves, much less to annoy the enemy.”

Id.

150. Washington wrote:

In his account of Lexington and Concord, Bellesiles systematically understates the effectiveness of guns and the militia, emphasizing hand-to-hand combat. He goes to great lengths in *Arming America* to replace the “myth” of the American with a gun with a new myth of Americans often relying on an axe as a weapon. For example, *Arming America* claims: “At Menotomy, Massachusetts, the Americans fell on the British with a vengeance; the combat was almost entirely hand-to-hand, axes against bayonets.”¹⁵¹ Justin Heather has gone through the accounts that Bellesiles cites and neither claim is true—it was not “almost entirely” hand-to-hand combat, and there is no mention of Americans using axes. Heather finds that guns were a very important part of the battle.¹⁵² Indeed, the idea that the Americans fought the British with axes is questionable even without checking sources, since axes were unwieldy for hand-to-hand combat.¹⁵³

In Bellesiles’s fervor to establish the shortages of guns and the unfamiliarity of American militia with guns, he misstates evidence. For example, he writes:

Pikemen were present at nearly every encounter in King Philip’s War, as there were not enough guns to go around. Nonetheless, in October 1675, the Massachusetts General Court ordered that, “whereas it is found by experience that troopers & pikemen are of little use in the present warr with the Indians . . . It is ordered by the court . . . that all pikemen are hereby required . . . to furnish themselves with fire armes.” But they could not locate sufficient guns, leading one Massachusetts soldier to recall in 1681, “I

I think myself under the necessity of informing your Honor, of the odd behaviour of the few Militia that were marched hither from Fairfax, Culpeper, and Prince William counties. Many of them unarmed, and *all* without ammunition or provision. Those of Culpeper behaved particularly ill: Out of the hundred that were draughted, seventy-odd arrived here; of which only twenty-five were tolerably armed.

I proposed to the unarm’d, that as they came from home (at least with a shew) of serving their country; and as they were, from the want of arms, incapacitated to defend themselves, much less to annoy the enemy, or afford any protection to the Inhabitants; that they shou’d (during their short stay here) assist in forwarding the public works; for which I offered them 6d. per day extraordinary. But they were deaf to this and every other proposition which had any tendency to the interest of the Service.

As such a conduct is not only a flagrant breach of the law, and a total contempt of Orders, but will be such a precedent (shou’d it pass without impunity) as may be productive of the most dreadful consequences. I therefore flatter myself, your Honor will take proper notice of these men. I have written to their County Lieutenant on this subject.

Letter from George Washington to Robert Dinwiddie (June 27, 1757), in 2 THE WRITINGS OF GEORGE WASHINGTON FROM THE ORIGINAL MANUSCRIPT SOURCES, 1745-1799, at 78, 78-79 (John C. Fitzpatrick ed. 1931); see Cramer, *Firearms Ownership*, *supra* note 27, at 51-52.

151. BELLESILES, *supra* note 3, at 174.

152. Justin Lee Heather, *Weapons of War in Colonial America: A Situational Hierarchy* (2001) (unpublished manuscript, on file with author).

153. *Id.*

thought a pike was best for a young soldier, and so I carried a pike, and . . . knew not how to shoot off a musket.”¹⁵⁴

The quotation is used by Bellesiles to support three propositions: gunlessness, reasonable reliance on edge weapons (in this case, a pike), and unfamiliarity with guns. The account, however, was not from a Massachusetts soldier recalling his days of gunlessness during King Philip’s War. Instead, the quotation is from John Dunton, an English bookseller on a five-month vacation to America in 1686,¹⁵⁵ who wrote a letter back to England about the unusual habits of American settlers:

But from Love, I must make a Transition to Arms; and cou’d you think that [I] . . . wou’d ever make a *Souldier*? Yet so it fell out: For ’tis their Custom here for all that can bear Arms, to go out on a Training Day: But I thought a Pike was best for a Young Souldier, and so I carry’d a Pike; and between you and I, Reader, there was another Reason for it too, and that was, I knew not how to shoot off a Musquet. But ’twas the first time I ever was in Arms; which tho’ I tell thee, Reader, I had no need to tell to my *Fellow-Souldiers*, for they knew it well enough by my awkward handling of them. For I was as unacquainted with the Terms of Military Discipline, as a wild Irish Man [who did not know his right hand from his left] But we were even here, for tho’ they understood Arms better than I, yet I understood Books better than they.¹⁵⁶

Unlike American settlers, this bookish English visitor knew nothing about arms. Dunton observes American familiarity with guns, and the fact that he was armed by others suggests no shortage of firearms. As to his preference for pikes, Dunton explains his reasons, which mostly do not apply to the Americans he is writing about. Last, Bellesiles uses the word “recall” as if Dunton is speaking about his past experiences in King Philip’s War, rather than his current experience in arms for the first time. Bellesiles also mistakenly shifts the date (1686) to five years closer to King Philip’s War, and he uses the source to support his contention that there were gun shortages during that war.¹⁵⁷ Bellesiles somehow turns a tale of American familiarity with guns, reliance on guns, and well-armed units into the opposite.

154. BELLESILES, *supra* note 3, at 117 (quoting Letter from John Dunton to George Larkin (Mar. 25, 1686), in JOHN DUNTON’S LETTERS FROM NEW-ENGLAND 56, 140 (William H. Whitmore ed., Boston, T.R. Marvin & Son 1867)).

155. William H. Whitmore, *Preface* to JOHN DUNTON’S LETTERS FROM NEW-ENGLAND, *supra* note 154, at i, xxii-xxiii.

156. Letter from John Dunton to George Larkin, *supra* note 154, at 140-41.

157. Compare *supra* text accompanying note 154, with Letter from John Dunton to George Larkin, *supra* note 154.

G. *Were Guns Kept in the Home?*

In one of the book's stranger arguments, Bellesiles argues that, by law and in fact, privately owned guns were not kept in the home, but rather were stored in central armories.¹⁵⁸ This has profound implications for his thesis, because if guns were not kept in the home, they were not generally available for homicide, vermin control, target practice, war, or defense against Native Americans or criminals. How could the trusty musket (or rifle) be kept over the mantelpiece if by law it was centrally stored?

Further, Bellesiles claims:

[L]egislators feared that gun-toting freemen might, under special circumstances, pose a threat to the very polity they were forced to defend. Colonial legislatures therefore strictly legislated 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.¹⁵⁹

Bellesiles cites a long string of statutes in support of his unusual claim,¹⁶⁰ but as Clayton Cramer points out, these statutes do not state that privately owned guns must or should be centrally stored in armories.¹⁶¹ Either they say nothing about Bellesiles's fanciful claim, or they provide for the central storage of *gunpowder*, which was explosive and dangerous to keep in large quantities in the home.¹⁶²

One class of data that seems to support the widespread use and keeping of guns in the home is the accidental firearm death data that Randolph Roth has collected. Roth concludes that accidental firearm deaths in New Hampshire and Vermont between 1783 and 1824 were suffered at rates slightly higher than today's annual rate of four per million persons.¹⁶³ The occurrence of so many accidents in what was essentially peacetime supports the notion that guns were kept in the home (and therefore actually used), not centrally stored.

158. BELLESILES, *supra* note 3, at 73.

159. *Id.*

160. *Id.* at 472-73 n.10.

161. Clayton E. Cramer, Primary Historical Sources, at <http://www.claytoncramer.com/primary.html> (last visited Apr. 18, 2002).

162. *Id.*

163. Roth, *supra* note 41, at 232-33.

H. *Were Guns Common in Travel Accounts?*

Arming America also relies on travel accounts to demonstrate the unimportance and ineffectiveness of firearms and the importance of axes as weapons.¹⁶⁴ Bellesiles concludes:

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. . . . That absence of discussion about guns in travelers' accounts is intriguing¹⁶⁵

There are a number of problems with Bellesiles's use of this body of evidence. First, guns *are* frequently mentioned in the very travel accounts that Bellesiles cites, as Clayton Cramer and others have pointed out.¹⁶⁶ Second, Bellesiles uses the travel accounts to push the ineffectiveness of firearms and the relative effectiveness of axes. Bellesiles's statements in support of the relative importance of the axe over the gun are not supported by the cited sources and at least one of the views attributed to a traveler cannot be found in the cited source.¹⁶⁷

The traveler whose account gets the fullest treatment in *Arming America* is Frederick Gerstaecker.¹⁶⁸ But Bellesiles, pushing his pro-axe theme, puts words into Gerstaecker's mouth. Bellesiles wrote: "He [Gerstaecker] noted that they [Americans] were very 'expert' at the use of axes, 'which they begin to wield as soon as their arms are strong enough to use them,' adding that axes made very good weapons."¹⁶⁹ Gerstaecker did note that American frontiersmen were "particularly expert with the axe, which they begin to wield as soon as their arms are strong enough to lift it."¹⁷⁰ He also explained that Americans use the axe "for a variety of purposes—building houses, laying roofs and floors, forming the chimneys and doors, the only other tool used being the auger."¹⁷¹ Gerstaecker did not, however, add "that axes made very good weapons," as *Arming America* claims.¹⁷²

164. BELLESILES, *supra* note 3, at 305-22.

165. *Id.* at 306.

166. *See, e.g.*, Cramer, *Firearms Ownership*, *supra* note 27, at 37; Heather, *supra* note 152, at 26.

167. *See infra* notes 168-172 and accompanying text.

168. BELLESILES, *supra* note 3, at 311-15 (discussing FREDERICK GERSTAECKER, *WILD SPORTS IN THE FAR WEST* (London, Routledge 1854)).

169. *Id.* at 313 (quoting GERSTAECKER, *supra* note 168, at 241).

170. GERSTAECKER, *supra* note 168, at 241.

171. *Id.*

172. BELLESILES, *supra* note 3, at 313; *see also* Heather, *supra* note 152 (manuscript at 24) (discussing Gerstaecker's travel account).

Arguing that guns were not needed for personal use, Bellesiles paraphrases the immigrant account of Ole Rynning: “Rynning advised his Norwegian readers to bring ‘good rifles with percussion locks,’ as such good guns were far too expensive in America and could be sold there for a solid profit. Guns thus had an economic value, but if thought requisite for self-protection, it remained an *unstated assumption*.”¹⁷³ As Clayton Cramer has pointed out, Rynning actually urges immigrants to bring “‘good rifles with percussion locks, *partly for personal use*, partly for sale.’”¹⁷⁴ If Bellesiles had just quoted the four words after those he did quote, his readers could have seen for themselves that Rynning believed guns should be brought for personal use; this was not an “unstated” assumption.

Some of the very travel accounts that Bellesiles quotes for the “absence of discussion about guns in travelers’ accounts”¹⁷⁵ and the proposition that “travelers did not notice that they were surrounded by guns and violence”¹⁷⁶ contain strong statements that guns were all around them. Baynard Rush Hall, writing under the pen name Robert Carlton, for example, describes his love of rifles and their use in Indiana territory:

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 “varments.” With it we kill our beeves and our hogs, and cut off our fowls’ heads: do all things in fact, of the sort with it, where others use an axe, or a knife, or that far east savagism, the thumb and finger. The rifle is a woodsman’s lasso. He carries it everywhere as (a very degrading comparison for the gun, but none other occurs), a dandy a cane. All, then, 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 dead, and we had listened to achievements it had done and could do again.¹⁷⁷

This passage shows not only the wide use of guns, but the passion for guns that Bellesiles argues was absent in early America. In many of the travel accounts that Bellesiles cites, the settlers or travelers describe the

173. BELLESILES, *supra* note 3, at 341 (emphasis added).

174. Cramer, *Firearms Ownership*, *supra* note 27, at 147-48 (quoting OLE RYNNING, OLE RYNNING’S TRUE ACCOUNT OF AMERICA 99 (Theodore C. Blegen ed. & trans., 1926)) (emphasis added).

175. BELLESILES, *supra* note 3, at 304.

176. *Id.*

177. ROBERT CARLTON [BAYNARD RUSH HALL], THE NEW PURCHASE, OR, SEVEN AND A HALF YEARS IN THE FAR WEST 107-08 (James Woodburn ed., Princeton Univ. Press 1916) (1816).

ubiquitousness of guns and the skill of Americans in using them.¹⁷⁸ The accounts support widespread gun ownership on the frontier and suggest that guns, not axes or bladed weapons, were the primary weapons for combat and hunting.¹⁷⁹

I. *How Central Are the Errors to the Thesis of Arming America?*

One of the oddest claims to surface recently is that the problems with *Arming America* touch only the probate data (as if contrary evidence could just be ignored) or touch only the quantitative data (as if there was not a public scandal long before the quantitative errors were discovered). To address such a belief is one of the reasons that I wrote this Review. Too much attention has focused on the probate data. The probate data are important to the book's thesis, though they are discussed on only about thirteen pages of the book,¹⁸⁰ plus some additional footnotes. They were the original impetus for the book.¹⁸¹ In early positive reviews of Bellesiles's work in the press and in scholarly articles, the probate data were the most frequently mentioned statistical source material.¹⁸²

Indeed, just to read an account of what the book was about from the fall of 2000 is to realize how much people have recently tried to recast it.¹⁸³ It is

178. WILLIAM N. BLANE, AN EXCURSION THROUGH THE UNITED STATES AND CANADA, DURING THE YEARS 1822-23, at 145 (London, Baldwin, Craddock & Joy 1824) ("Every boy, as soon as he can lift a rifle, is constantly practicing with it, and thus becomes an astonishingly expert marksman."); FORTESCUE CUMING, SKETCHES OF A TOUR TO THE WESTERN COUNTRY (1810), reprinted in 4 EARLY WESTERN TRAVELS, 1748-1846, at 46 (Reuben Gold Thwaites ed., 1904) ("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."); 1 CHARLES AUGUSTUS MURRAY, TRAVELS IN NORTH AMERICA 118-19 (London, Richard Bentley 1839) ("[N]early every man has a rifle, and spends part of his time in the chase."); 2 ISAAC WELD, TRAVELS THROUGH THE UNITED STATES OF NORTH AMERICA, AND THE PROVINCES OF UPPER AND LOWER CANADA, DURING THE YEARS 1795, 1796, AND 1797, at 150 (London, John Stockdale 1807) (comparing Canadian hunters to U.S. hunters, and stating that "[t]he 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"). Bellesiles cites these reports at BELLESILES, *supra* note 3, at 542-44 n.5. I am indebted to Clayton Cramer for identifying these accounts.

179. See Cramer, *Firearms Ownership*, *supra* note 27, at 131-51. Bellesiles cites Trabue's account for the proposition that "North Americans often perceived the ax as the equal of a gun." BELLESILES, *supra* note 3, at 76. Trabue's account, properly considered, shows reliance on firearms rather than axes. WESTWARD INTO KENTUCKY: THE NARRATIVE OF DANIEL TRABUE 44-46, 111 (Chester Raymond Young ed., 1981).

180. See *supra* note 106 and accompanying text.

181. BELLESILES, *supra* note 3, at 13.

182. *Supra* notes 108-112 and accompanying text.

183. A *Chicago Tribune* review (which is quoted on the back of the paperback edition of *Arming America*) is fairly typical:

Bellesiles, a professor of history at Emory University with a specialty in the culture of violence, argues . . . that early Americans had little use for guns and owned them hardly at all, and that gun ownership did not become widespread until a combination of

revealing to see what Bellesiles himself said in his interviews with the press from the early months before the probate data were revealed to be false, such as in the *Emory Report*,¹⁸⁴ *Salon*,¹⁸⁵ or *Playboy*.¹⁸⁶

Consider these questions and answers from a taped interview in *Playboy*:

PLAYBOY: You suspected the image we have of a musket over every fireplace. When did you first begin to notice the missing guns?

BELLESILES: . . . I was studying probate records, the most complete records, the most complete record of property ownership in early America. They contain lists of absolutely everything that a person owned—scraps of metal, broken glasses, bent spoons, broken plows. . . . While studying these probate records, I realized I was not seeing guns. They were supposed to be in every single home. When I looked at the frontiers of western Pennsylvania and northern New England, I found guns in only 10 percent of the probate records, and half of those guns were not in working order. Since then, I've read 11,150 probate records, samples over a 100-year period, and I have found guns in 13 percent of the probate records. Prior to 1850, the gun is just not there.

PLAYBOY: What else did you look at?

BELLESILES: States kept inventories of weapons. . . . [A]ll the governments regularly took a census of firearms. They sent the constables door-to-door to ask, "What guns do you have? What condition are they in?" . . .

government subsidy and clever marketing forced guns upon a heretofore unwilling population. This is a book guaranteed to make a lot of people angry.

In many ways, "Arming America" is the best kind of non-fiction. Bellesiles is trying to do a big thing—explain how the U.S. became so enamored of the firearm—and he goes about it with imagination and the care of a good historian. He stumbled on his thesis, he writes, when examining early American probate records for a study of frontier economics. In more than 1,000 records from New England and western Pennsylvania from 1765 to 1790—records that included property down to broken teacups—only 14 percent listed guns, and of those, more than half noted that the guns were in useless condition. "That was the beginning of this project," he writes, "a ten-year search for a word that isn't there."

What follows is more than 600 pages, copiously footnoted, that absolutely devastate the myth of the gun in early America. Bellesiles starts with the guns themselves. Guns in the 17th and 18th Centuries were so complicated, delicate, inaccurate and expensive that they were little more than status playthings for the rich.

Dan Baum, *Targeting America's Gun Culture: A New Book Shoots Down the Conventional Wisdom About the History of Our National Passion for Firearms*, CHI. TRIB., Sept. 3, 2000, at C1.

184. Terrazas, *supra* note 48.

185. Bowman, *supra* note 30.

186. James R. Petersen, *Arming America: When Did We Become a Gun Culture?*, PLAYBOY, Jan. 2001, at 69, http://www.guncite.com/gun_control_bellesiles_plby.html.

PLAYBOY: How many guns did the states find in the census?

BELLESILES: It depends on the state. In the Colonial period, there were only enough guns for about one and a half to two percent of the populace. . . .

PLAYBOY: Who was allowed to own guns?

BELLESILES: Only white male Protestant property owners. Not indentured servants. Not slaves. Not Indians. Not Catholics. . . .

PLAYBOY: What did a gun cost in the 18th century[?]

BELLESILES: A functional gun would cost five to six pounds, which is equivalent to a year's wages for an unskilled laborer, about half a year's wages for a skilled artisan. . . .

. . . .

PLAYBOY: The current gun debate is mired in homicide rates. If there were no gun culture in the Colonial era, how did we die?

BELLESILES: Scholars of violence who have looked at homicide found that there was little interpersonal violence in America prior to the 1840s. . . . When I was doing my research, I found county court records that did not show a homicide in a 50-year period.¹⁸⁷

If one reads these claims in light of what has been revealed since, one sees one error after another. Bellesiles claims:

(1) Probate records list “absolutely everything that a person owned—scraps of metal, broken glasses, bent spoons, broken plows”—when it is generally accepted that probate records are radically incomplete;¹⁸⁸

(2) In “the frontiers of western Pennsylvania and northern New England, I found guns in only 10 percent of the probate records”—rather than the roughly 40% of inventories that actually listed guns;¹⁸⁹

(3) “[H]alf of those guns were not in working order”—rather than fewer than 15% actually listed as not working;¹⁹⁰

187. Petersen, *supra* note 186.

188. *See supra* note 34 and accompanying text.

189. Lindgren & Heather, *supra* note 84.

190. *See supra* note 132 and accompanying text.

(4) “[A]ll the governments regularly took a [door-to-door] census of firearms”—when none of Bellesiles’s gun censuses are in fact full censuses of arms in all hands and apparently none were done door-to-door;¹⁹¹

(5) “[T]here were only enough guns for about one and a half to two percent of the populace”—when the best estimate is that about 54% of adult males owned firearms in their probate estates, and all published estimates are much higher than Bellesiles’s;¹⁹²

(6) “Only white male Protestant property owners” were “allowed to own guns”—when Catholics were rarely barred from gun ownership and women and poor white freemen were never barred in any source Bellesiles cites for propositions such as this;¹⁹³

(7) “A functional gun would cost five to six pounds”—when ordinary guns usually cost about £1;¹⁹⁴

(8) “[T]here was little interpersonal violence in America prior to the 1840s”—when homicide rates were as high or higher than today;¹⁹⁵ and

(9) County court records “did not show a homicide in a 50-year period”—when Bellesiles missed 100% of the homicide prosecutions in the 46 years of Plymouth records that Bellesiles says had no prosecutions for homicide.¹⁹⁶

Every one of these claims is false, and they are a pretty fair sampling of the errors discussed in this Review. If I had pulled the corresponding claims out of the book, I might have been accused of selectivity; yet seeing them one after another in a taped interview suggests just how central these myths are that Bellesiles advances. These are the sorts of claims that were praised on the book’s release, but have now been exposed as false.

To support his claim of low gun ownership, Bellesiles himself cited the probate data and the militia data.¹⁹⁷ And in April 2000, the *New York Times* called the probate data “Mr. Bellesiles’s principal evidence.”¹⁹⁸ When Charlton Heston tried to dismiss the probate data as irrelevant and

191. See *supra* Subsection II.B.1.

192. See *supra* note 77 and accompanying text; see also Lindgren & Heather, *supra* note 24 (manuscript at 25 & n.64).

193. See Cramer, *supra* note 161 (presenting scanned copies of militia and other statutes).

194. See *supra* note 141 and accompanying text.

195. See *supra* note 120 and accompanying text.

196. See *supra* notes 121-123 and accompanying text.

197. See *supra* note 113 and accompanying text.

198. Ramirez, *supra* note 29.

incomplete, he was rightly criticized for not wanting to face facts and for anti-intellectualism.¹⁹⁹

The actual probate data can't be easily put aside. They clearly undercut the book's thesis on many of its main points about early America—the number of guns in private hands, the era when gun ownership was first widespread, the condition of guns, where guns were kept, the price of guns, the familiarity of Americans with guns, the relative desire for guns, the gender breakdown of gun ownership, and the change in gun ownership over time. These are not just isolated facts; they go to the role and social meaning of guns in early America.

But what if the probate data could somehow be made to disappear? The sad fact is that we would still have the worst historical scandal in decades. The errors in the probate data may be the easiest to see, but they are not the only serious ones. There was a scandal before Justin Heather and I exposed *Arming America's* probate errors, and there will be a scandal now that our position is widely accepted, and the focus is returning to other parts of the book.

Unless one goes through all the book's comments on a particular topic and the evidence cited to back them up, one can't really see just how systematic the errors are. Randolph Roth has done this for Bellesiles's homicide data; Robert Churchill has done this for the gun censuses and militia counts; Justin Heather and I have done this for the probate data; Heather has done this for the stories about axes, bayonets, and edge weapons; Clayton Cramer has done this for several types of sources, including the gunsmith information, militia statutes, and substantial portions of the travel accounts. When one goes through an entire body of evidence, some errors are big and some are small, but the overall effect is shocking, indeed unprecedented for a Bancroft-Prize-winning book. Nearly every sentence that Bellesiles wrote about probate records in the original hardback edition of *Arming America* is false.²⁰⁰ Nearly everything that Bellesiles says about homicide is either false or misinterpreted, as is most of what he wrote about the relative merits of the axe over the gun.²⁰¹ When the sources do not support the main premise of *Arming America*, Bellesiles sometimes misreports their content in a way that fits his thesis, as he does in over 200 instances mentioned in this Review.²⁰² Using *Arming America*,

199. Bowman, *supra* note 30.

200. For example, five of the six sentences on probate records on page 13 of *Arming America* are false; of the twenty-one sentences about probate records on pages 109-10, seventeen are false, two are misleading, and only two sentences (having little to do with the thesis) are true. BELLESILES, *supra* note 3, at 13, 109-10; *supra* Subsection II.B.3.

201. See *supra* Sections II.C, II.F.

202. Over 170 of these involve basic misreadings of probate inventories or wills in Providence, Rhode Island, and Vermont, confirmed in print by Robert Churchill or Randolph Roth. See Churchill, *supra* note 39; Roth, *supra* note 41. See generally *infra* Appendix.

one could build a wonderful course for graduate students about historical methods—each student checking a different body of sources. Indeed, Eric Monkkonen is teaching such a course at UCLA this year.

There are two recurrent characteristics of Bellesiles's problems throughout the book and the dispute: (1) innumeracy, and (2) a failure to reconcile his findings with the existing literature. Bellesiles thinks that counting is important, indeed crucial to the book: "Without such efforts at quantification, we are left to repeat the unverifiable assertions of other historians, or to descend into a pointless game of dueling quotations—matching one literary allusion against another."²⁰³ Yet he created no database for any of his data.²⁰⁴ He just made tick marks on a legal pad—in the case of the probate data, over 11,000 of them.²⁰⁵

It is clear from Bellesiles's responses to criticism, moreover, that he does not understand how someone could prove his probate data false without checking all of it.²⁰⁶ For the last year, Knopf and Bellesiles have published a book whose most prominent data are not only false, but known to be mathematically impossible. The math, which has been verified by Randolph Roth, could be done by an average middle schooler; it is just computing a mean from several means.²⁰⁷ Why Knopf has not investigated this problem is unclear.

Bellesiles's innumeracy slides into his more general failure to reconcile his findings with the existing literature. Bellesiles claims that South Carolina had the lowest homicide rates in the country, while other

203. BELLESILES, *supra* note 3, at 262.

204. E-mail from Michael Bellesiles to author (Sept. 19, 2000) (on file with author).

205. *Id.*

206. Alison O. Adams, *Silenced: Is Uncivil Discourse Quelling Scholarship on Controversial Issues?*, EMORY ACAD. EXCHANGE, Dec. 2001-Jan. 2002, at http://www.emory.edu/ACAD_EXCHANGE/2002/decjan/silenced.html. Adams wrote:

Although Bellesiles was quoted in the *Chronicle of Higher Education* saying that Lindgren's criticisms were "valid," he emailed the Academic Exchange, "I have never understood Lindgren's logic of mathematical impossibility. Since neither he nor I have the numbers, which were lost in the Bowden [Hall] flood [in 2000], I am at a loss to grasp his omniscience."

Id.

207. If there are more than 201 inventories from Bellesiles's sixteen Southern counties (at his mean of 18.3% guns) for the twenty-six years 1765-1790, then Bellesiles's national mean of 14.7% of estates listing guns is mathematically impossible, since there are only 1200 inventories from the only region below the mean—the frontier, at 14.2% with guns. In fact, there are thousands of Southern inventories in his sample, not the 201 or fewer that could mathematically support his mean. We have shown his mean to be false with actual data both from Maryland and from Charleston, South Carolina. Lindgren & Heather, *supra* note 24 (manuscript at 53-54). An analogy might make the logic clearer. If someone tells you that they have a 3.9 GPA with thirty grades, but the first ten grades you check are Bs, you know that the 3.9 GPA is false. You don't have to check all the grades to prove that the GPA is false. Similarly, you do not need to recount all twenty-six years of data in *Arming America* to show that its national mean is false, just six months of data in one large Southern county, Charleston, South Carolina.

historians wrote the opposite.²⁰⁸ Bellesiles doesn't explain why he got different results. In this case, it's because he treated explicitly partial data as if they were complete and then compared these data to the state population. Bellesiles finds low counts of guns in probate records, but there are actually fairly high counts in the sources he cites. Again, he has made no attempt to figure out why his numbers are so different from everyone else's. Bellesiles claims that probate inventories list every item in an estate, but the scholars he cites say the opposite. Again, he has made no attempt to reconcile his conclusions.

When I first contacted Bellesiles privately in November 2000 with serious problems with his probate counts, I started with the Providence, Rhode Island, data. Bellesiles published (and confirmed in correspondence) that he used the published *Records of the Town of Providence*.²⁰⁹ I offered to lend him a copy to facilitate his checking. Resolving differences in counts ideally should be a matter of cooperation among scholars. It was not hard to see that he had counted women as men and intestate estates as having wills; an hour in the library would have shown that. Bellesiles wrote back that he would recount Providence, but that it was not "a top priority."²¹⁰ It was as if he were not surprised that he had miscounted most of the estates in Providence, or at least not curious whether he had done so.

In January 2001, when I first publicly presented the paper that I wrote with Justin Heather, Bellesiles responded to the criticism in a way that he repeated throughout the scandal—he mentioned all the hostile e-mail invective that he had received from gun lovers and attacked the quality of work of everyone who disagreed with him, including Alice Hanson Jones, whom he praises in the acknowledgements to the book.²¹¹ Bellesiles claimed that the deceased Jones, a giant in the field for whom the prize in economic history is named, confused the word "gown" for the word "gun" and avoided the poorer estates in her sample.²¹² Of course, he provided no

208. Roth, *supra* note 41, at 237 (explaining that the historian whose evidence Bellesiles cites to support low homicide rates in South Carolina actually concluded from that evidence that it was a "homicidal place").

209. In *Arming America*, Bellesiles disclosed that he obtained his Providence data from three volumes of the published records: "This data is drawn from Horatio Rogers et al., eds., *The Early Records of the Town of Providence*, 21 vols. (Providence, RI, 1892-1915), vols. 6, 7 and 16." BELLESILES, *supra* note 3, at 485 n.133.

He confirmed that his Providence data were drawn from the published records in correspondence: "Finally, I am sorry to hear that you come up with different numbers from Horatio Rogers, et al., eds., *The Early Records of the Town of Providence* (21 vols. Providence, R.I., 1892-1915). I used these books at the Huntington Library six years ago and have not yet come across my notes." E-mail from Michael Bellesiles to author, *supra* note 95.

210. E-mail from Michael Bellesiles to author, *supra* note 95.

211. BELLESILES, *supra* note 3, at 582.

212. Posting of Michael A. Bellesiles, mbelles@emory.edu, to H-OIEAHC@h-net.msu.edu (Jan. 9, 2001) (copy on file with author). Bellesiles wrote:

[Jones's] sample set does not constitute a complete run for every county in the years covered, and I noticed that the shorter probate inventories were generally the ones

evidence for these claims. I have checked enough of Jones's estates against the original records to know with relative certainty that she made no systematic reading errors. In one form or another, Bellesiles has quietly backed off on all the main claims that we showed were erroneous in that first January 2001 draft of our probate study.

III. CONCLUSION

Arming America is an impressive book, especially to those not versed in the materials that Bellesiles wrote about. It is extremely well-written for a book that covers so many apparent specifics of gun ownership and use. Superb historians praised it on its release. Yet even from the beginning, there were those who found disturbing differences between *Arming America* and its sources. As time has passed and other scholars have entered the debate, these errors—which once looked like such serious defects that they could not be true—have been confirmed. So far Bellesiles has not successfully defended any challenged portion of the book. Nor has he or any of his dwindling corps of defenders been able to point to any specific errors that Bellesiles's academic critics have yet made. Undoubtedly, those whose scholarship has uncovered errors in *Arming America* have made mistakes—everyone does from time to time. What is unprecedented in such a prominent book is how many errors it contains and how systematically the errors are in the direction of the thesis.

The book and the scandal it generated are hard to understand. How could Bellesiles count guns in about a hundred Providence wills that never existed, count guns in San Francisco County inventories that were apparently destroyed in 1906, report national means that are mathematically impossible, change the condition of guns in a way that fits his thesis, misreport the counts of guns in censuses or militia reports, have over a 60% error rate in finding guns in Vermont estates, and have a 100% error rate in finding homicide cases in the Plymouth records he cites? We may never know the truth of why or how *Arming America* made such basic errors, but make them it did.

As scholars, we must content ourselves with correcting errors and searching for the realities of gun ownership, use, and social meaning. Beyond that, we might try to figure out how to avoid a repetition of this unfortunate episode.

ignored. I was also struck by how often the word "gun" appeared, when in the eighteenth century that word generally referred to cannon. I turned to the original files, where I read words like "gown" that were recorded as "gun."

Id. Bellesiles has never been able to provide even one example of Jones confusing gowns for guns or of her supposed missampling in any county.

The historical profession will survive the Bellesiles scandal. If people had gone to the library when questions were raised over a year ago, then much of the acrimony could have been avoided. The errors in the Providence materials (e.g., counting women as men and counting guns in about a hundred wills that never existed) are just as clear and just as easy to check as those of Stephen Ambrose or Doris Kearns Goodwin. But Ambrose and Goodwin did not claim that they were political martyrs. They knew that people would eventually check the source books and see for themselves; they knew there was no point in denying the claims of error.

Bellesiles took a different tack. I was surprised when he did not take the usual scholarly approach of grudgingly admitting his errors—either when I contacted him privately or when I later presented my scholarship publicly.

Perhaps Bellesiles acted differently than Ambrose and Goodwin did because his errors are so much more serious. They go to issues at the heart of the book—how many guns there were, what condition they were in, who owned them, how they were used, and how much they cost. Even if Bellesiles withdrew the probate data, there would still be other problems—problems that scholars other than Justin Heather and I are examining with great care. Only by looking closely at the militia counts, gun censuses, battle stories, travelers' accounts, and every other type of source that Bellesiles relied on can the historical profession evaluate *Arming America*—and the new mythology of relative gunlessness in early America that it tried to create.

APPENDIX: SELECTED ERRORS IN ARMING AMERICA

This Appendix catalogues over 200 documents that Michael Bellesiles misread or misinterpreted in basic ways in the first edition of *Arming America*. Some of the most serious problems are included; some are not. Some touch the thesis of *Arming America* in fundamental ways; some do not. Most of the book's errors do not lend themselves to presentation in an appendix such as this. For example, where claims in the book are based on sources that no longer exist or never existed, there may be no sources with which to juxtapose the claims. Together, the sources on this list comprise many of the classes of error that scholars have discovered in trying to verify the book.²¹³

A. *The First Gun Count**Arming America:*

Through most of the seventeenth century the New England settlers were desperate for firearms and powder. . . . In 1630 the Massachusetts Bay Company reported in their possession: "80 bastard muskets . . . ; 6 long Fowlinge peeces . . . 6 foote longe; 4 longe Fowlinge peeces . . . 5-^{1/2} foote longe; . . . 10 Full musketts . . ." There were thus exactly one hundred firearms for use among seven towns with a population of about one thousand.²¹⁴

Cited Source:

26 February, 1628.

Necessaries conseaued meete for or intended voiadge for Newe England to bee prepared forthwth.

. . . .

Armes ffor 100 men:— . . . 80 bastard musketts . . . ; 06 longe ffowling peeces . . . 6 foote longe . . . ; 4 longe ffowlinge peeces . . . 5^{1/2} foote longe; 10 ffull musketts²¹⁵

213. The citations to handwritten manuscript sources in Vermont have not been checked by the editors of *The Yale Law Journal*.

214. BELLESILES, *supra* note 3, at 63.

215. 1 RECORDS OF THE GOVERNOR AND COMPANY OF THE MASSACHUSETTS BAY IN NEW ENGLAND 25-26 (Nathaniel B. Shurtleff ed., Boston, William White 1853).

In Bellesiles's first supposed gun count in the new world, he uses this source to show that settlers in Massachusetts Bay were only 10% armed, when it actually shows the plan to arm every man—100 guns for 100 men. It was not a list of guns “in their possession” in 1630, as he presents it. Rather, like a list of apparel for 100 men that precedes it, this is a list of “Armes ffor 100 men” that the company wants to ship over to America. Bellesiles lists the date as 1630, rather than 1628, in the cited text. Had Bellesiles made only one error and listed the date correctly as 1628 (or 1629), scholars would have known that it was not a list of guns actually in the Massachusetts Bay Colony, which was founded in 1630. (Error first identified by Clayton Cramer.)

B. *An English Bookseller with a Pike*

Arming America:

Pikemen were present at nearly every encounter in King Philip's War, as there simply were not enough guns to go around. Nonetheless, in October 1675, the Massachusetts General Court ordered that, “Whereas it is found by experience that troopers & pikemen are of little use in the present warr with the Indians . . . It is ordered by the court . . . that all pikemen are hereby required . . . to furnish themselves with fire armes.” But they could not locate sufficient guns, leading one Massachusetts soldier to recall in 1681, “I thought a pike was best for a young soldier, and so I carried a pike, and . . . knew not how to shoot off a musket.”²¹⁶

Cited Source:

But from Love, I must make a Transition to Arms; and cou'd you think that [I] . . . wou'd ever make a *Souldier*? Yet so it fell out: For 'tis their Custom here for all that can bear Arms, to go out on a Training Day: But I thought a Pike was best for a Young Souldier, and so I carry'd a Pike; and between you and I, Reader, there was another Reason for it too, and that was, I knew not how to shoot off a Musquet. But 'twas the first time I ever was in Arms; which tho' I tell thee, Reader, I had no need to tell to my *Fellow-Souldiers*, for they knew it well enough by my awkward handling of them. For I was as unacquainted with the Terms of Military Discipline, as a wild Irish Man [who did not know his right hand from his left] . . .

216. BELLESILES, *supra* note 3, at 117.

But we were even here, for tho' they understood Arms better than I,
yet I understood Books better than they.²¹⁷

The author, John Dunton, was not a "Massachusetts Soldier," but rather an English bookseller on a five-month visit to America in 1686.²¹⁸ Unlike American settlers, he knew nothing about arms. Bellesiles offers Dunton's letter as evidence of a shortage of guns, American unfamiliarity with guns, and a preference for pikes. To the contrary, Dunton observes American familiarity with guns and his arming by others suggests no shortage of firearms. As to Dunton's preference for pikes, he explains his reasons, which mostly do not apply to the Americans he is writing about. Last, *Arming America* mistakenly shifts the date of this source to five years closer to King Philip's War, and Bellesiles uses the source to support his contention that there were gun shortages *during that war*. (Error first identified by Justin Heather.)

C. *Benedict Arnold and the Brown Besses*

Arming America:

When news of Lexington reached New Haven, Benedict Arnold inspected his troops and found them largely unarmed. He threatened to break into the town arsenal in order to arm his men, but the town's selectmen relented and opened the doors to his militia, with Arnold supervising the distribution of Brown Besses.²¹⁹

Cited Source:

In New Haven, the enthusiasts were not thwarted, although Benedict Arnold had to threaten to break open the powderhouse before town leaders supplied his volunteers with ammunition.²²⁰

The claims that the men were gunless and that Arnold distributed Brown Besses are nowhere in the cited source. I know of no reason to believe that Bellesiles's story is true. (Error first identified by Robert Churchill.)

217. Letter from John Dunton to George Larkin (Mar. 25, 1686), in JOHN DUNTON'S LETTERS FROM NEW-ENGLAND 56, 140 (William H. Whitmore ed., Boston, T.R. Marvin & Son 1867).

218. William H. Whitmore, *Preface* to JOHN DUNTON'S LETTERS FROM NEW-ENGLAND, at i, xxii-xxiii (William H. Whitmore ed., Boston, T.R. Marvin & Son 1867).

219. BELLESILES, *supra* note 3, at 181.

220. HAROLD E. SELESKY, WAR AND SOCIETY IN COLONIAL CONNECTICUT 228-29 (1990).

2002]

Arming America

2237

D. Axes for Woodworking

Arming America (discussing Frederick Gerstaecker's observations of Americans):

He noted that they were very "expert" at the use of axes, "which they begin to wield as soon as their arms are strong enough to use them," adding that axes made very good weapons.²²¹

Cited Source:

As they are thrown on their own resources from their youth, these Americans are very skilful in providing for their necessary wants, and are particularly expert with the axe, which they begin to wield as soon as their arms are strong enough to lift it. They use it for a variety of purposes—building houses, laying roofs and floors, forming the chimneys and doors, the only other tool used being an auger; and nothing amuses them more than to see the awkwardness of a new comer, when first he handles an axe.²²²

Gerstaecker's statement that "axes make very good weapons" is not in the original source as Bellesiles claims, either on the page Bellesiles cites (241) or elsewhere in the book. This mistake furthers one of *Arming America's* major themes—the axe as an important weapon, rivaling the gun. (Error first identified by Justin Heather.)

E. Guns for Personal Use

Arming America:

Ole Rynning advised his Norwegian readers to bring "good rifles with percussion locks," as such good guns are far too expensive in America and can be sold there for a solid profit. Guns thus had an economic value, but if thought requisite for self-protection, it remained an unstated assumption.²²³

Cited Source:

Those who wish to emigrate to America ought to take with them . . . Some good rifles with percussion locks, partly for

221. BELLESILES, *supra* note 3, at 313.

222. FREDERICK GERSTAECKER, *WILD SPORTS IN THE FAR WEST* 241 (Boston, Crosby, Nichols & Co. 1860).

223. BELLESILES, *supra* note 3, at 341.

personal use, partly for sale. I have already said that in America a good rifle costs from fifteen to twenty dollars.²²⁴

If Bellesiles had included the four words after the ones he quoted, his readers could have seen for themselves that Rynning believed guns should be brought “partly for personal use.” This reason was present and not “unstated.” (Error first identified by Clayton Cramer.)

F. *Anti-Federalists Wanting Every Man Armed*

Arming America:

Smilie, like most Anti-Federalists, had no problem granting the state the authority to decide who should be allowed to serve in the militia, or to limit those ineligible from owning guns. Nor did most Anti-Federalists want to see the propertyless carrying arms in or out of the militia.²²⁵

Cited Sources:

(1) *Federal Farmer:*

A militia, when properly formed, are in fact the people themselves, and render regular troops in a great measure unnecessary. . . . First, the constitution ought to secure a genuine and [sic] guard against a select militia, by providing that the militia shall always be kept well organized, armed, and disciplined, and include, according to the past and general usage of the states, all men capable of bearing arms [I]t places the sword in the hands of the solid interest of the community, and not in the hands of men destitute of property, of principle, or of attachment to the society and government, who often form the select corps of peace or ordinary establishments: by it, the militia are the people [T]o preserve liberty, it is essential that the whole body of the people always possess arms²²⁶

(2) *George Mason:*

I ask who *are* the militia? They consist now of the whole people, except a few public officers. But I cannot say who will be the militia of the future day. If that paper on the table gets no alteration, the militia of the future day may not consist of all classes, high and

224. OLE RYNNING, OLE RYNNING’S TRUE ACCOUNT OF AMERICA 99 (Theodore C. Blegen ed. & trans., 1926).

225. BELLESILES, *supra* note 3, at 223.

226. Letter from the Federal Farmer (Jan. 25, 1788), in 2 THE COMPLETE ANTI-FEDERALIST 339, 341-42 (Herbert J. Storing ed., 1981).

low, and rich and poor; but may be confined to the lower and middle classes of the people, granting exclusion to the higher classes of the people. If we should ever see that day, the most ignominious punishments and heavy fines may be expected. Under the present Government all ranks of people are subject to militia duty. Under such a full and equal representation as ours, there can be no ignominious punishments inflicted.²²⁷

Both these sources, cited by Bellesiles to support his claims, argue something quite different. Contrary to Bellesiles's position, Mason and the Federal Farmer had problems "granting the state the authority to decide who should . . . serve in the militia" or who should own guns. Further, they did favor poor whites carrying arms, despite their distrust of them, so long as every (white) man bore arms. (Errors first identified by Eugene Volokh.)

G. *Females Counted as Males*

Arming America (discussing the Providence probate inventories):

These 186 probate inventories from 1680 to 1730 are all for property-owning adult males²²⁸

*Examples of Female Inventories:*²²⁹

- "Inventory of the Estate of . . . Alice Angell . . ." (7:88);
- "Inventory of the Estate of Mrs ffreelove Crawford . . . (Widow)" (7:117);
- "Inventory of the Estate of Sarah Gurney" (7:168);
- "Inventory of the Esstate of ms Mary Borden" (16:60);
- "Inventory of all and singulior the Goods and Chattles of Mary Whiteman" (16:70);
- "Inventory of all the Esstate . . . of Mary Inman . . . widdow" (16:146);
- "Inventory of the Esstate of Susanna Whipple" (16:174);
- "Inventory of all and singulior ye Goods & Chattles of Joanna Inman" (16:236);
- "Inventory of all and singulior ye Goods and Chattles of Tabitha Inman . . . spinser" (16:238);
- "Inventory of the Esstate of mrs Elizabeth Towers" (16:278);
- "Inventory of the Esstate of mrs Lydia Williams" (16:341);
- "Inventory of the Esstate of Rachal Potter . . . widow" (16:346);
- "Inventory . . . of All and singulior the Goods Chattles and Creadits of Anna Whipple widow" (16:370);
- "An inventory of the Esstate of Abigail Hopkins" (16:410);

227. 10 DOCUMENTARY HISTORY OF THE RATIFICATION OF THE CONSTITUTION 1312 (John P. Kaminski et al. eds., 1993) (comments of George Mason at the Virginia Convention). Bellesiles cites the page as 312, not 1312. BELLESILES, *supra* note 3, at 519 n.51.

228. BELLESILES, *supra* note 3, at 109.

229. Citations throughout are by volume and page number to EARLY RECORDS OF THE TOWN OF PROVIDENCE (Horatio Rogers et al. eds., Providence, Snow & Farnham City Printers 1894-1901).

“Inventory of the Esstate of mris Sarah Clemance” (16:420);

“Inventory of the moveable Esstate of the Widdow Ann Lewes” (16:429).

These are 16 of the 17 female estates with inventories within Bellesiles’s sample of 186 estates, supposedly all male, cited in the hardback edition of *Arming America*.

H. *Counting Guns in Nonexistent Wills*

Arming America (discussing Providence wills):

Just two of the 186 wills accompanying these probate files specifically mention a gun²³⁰

*Examples of Intestate Estates Without Wills Among His 186 Estates Supposedly with Wills:*²³¹

- | | |
|--|---|
| “Resolved waterman . . . dyed intestate” (6:12); | “John Mathuson . . . dieing intested” (7:205); |
| “Estate of . . . Tolleration Harris who died intested” (6:35); | “Richard Coman . . . dyed Intestate” (16:9); |
| “John Joanes . . . dieing intested his Estate falling unto ye Care of ye Towne Councill of Providence aforsaid for disposition” (6:120); | “Stephen Arnold Junr . . . dyed Intestate” (16:14); |
| “Benjamin Beers . . . dieing intested” (6:162); | “James Applebey . . . Died Intestate” (16:17); |
| “Benjamin Greene . . . dyeing Entestate” (6:163); | “Thomas ffield . . . Dyed Intestate” (16:31); |
| “Noah whipple . . . dyeing intested” (6:239); | “Richard Lewes . . . Dyed Intestate” (16:33); |
| “Samuell Winsor . . . leaveing no Legall written Instrument whereby the sd Estate might be disposed” (6:253); | “Thomas Olney . . . dyed Intestate” (16:45); |
| “James Angell . . . dyeing intested” (7:32); | “Mary Borden . . . dyed Intestate” (16:62); |
| “Stephen Hawkings . . . dying intested” (7:35); | “Samuel Wright . . . dyed Intestate” (16:63); |
| “John Potter . . . dyeing intested” (7:45); | “Mary Whitman . . . Dyed Intestate” (16:73); |
| “Benjamin Carpenter . . . who dyed intested” (7:65); | “John Paine . . . dyed Intestate” (16:92); |
| “Daniell Browne . . . dyeing intested” (7:69); | “James Rogers . . . Died Intestate” (16:97); |
| “William Randall . . . dying intested” (7:106); | “John Browne . . . dyed Intestate” (16:120); |
| “George Potter . . . dyeing intested” (7:109); | “Eliezer Whipple . . . dyed Intestate” (16:121); |
| “Daniell Williams . . . dyeing intested” (7:112); | “John Smith Junr . . . dyed Intestate” (16:124); |
| “Benoni Woolley . . . dying intested” (7:139); | “William Crawford . . . died Intestate” (16:156); |
| “William Hawkins . . . dying intested” (7:142); | “Lott Trip . . . dyed Intestate” (16:159); |
| “Eliezer Arnold junr . . . dying intestate” (7:152); | “Hannah Wailes . . . dyed Intestate” (16:167); |
| | “Susannah Whipple . . . Dyed Intestate” (16:175); |
| | “John Phillips . . . Died Intestate” (16:199); |
| | “Tabathy Inman . . . dyed Intestate” (16:241); |
| | “Samuell Gorton . . . Died Intestate” (16:246); |
| | “Elizabeth Towers . . . Dyed Intestate” (16:279); |

230. BELLESILES, *supra* note 3, at 110.

231. Citations throughout are again by volume and page number to EARLY RECORDS OF THE TOWN OF PROVIDENCE (Horatio Rogers et al. eds., Providence, Snow & Farnham City Printers 1894-1901).

“Solomon Thornton . . . dyeing intested”
(7:157);

“John King . . . Dyed Intestate” (16:286);

“John Hause . . . Died Intestate” (16:312).

“William Turpin . . . dying Intested” (7:179);

In the hardback edition of *Arming America*, Bellesiles claimed to have read 186 wills in the Providence records looking for guns. Yet for about 100 of these 186 estates, there were no surviving wills, almost always because the decedent died without making one. The above examples are fewer than half of the estates without wills. Bellesiles could not have read wills in these estates because they never existed.

I. *Guns in Travel Accounts*

Arming America:

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. . . . The absence of discussion about guns in travelers' accounts is intriguing . . .²³²

Cited Sources Include:

(1) *Baynard Rush Hall:*

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 “varments.” With it we kill our beeves and our hogs, and cut off our fowls' heads: do all things in fact, of the sort with it, where others use an axe, or a knife, or that far east savagism, the thumb and finger. The rifle is a woodsman's lasso. He carries it everywhere as (a very degrading comparison for the gun, but none other occurs), a dandy a cane. All, then, 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 dead, and we had listened to achievements it had done and could do again.²³³

232. BELLESILES, *supra* note 3, at 306.

233. ROBERT CARLTON [BAYNARD RUSH HALL], *THE NEW PURCHASE, OR, SEVEN AND A HALF YEARS IN THE FAR WEST* 107-08 (James Woodburn ed., Princeton Univ. Press 1916) (1816). This passage appears in a chapter devoted mostly to his love of rifles and of target shooting.

(2) *William Blane*:

Go to what house I might, the people were always ready to lend me a rifle, and were in general glad to accompany me when I went out hunting.²³⁴

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. . . . It is reckoned very unsportsmanlike, to bring home a squirrel or a turkey, that has been shot any where, except in the head. I have known a boy put aside and hide a squirrel that had been struck in the body; and I have often seen a Backwoodsman send a ball through the head of one which was peeping from between a forked bough at the top of one of the highest trees, and which I myself could hardly distinguish.²³⁵

(3) *Fortescue Cuming*:

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.²³⁶

(4) *Isaac Weld (comparing Canadian hunters to U.S. hunters)*:

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.²³⁷

(5) *Charles Murray*:

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

234. WILLIAM N. BLANE, AN EXCURSION THROUGH THE UNITED STATES AND CANADA DURING THE YEARS 1822-23, at 145 (London, Baldwin, Craddock & Joy 1824).

235. *Id.* at 302.

236. FORTESCUE CUMING, SKETCHES OF A TOUR TO THE WESTERN COUNTRY (1810), reprinted in 4 EARLY WESTERN TRAVELS, 1748-1846, at 46 (Reuben Gold Thwaites ed., 1904).

237. 2 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 150 (London, John Stockdale 1807).

agriculturist, 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."²³⁸

These are just a few of the travel accounts that Bellesiles cites for the absence of guns, but which directly contradict his claim that these travelers or settlers did not notice that they were surrounded by guns. (Errors first identified by Clayton Cramer, though the passages differ somewhat.)

J. *Homicides and Assaults in Plymouth*

Arming America:

[I]n forty-six years Plymouth Colony's courts heard five cases of assault, and not a single homicide.²³⁹

*Examples of Homicide Cases Heard in the Document Series Cited:*²⁴⁰

Arthur Peach, Thomas Jackson, Richard Stinnings, & Daniell Crosse were indicted for murther & robbing by the heigh way. . . .

. . . .

They [the jury] found the [defendants] . . . guilty of the said felonious murthering & robbing

(1638, 1:96-97)

Att this Court, Aliche Bishope . . . was indited for felonius murther by her comited, vppon Martha Clark, her owne child, the frute of her owne body. . . .

. . . .

These [jurors] found the said Aliche Bishope guilty of the said fellonius murthering of Martha Clarke afsorsaid; and so shee had the sentence of death pronounced against her, . . . which acordingly was executed.

(1648, 2:134)

Robert Latham was indited for fellonious crewelty done vnto John Walker, his servant, aged about 14 yeares, by vnreasonable correction, by withholding nessesary food and clothing, and by exposing his said servant to extremitie of seasons, whereof the said John Walker languished and imeadiately died

. . . .

These [jurors] found the said Robert Latham guilty of manslaughter by chaunc medley.

(1654, 3:73)

238. 1 CHARLES AUGUSTUS MURRAY, *TRAVELS IN NORTH AMERICA DURING THE YEARS 1834, 1835, 1836*, at 118-19 (London, Richard Bentley 1839).

239. BELLESILES, *supra* note 3, at 82. The forty-six years were later identified by Bellesiles as 1636-1681. Michael A. Bellesiles, *Exploring America's Gun Culture*, 59 WM. & MARY Q. 241, 253 (2002).

240. Citations are by year of case, volume, and page to RECORDS OF THE COLONY OF NEW PLYMOUTH IN NEW ENGLAND (Nathaniel B. Shurtleff ed., Boston, William White 1855-1861).

John Hawes, of Yarmouth, was indited for violently and by force of armes taking away the life of Joseph Rogers . . . by giueing him a most deadly fall

....

These [jurors] brought in a verdict wherin . . . John Hawes was not guilty

(1660, 3:205)

Samuell Howland . . . by discharging of a fowling peece on the body of Willam Howse . . . wherby the said House was wounded, languished, and ymediately died.

....

The verdict . . . : Not guilty of wilfull murder

(1663, 4:49-50)

Att this Court, a natiue named Matthias . . . was indited for killing of another natiue named Joseph . . .

The verdict of the jury was,—

We find him guilty of manslaughter by way of chaunce medley.

(1674, 5:156)

Wee, of the jury, one and all, both English and Indians, doe joyntly and with one consent agree vpon a verdict: that Tobias, and his son Wampanquan, and Mattashunnamo, the Indians, whoe are the prisoners, are guilty of the blood of John Sassamon, and were the murderers of him, according to the bill of inditement.

....

The verdict of the jury being accepted by the Court, the sentence of death was pronounced against them

(1675, 5:167-68)

Indian James, thou art heer indited . . . for that thou . . . didest feloniously, willfully, and of mallice forethought, with intent to murder, kicke Samuell Crocker . . . on the bottome of his belley, wherof the said Samuell Crocker three weekes after died

The jury find the prsener nott guilty of wilfull murder.

(1681, 6:82)

These are some of the homicide “cases heard” by the Plymouth courts in the forty-six years. (Errors first identified by Randolph Roth.)

*Examples of Assault Cases Heard in the Document Series Cited.*²⁴¹

“Francis Sprague fined . . . for beating Wm Halloway . . .” (1637, 1:75).

“Edward Dotey for breakeing the Kings peace, in *in* assaulting Georg Clarke. Fined xs” (1637, 1:75).

“Robert Barker . . . for breakeing the Kings peace in drawing blood vpon Henry Blague, fined . . .” (1638, 1:106).

“Abraham Sampson . . . psented for strikeing & abusing John Washbourne . . .” (1638, 1:107).

“Ralph Goarame, thelder, psented for breakeing the Kinges peace in beateing of Webb Adey” (1638, 1:118).

“Joseph Halloway, for breakeing the Kings peace, in strikeing Peter Handbury, for wch he is indicted, is fyned xls” (1642, 2:42).

“Abraham Pearse complns agst Mr Wm Hanbury, in an action of assault & battery” (1643, 7:35).

241. Citations are by year of case, volume, and page to RECORDS OF THE COLONY OF NEW PLYMOUTH IN NEW ENGLAND (Nathaniel B. Shurtleff ed., Boston, William White 1855-1861).

- “We do here pSENT Mr Symkins for the breach of the Kings peace, wth strikeing of Thomas Hinkley. Released” (1645, 2:97).
- “Thomas Hitt . . . to answeRE for haueing a hand in the said affray made vpon Vssamequin . . .” (1646, 2:99).
- “Wee pSENT Willam Halloway and Peregrin White, both of Marshfeild, for fighting” (1649, 2:147).
- “Wee present James Cole, of the towne of Plym, for making of a batterie vppon Willam Shirtley . . .” (1650, 2:162).
- “[W]ee present Ralph Chapman . . . for striking of Ferman Haddon” (1650, 2:165).
- “John Holmes complained against Joseph Warren, in an action of battery . . .” (1651, 7:56).
- “John Holmes complained against Edward Doty, in an action of trespass and assault . . .” (1651, 7:56).
- “John Willis . . . complaineth . . . against Trustrum Hall and his wife, in an action of assault and battery . . .” (1651, 7:58).
- “Wee pSENT Joane, the wife of Obadiah Miller . . . for beating and reviling her husband, and egging her children to healp her, bidding them knock him in the head . . .” (1654, 3:75).
- “Att this court, Sarjeant Tickner was fined twenty shillings for striking and abusing Joseph Wormall . . .” (1660, 3:209).
- “Ralph Smith . . . for breaking the peace in striking of Willam Walter, is fined . . .” (1662, 4:34).
- “Thomas Pope and Gyles Rickard, Senir, for breaking the Kinges peace by striking each other, were fined . . .” (1663, 4:48).
- “Thomas Pope his striking of the said Rickards wife . . . the Court haue centanced him . . .” (1663, 4:49).
- “Ensigne Willams and John Bayley, for breakeing the peace by striking one another, fined . . .” (1663, 4:50).
- “Richard Willis and Joseph Sauory, for breaking the peace by striking one another, fined . . .” (1663, 4:50).
- “Henery Green . . . for breach of the peace by striking Philip Leanard, fined . . .” (1663, 4:50).
- “William Randall complained . . . for assault and battery made by the said Thomas Hatch . . .” (1664, 7:116).
- “Edward Jenkins complained against Ensigne John Williams, in an action of the case, to the damage of twenty pounds, for battery, and shedding of blood by striking the said Jenkins” (1664, 7:116).
- “William Randall, for breakeing the Kings peace by poakeing or strikeing Jeremiah Hatch with a ho pole, is sentanced to pay a fine . . .” (1665, 4:83).
- “James Cole, Junir, for breaking the Kinges peace in strickeing of Robert Ransome, is fined . . .” (1665, 4:88).
- “Ephraim Tilson, for breaking the Kinges peace in strickeing Robert Ransome, is fined . . .” (1665, 4:88).
- “John Bates and Willam Burden, their breaking the Kinges peace by striking each other, they were sentanced by the Court . . .” (1666, 4:137).
- “Jabez Howland . . . to make further answare for misdemenior towards Joseph Billington by striking and otherwise abusing of him . . .” (1666, 4:137).
- “John Andrew, for breakeing the Kinges peace by strikeing Joseph Bartlett, was fined . . .” (1666, 4:139).
- “Joseph Bartlett, for breakeing the Kinges peace in striking the said Andrew, fined . . .” (1666, 4:139).
- “Joseph Turner, for his breach of the peace in strikeing Thomas Perrey, is fined . . .” (1667, 4:177).
- “Joseph Bartlett, for breakeing the Kinges peace in strikeing of an Indian called Sampson, is centanced to pay a fine . . .” (1667, 4:177).

- “Mary Phillips and Jane Hallowey, for breaking the Kings peace by strikeing each other, were fined . . .” (1668, 4:187).
- “Richard Dwelley, wherby hee is convicted of fighting . . . , the Court haue centanced him to pay a fine . . .” (1668, 4:191).
- “Mr Josias Winslow, for breaking the kinges peace by strikeing Nathaniel Winslow, was fined . . .” (1668, 5:10).
- “Caleb Lumburt, for breaking the Kinges peace in striking of James Gleaghorn, was fined . . .” (1668, 5:16).
- “Willam Thomas and Samuell Arnold, Junir, for breaking the Kinges peace in striking each other, were fined . . .” (1668, 5:16).
- “Att this Court, John Dunham . . . came into the Court and complained against John Dotey, that hee . . . did crewelly beate him . . .” (1669, 5:25).
- “John Tilson, in breaking the Kings peace by strikeing Robert Ransom, the said Tilson is fined 3s 4d” (1669, 5:30).
- “Thomas Mathewes, for vnreasonably beateing of the Indian Ned, and therin breaking the Kings peace, is fined . . .” (1669, 5:31).
- “Samuell Norman, for breaking the Kinges peace in strikeing Lydia, the wife of Henery Tayler, was fined . . .” (1670, 5:39).
- “And in reference to the said Norman his throwing his hoe att Hannah Daus, and thereby soe hiting her . . . , hee was centanced by the Court to pay . . .” (1670, 5:39).
- “John Gray, for breaking the Kinges peace in striking of John Hawes, was fined . . .” (1670, 5:53).
- “[A]n Indian called Will, for his vnsufferable, insolent carriage in oposing of and strikeing att the constable of Yarmouth with an axe, &c, was fined twenty shillings” (1670, 5:53).
- “Willam Griffin and Richard Michell . . . for fighting together, and therby breaking the Kinges peace, were fined . . .” (1670, 5:53).
- “Richard Marshall, for abusing his wife by kiking her of from a stoole into the fier, was centanced to sitt in the stockes . . .” (1671, 5:61).
- “Richard Dillinga, for breakeing the Kinges peace by striking of Jabeze Howland, was fined . . .” (1671, 5:65).
- “Willam Randall, for abuseing and strikeing of Edward Wanton, was centanced by the Court . . .” (1674, 5:148).
- “[I]f the said John Cowine be off the peace . . . towards Ensigne John Williams, . . . whome he lately assaulted and abusiuey wounded; and that hee . . . doe psonally appeer att the Court . . .” (1674, 5:163).
- “Robert Crosman, . . . for abusing the constable . . . by throwing a sticke att him, and drawing his knife and saying hee could afford to stabb him, was fined . . .” (1675, 5:169).
- “Joseph Burge, for . . . beating one of the guard . . . is fined . . .” (1675, 5:181).

Bellesiles uses his count of “cases of assault” to establish his claim of low violence in Plymouth Colony. These are most of the 1636-1681 assault cases heard by the Plymouth courts in the volumes of Shurtleff cited in *Arming America*. Technically, assault originally consisted of putting someone in fear of a battery. As these cases show, what we would today informally call an assault was then usually punished criminally as a breach of the King’s peace and much less often by a tort action for damages for assault or for battery. It is not clear exactly what Bellesiles counted or thought that he counted as assaults. In any event, there are many more than five prosecutions for assault-type behavior in the set of Plymouth Colony records that Bellesiles cites.

2002]

Arming America

2247

K. *Vermont Probate Estates with Gun Conditions Misreported**Bellesiles in Current
Website Report.*²⁴²*Original Record.*²⁴³“1788 Eln. Hubbel farmer
Bennington gun £2,8, old gun £1”Bennington District (I:366-375):
“1 Gun” 0-48-0;
“1 other Gun” 0-18-0“1783 Oliver Scott farmer Rupert
3 old guns £2,16”Manchester District (I:72-73):
“1 Gun” 1-10-0; “1 Do.” 1-0-0;
“1 Do.” 0-6-0;
“one pair of horse guns” 0-8-0“1784 Sam. Nichols farmer
Guilford better gun £2, poorer 13s”Marlboro District (I:32-33):
“2 Fire Arms the one at L2 the
other at 8s”

Vermont counties make up the bulk of the estates in *Arming America's* frontier counties from 1765 to 1790 (Bellesiles finds guns in only 14% of them).²⁴⁴ To support such a low percentage of guns on the frontier, he has provided on his website since October 2001 a report listing forty-five Vermont estates with guns, which purports to be a count and description of all of the Vermont gun estates from 1770 to 1790.²⁴⁵ In the list of Vermont gun estates on his website, Bellesiles misreports the conditions of guns in the three estates listed above.

242. Bellesiles, *supra* note 85.

243. Citations are by book and page to the following manuscript probate court records: Probate Court Records, Bennington District Probate Court, bk. I (Bennington County Probate Court, Bennington, VT); Probate Court Records, Hartford District Probate Court, bk. I (Windsor County Probate Court, Woodstock, VT); Probate Court Records, Manchester District Probate Court, bk. I (Bennington County Probate Court, Manchester, VT); Probate Court Records, Marlboro District Probate Court, bk. I (Windham County Probate Court, Brattleboro, VT); Probate Court Records, Rutland District Probate Court, bks. I-II (Rutland County Probate Court, Rutland, VT); Probate Court Records, Westminster District Probate Court, bk. I (Windham County Probate Court, Bellows Falls, VT); Probate Court Records, Windsor District Probate Court, bks. I-II (Windsor County Probate Court, North Springfield, VT).

244. BELLESILES, *supra* note 3, at 445.

245. Bellesiles, *supra* note 85.

L. *Vermont Gun Estates Missing from Bellesiles's Counts*

In the list of forty-five Vermont gun estates on his website described immediately above,²⁴⁶ Bellesiles misses some or all guns in most of Vermont's gun estates. Bellesiles misses all guns in the following estates:²⁴⁷

(1) In book I of the Bennington District manuscript probate records:

John Armstrong (p. 45), John Hodgkinson (p. 72), David Barber (p. 91), Luther Lawrence (p. 96), Amos Fairchild (p. 178), Levi Morgan (p. 212), Jedediah Dewey (p. 225), Benjamin Fray (p. 282), Jonathan Moon (p. 290), Abner Drinkwater (p. 307), Samuel Hunt (p. 330), William Hundbeck/Hendricks (p. 413);

(2) In book I of the Hartford District manuscript probate records:

Enoch Bontwell (p. 11), Elkanock Stuart (p. 14), John Northam (p. 18), Nathan Gall (p. 22), Alexander Miller (p. 32), Philip Smith (p. 35), Oliver Farnsworth (p. 55), Perez Woods (p. 63), Joseph Smalley (p. 70), Benjamin Cox (p. 73), Phinchas Power (p. 82), William Huchins (p. 97), Lt. James Smalley (p. 109), Thomas Pitkin (p. 113), Charles William, Jr. (p. 120), Joseph Bates (p. 128), Billa Gray (p. 150);

(3) In book I of the Manchester District manuscript probate records:

John Sherman (p. 54), William Searl (p. 63), Elijah Golusha (p. 90), Benjamin Rose (p. 135), John Grimel (p. 151), Lemuel Buck (p. 169), Alaph Leaven (p. 200), Jonathan Hay (p. 236);

(4) In book I of the Marlboro District manuscript probate records:

William Sears (p. 91), Charles Phelps (p. 131), Thomas Sergeant (p. 156), Francis Whitmore (p. 169), Richard Weatherbee (p. 179);

(5) In book I of the Rutland District manuscript probate records:

Ezra Mead (p. 13), Eleazer Davis (p. 174);

246. *Id.*

247. Citations are by page to the manuscript probate court record sources cited *supra* note 243.

2002]

Arming America

2249

(6) In book II of Rutland District manuscript probate records:

Nathan Baldwin (p. 1), Capt. William Fitch (p. 11), Jacob Linly (p. 71), William Douglass (p. 73), Robert Adams (p. 83), Samuel Gates (p. 103), Joseph Throop (p. 112), Daniel Edgerton (p. 121), Solomon Steel (p. 140), Daniel Wyman (p. 161), Philip Griffiths (p. 169), Elisha Clark (p. 190), Jacob Katts (p. 209), Caleb Calvin (p. 220), Stephen Royce (p. 231);

(7) In book I of Windsor District manuscript probate records:

Benjamin Allen (p. 4), Johnson Hutchinson (p. 33), Benjamin Bishop (p. 38), Asahel Johnson (p. 56), Elijah Smith (p. 59);

(8) In book II of Windsor District manuscript probate records:

Combs House (p. 1), James Martin, Jr. (p. 8), Josiah Hall (p. 27), John Duke (p. 35).

Overall, Bellesiles finds only 45 Vermont estates with guns, when there were 115 such surviving gun estates in Vermont (or 110 if you exclude Orange County, which Bellesiles did in *Arming America*). Thus, besides misdescribing guns and omitting some guns in gun estates he identifies, he misses all guns in at least 65 Vermont estates.

Errata

Fall From Grace: Arming America and the Bellesiles Scandal

page 2206:

Line 5: Change “57%” to “43%”.

Line 7: Replace “,” with “.” and delete the rest of the sentence.

Lines 9-10: Delete “and flipping the results from armed to unarmed”.

Line 11: Change “82” to “81”.

October 29, 2002



bepress Legal Repository