

Nos. 25-238 & 25-566

**In the Supreme Court of
the United States**

CUTBERTO VIRAMONTES, ET AL.,
Petitioners

v.

COOK COUNTY, ILLINOIS, ET AL.,
Respondents

EDDIE GRANT, JR., ET AL.,
Petitioners

v.

RONNELL HIGGINS, ET AL.,
Respondents

ON WRITS OF CERTIORARI TO THE
UNITED STATES COURTS OF APPEALS
FOR THE SECOND AND SEVENTH CIRCUITS

BRIEF FOR AMICUS CURIAE
SECOND AMENDMENT LAW CENTER IN SUPPORT
OF PETITIONERS AND REVERSAL

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TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES.....	iii
INTEREST OF AMICUS CURIAE.....	1
SUMMARY OF ARGUMENT.....	1
ARGUMENT	3
I. THE AR-15 IS THE HISTORICAL EVOLUTION OF RIFLE DESIGNS IN COMMON USE THAT ORIGINATED 125 YEARS AGO	3
A. Introduced in 1964, the AR-15 Sporter Has Versatile Features that Have Rendered it to be in Common Use by the Public	3
B. The AR-15 Is Just the Latest Evolution in Over a Century's Tradition of Common Use of Semiautomatic Rifles	9
C. The Term "Assault Weapon" Has No Objective Meaning and Has No Constitutional Significance	11

II.	BANNING RIFLES IS INCONSISTENT WITH THIS NATION’S HISTORICAL TRADITION OF FIREARM REGULATION	14
A.	The English Freeman Had a Right and Duty to Be Armed With Effective Weapons	15
B.	Effective Arms Were Essential For Survival for the Colonists	18
C.	The Colonists Asserted Their Right to Their Militia Arms in Defense of Liberty	20
D.	The Second Amendment Was Understood to Guarantee a Robust Concept of “Arms”	22
E.	The Right to “Arms” Expanded as the Republic and Technology Grew	27
F.	In the Early Republic, Prohibitions on Arms Were Considered Infringements on the Right	28
G.	The Fourteenth Amendment Was Understood to Protect Common “Military” Firearms	30
	CONCLUSION	33

TABLE OF AUTHORITIES

CASES	Page
<i>Barnett v. Raoul</i> , 180 F.4th 1035 (7th Cir. 2026)	5
<i>Bevis v. City of Naperville, Ill.</i> , 85 F.4th 1175 (7th Cir. 2023)	8, 13
<i>Bianchi v. Brown</i> , 111 F.4th 438 (4th Cir. 2024), cert. denied, <i>Snope v. Brown</i> , 145 S. Ct. 1534 (2025)	4
<i>Christianson v. Colt Industries Operating Corp.</i> , 486 U.S. 800 (1988)	11
<i>District of Columbia v. Heller</i> , 554 U.S. 570 (2008)	12, 13, 15
<i>Heller v. District of Columbia</i> , 670 F.3d 1244 (D.C. Cir. 2011)	9
<i>McDonald v. City of Chicago</i> , 561 U.S. 742 (2010)	31
<i>National Ass’n for Gun Rights v. Lamont</i> , 153 F.4th 213 (2d Cir. 2025)	6, 7, 14
<i>New York State Rifle & Pistol Ass’n, Inc. v. Bruen</i> , 597 U.S. 1 (2022)	13, 15
<i>New York State Rifle & Pistol Ass’n, Inc. v. Cuomo</i> , 804 F.3d 242 (2d Cir. 2015)	14

<i>People v. Alexander</i> , 189 A.D.2d 189, 595 N.Y.S.2d 279 (1993)	11
<i>Rinzler v. Carson</i> , 262 So. 2d 661 (Fla. 1972)	10
<i>Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos</i> , 605 U.S. 280 (2025)	3
<i>Staples v. United States</i> , 511 U.S. 600 (1994)	10
<i>United States v. Carolene Products Co.</i> , 304 U.S. 144 (1938)	11
<i>Welsh v. United States</i> , 398 U.S. 333 (1970)	14
<i>Wilson v. Cook County</i> , 937 F.3d 1028 (7th Cir. 2019)	13

CONSTITUTIONS

U.S. Const., Amendment II . 1-2, 5, 13-15, 22, 26, 28	
U.S. Const., Amendment XIV	2, 30, 31, 32, 33
U.S. Const., Art. I, § 8, cl. 8	27
Mass. Dec. of Rights art. XVII (1780)	23
N.C. Dec. of Rights art. XVII (1776)	23
Pa. Declaration of Rights art. XIII (1776)	23
Vt. Const. art. I, § 15 (1777)	23

Va. Declaration of Rights art. XIII (1776)	23
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STATUTES AND ORDINANCES

18 U.S.C. § 921(a)(7)	9
18 U.S.C. § 921(a)(29)	9
26 U.S.C. § 5845(b)	3
36 U.S.C. § 40722	7
Civil Rights Act of 1866	32
Freedmen's Bureau Act, § 14, 14 Stat. 173 (1866)	32
Militia Act, § 1, 1 Stat. 271 (1792).....	26
National Firearms Act, 48 Stat. 1236 (1934)	3, 8
P.L. 58-149, § 1, 33 Stat. 986, 987 (1905)	7
11 C.C.R. § 5471(z)	14
Conn. Gen. Stat. § 53a-3(16)	12
Conn. Gen. Stat. § 53-202a(1)(E)(II)	12, 13
Conn. Gen. Stat. § 53-202a(1)(E)(iii)	7
Conn. Gen. Stat. § 53-202b	33
Conn. Gen. Stat. § 53-202c	33

Conn. Gen. Stat. § 53-202d	33
Conn. Gen. Stat. § 53-202w(b)	33
Cook County, Ill., Ordinance No. 06-O-50, § 54-211(1)(A)	12
Cook County, Ill. Code § 54-212(a) (2024)	33
Md. Code, Criminal Law § 4-301(d), (h)(1)	13
Va. 1819, c. 111, §§ 7–8	30
Va. 1831, c. 22, § 4	30
So. Car. Stat., No. 4730, § XIII (1865)	30

FOREIGN STATUTES

An Act Concerning Shooting in Long Bowes, 3 Hen. VIII c. 3 (1511)	16
Assize of Arms of 1181	15, 26
Declaration of Rights, 1 W. & M., Sess. 2, c.2, (1689)	16, 20
Game Act, 22 Car. II c.25, § 3 (1670)	16
Militia Act, 13 & 14 Car. II c.3 (1662)	16

LEGISLATIVE MATERIALS

2 Journals of the Continental Congress 151 (1905)	21
Cong. Globe, 39th Cong., 1st Sess. (1866)	31
Cong. Globe, 39th Cong., 2d Sess. (1866)	32
4 Documentary History of the First Federal Congress (1986)	25
14 Documentary History of the First Federal Congress (1995)	26
2 Documentary History of the Ratification of the Constitution (1976)	24
6 Documentary History of the Ratification of the Constitution (2000)	24
15 Documentary History of the Ratification of the Constitution (1984)	24
18 Documentary History of the Ratification of the Constitution (1995)	25
1 Elliot, Debates in the Several State Conventions (1836)	25
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Federal Gazette, June 18, 1789	25

Firearms: Hearing Before the Senate Committee on Finance, 86th Cong., 2d Sess., on H.R. 4029 (1960)	10
Rpt. of Jt. Comm. on Reconstruction, H.R. Rep. No. 30, 39th Cong., 1st Sess. (1866)	31

OTHER AUTHORITIES

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Beeman, Robert, “Girandoni Style Air Rifles & Pistols” (2007)	27
Blount, Thomas, <i>Nomo-lexikon</i> (1670)	17
<i>Boston Chronicle</i> , Sept. 19, 1768	20
<i>Boston Gazette</i> , Sept. 26, 1768	19
Castelow, Ellen, “The Longbow” (Mar. 4, 2016) ..	16
1 Catlin, George, <i>Letters & Notes on the Manners, Customs, & Conditions of North American Indians</i> (1844)	27
Chapman, Dennis, <i>The AR-15 Controversy</i> (2021)	6
<i>CMP Highpower Rifle Competition Rules</i> (2026)	7

“The Colt Sporter,” <i>Shooting Times</i> (Dec. 1964)	4
<i>The Compact with the Charter and Laws of the Colony of New Plymouth</i> (1836)	18
Creighton, Oliver, et al., “The Face of Battle?” 100 <i>Antiquaries Jour.</i> (2020)	16
Department of Defense, MIL-STD-1913, <i>Dimensioning of Accessory Mounting Rail for Small Arms Weapons</i> (1995)	4-5
Deyrup, Felicia, <i>Arms Making in the Connecticut Valley</i> (1970)	27
Edwards, William, <i>Civil War Guns</i> (1962)	31, 32
<i>Familiar Letters of John Adams and his Wife, Abigail Adams During the Revolution</i> (1876)	21
<i>Federal Gazette</i> , June 18, 1789.....	25
<i>The Federalist No. 29</i>	23
<i>The Federalist No. 46</i>	24
Frothingham, Richard, <i>History of the Siege of Boston</i> (1903)	21
Gross, Robert, <i>The Minutemen & Their World</i> (1976)	20
Halbrook, Stephen, <i>America’s Rifle</i> (2022)	3

Hanger, George, <i>A Letter to the Right Hon. Lord Castlereagh</i> (1808)	21-22
Haven, Charles, et al., <i>A History of the Colt Revolver</i> (1940)	28
Held, Robert, <i>The Age of Firearms</i> (1978)	17
Held, Robert, <i>The Belton Systems</i> (1986)	22
Jefferson, Thomas, <i>Writings</i> (1984)	26
Kingsbury, Susan, <i>The Records of the Virginia Company of London</i> (1933)	18
MacKenzie, Frederick, <i>A British Fusilier in Revolutionary Boston</i> (1926)	20
McCloud, Gary, <i>What Is the Bullet Weight for a .223 Caliber Rifle?</i> (2024)	31
McManus, Troy, <i>Everything You Need to Know About USPSA Multi-Gun Competition, NRA Shooting Sports USA</i> (May 1, 2024)	8
Morgan, R.B., ed., <i>Readings in English Social History</i> (1923)	16
National Rifle Association of America, <i>NRA America's Rifle Challenge (ARC) Program Rulebook</i> (2025)	8
<i>N.Y. Times</i> , Oct. 26, 1866	32
1 <i>The Papers of George Mason</i> (1970)	23

<i>12 Papers of James Madison</i> (1979)	26
Peterson, Harold, <i>Arms & Armor in Colonial America</i> (2000)	18, 19, 21
<i>Public Records of the Colony of Connecticut</i> (1850)	19
Rywell, Martin, <i>The Trial of Samuel Colt</i> (1953)	28
Schreier, Philip, “A Short History of the Semi-Automatic Firearm,” <i>America’s 1st Freedom</i> , June 28, 2022	10
Sharp, Granville, <i>Tracts, Concerning the Ancient & Only True Legal Means of National Defence, by a Free Militia</i> (1782)	17
<i>Small Arms Identification & Operation Guide</i> (Defense Intelligence Agency 1980)	11
Smith, Mark, “What Part of ‘In Common Use’ Don’t You Understand?” <i>Harvard JLPP</i> , Sept. 27, 2023	12
Stevens, R. Blake & Edward C. Ezell, <i>The Black Rifle: M16 Retrospective</i> (1987)	5
3 Story, Joseph, <i>Commentaries on the Constitution</i> (1833)	29
Stubbs, W. <i>The Constitutional History of England</i> (1873)	16

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Terrill, Daniel, “CMP Approved to Sell More Than 100,000 Surplus M14 Rifles,” <i>Military Times</i> , Aug. 10, 2026	10
Tucker, St. George, <i>A Dissertation on Slavery</i> (1796)	29
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“The Way It Used to Be,” 126 <i>American Rifleman</i> 12 (Feb. 1978)	10
Webster, Noah, <i>An Examination of the Leading Principles of the Federal Constitution</i> (1787)	23
Williamson, Robert, <i>Winchester: The Gun That Won the West</i> (1952)	28

INTEREST OF THE AMICUS CURIAE

The Second Amendment Law Center, Inc. (2ALC) is a nonprofit corporation located in Henderson, Nevada.¹ Through its amicus curiae briefs, 2ALC defends the individual rights to keep and bear arms as envisioned by the Founders. 2ALC also educates the public about the social utility of firearm ownership and provides accurate historical, criminological, and technical information to policymakers, judges, and the public.

2ALC brings before this Court historical and technical material that supplements the parties' briefing, including research about the legal and historical status of the AR-15 rifle platform and similar semiautomatic rifles, and the original public understanding of the "Arms" that Americans are entitled to keep and bear.

SUMMARY OF ARGUMENT

The AR-15 is the historical evolution of rifle designs in common use that originated 125 years ago. Introduced in 1964, the AR-15 Sporter has versatile features that have rendered it to be in common use by the public. The AR-15 is just the latest stage in over a century's tradition of common use of semiautomatic rifles with detachable magazines. The term "assault weapon" has no objective meaning or significance under the Second Amendment. The

¹ No counsel for a party authored this brief in whole or in part nor did such counsel or any party make a monetary contribution to fund the preparation or submission of this brief. No person other than this amicus curiae, its members, or its counsel made such a monetary contribution.

feature lists in the Cook County, Connecticut, and other bans are in stark conflict with one another.

The AR-15 falls within the historical tradition of the right to effective arms for defense of self and state and other lawful purposes. The English freeman had a right and duty to be armed. From colonial times to the Revolution and beyond, effective arms were critical to the Americans. In reaction to arms confiscation by the British, the colonists asserted their right to keep and use their militia arms in defense of liberty. The Second Amendment was understood to guarantee a robust concept of the “Arms” that the people have a right to keep and bear.

The right to “Arms” expanded as the Republic and technology grew. In the early Republic, prohibitions on arms paralleled by respondents’ laws here were considered infringements on the right. The Fourteenth Amendment was understood to protect the right to possess common arms, including “military” firearms like muskets.

Text and historical tradition are inconsistent with treating the civilian AR-15 as the equivalent of an M16 machinegun, or with treating a shifting list of ergonomic features as a constitutional classification. Today, the AR-15 is in common use by law-abiding citizens for lawful purposes throughout the United States.

ARGUMENT

I. THE AR-15 IS THE HISTORICAL EVOLUTION OF RIFLE DESIGNS IN COMMON USE THAT ORIGINATED 125 YEARS AGO

A. Introduced in 1964, the AR-15 Sporter Has Versatile Features that Have Rendered it to be in Common Use by the Public

“The AR–15 is the most popular rifle in the country.” *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280, 297 (2025). Tracing its origins, the following explains its features that make it “America’s Rifle.”

In 1963, Colt submitted to the predecessor agency of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) two firearms for evaluation: a semiautomatic “AR-15 Sports Version Rifle” and an “AR-15 automatic rifle” (later renamed the M16). The agency found that modifications to the automatic version that made it into the Sports Version “have changed the weapon in basic design to the extent that it is not a ‘firearm’ in the machine gun category” as defined in the National Firearms Act.² Director, Alcohol & Tobacco Tax Division, Internal Revenue Service, to Colt’s Patent Firearms Manufacturing Co., Dec. 10, 1963, quoted in Stephen P. Halbrook, *America’s Rifle* 14-15 (2022).

² “The term ‘machinegun’ means any weapon which shoots...automatically more than one shot, without manual reloading, by a single function of the trigger.” 26 U.S.C. § 5845(b).

The Sports Version was introduced to the public as the AR-15 Sporter in 1964. The review “The Colt Sporter,” *Shooting Times* 17 (Dec. 1964), described the rifle as having “quite moderate” recoil, making it “pleasant to shoot.” It was a “magazine fed, semiautomatic rifle” of “very light weight,” and its buttstock “of straight-line design...has the effect of reducing the recoil movement which reduces muzzle jump....” *Id.* at 19. “The stock design makes a separate pistol grip necessary,” which is “very comfortable.” *Id.*

Shooting Times noted that the rifle “will perform well on game within the capabilities of the .223 cartridge,” including “larger varmints” and “running jacks and coyotes,” but the “diminutive .223 round simply isn’t adequate” for “big game” like whitetails. *Id.* Being inadequate for deer hunting, the .223 cartridge in no way lives up to the inaccurate claim that it suddenly becomes exceedingly destructive *when fired from an AR-15*.³

The above could be written about today’s makes and models of the AR-15, albeit modern versions are more versatile, such as having better attachment points to secure scopes and other accessories.⁴ As AR-15-style rifles have an upper

³ A cartridge has the same effect without regard to the type of rifle it is fired from. Cf. *Bianchi v. Brown*, 111 F.4th 438, 455 (4th Cir. 2024) (referring to the supposed “catastrophic” damage caused by AR-15 rounds”), cert. denied, *Snope v. Brown*, 145 S. Ct. 1534 (2025).

⁴ Civilian AR-15-style rifles commonly use a flat-top upper with what is called a “Picatinny rail” above or on the side of the barrel to mount optics, lights, and other accessories so they can be attached, removed, and returned to zero without altering the rifle. See MIL-STD-1913, Dimensioning of

receiver and a lower receiver, the two-piece receiver may permit changing barrel length, caliber, and sighting equipment on the upper receiver without replacing the serialized lower. A flat-top upper with a standardized accessory rail accepts a red-dot or other optic and a light, the attachments most useful in low light. Combined with the moderate recoil of the .223 caliber or 5.56 mm cartridge (the AR-15 accepts either), those features make the rifle usable by a wide base of civilians, including those who are smaller-statured or recoil-sensitive.

After “perhaps the most comprehensive trial record in any Second Amendment case to date,” the Southern District of Illinois “found that AR-15s are light, short, and have less recoil, making them easier to handle and fire,” and their “lighter weight, shorter barrel, and ergonomic stock and grip” make AR-15 rifles “well suited for self-defense.” *Barnett v. Raoul*, 180 F.4th 1035, 1059, 1078 (7th Cir. 2026) (Brennan, C.J., dissenting).

It was also in 1964 that the M16 was delivered to the U.S. Air Force, the first branch of the Armed Forces to issue it. R. Blake Stevens & Edward C. Ezell, *The Black Rifle: M16 Retrospective*, 149–50 (1987). Outwardly, the AR-15 and the M16 have a similar appearance, most prominently a protruding pistol grip. Yet all rifles have some kind of grip, and they all have a barrel and a stock. While respondents castigate the AR-15 as somehow “military,” they cannot identify a single country in

Accessory Mounting Rail for Small Arms Weapons 1–2 (1995). A commercial “optic ready” listing is an application of such rail. See, e.g., Smith & Wesson, M&P 15 Series, <https://www.smith-wesson.com/product/m-p-15-axe-rifle-16-inch>.

the world that issues the AR-15 or any other semiautomatic rifle as a service rifle to its armed forces.

The pistol grip on an AR-15 or M16 is designed to facilitate firing the rifle from the shoulder. It is odd that a pistol grip is an essential element of a constitutionally-protected handgun (see *Heller*), but somehow that same pistol grip attached to a rifle makes the rifle an “assault weapon.”

A study of U.S. Armed Forces training manuals found no evidence that pistol grips “were developed or deployed intending to facilitate the spraying of fire from the hip.” Dennis P. Chapman, *The AR-15 Controversy* 41 (2021). Such manuals devote almost exclusive focus on firing from the shoulder. *Id.* at 41-59.⁵ Indeed, pistol grips are found on single-shot and bolt-action rifles and even air guns used in Olympic competition.⁶

Optional features include a telescoping stock that makes it adjustable to the size of the user – a concept no different than getting shoes that fit. A telescoping stock typically allows adjustments that render the rifle’s overall length (measured from the

⁵ The claim that the pistol grip is designed for “spray” firing is pure fantasy. *But see National Ass’n for Gun Rights v. Lamont*, 153 F.4th 213, 226 (2d Cir. 2025).

⁶ See, e.g., EuroOptic, Anschutz 64 Biathlon .22 LR Walnut Sprint Nitrided 21" Bbl Rifle w/6865 Front Sight, and 2-Stage Trigger, <https://www.eurooptic.com/anschutz-64-biathon-22lr-21-walnut-sprint-nitrided-w-front-sight-6865-014351> (last visited Aug. 28, 2026) (bolt action rifle). See also Feinwerkbau, Air Rifle, single-shot air rifles at <https://feinwerkbau.de/en/disciplines/air-rifle> (last visited Aug. 28, 2026) (selection of single-shot air rifles).

muzzle of the barrel to the end of the buttstock) to be approximately 33 inches at the shortest,⁷ making it *longer* than what Connecticut otherwise requires. Conn. Gen. Stat. § 53-202a(1)(E)(iii) (defining “assault weapon” as a rifle with an overall length of less than 30 inches). Yet a telescoping stock is claimed to make a rifle “easier to conceal.” *Lamont*, 153 F.4th at 226.

That said, the same features render the persons experienced with the AR-15 easier to train should they be called up for service in the militia or Armed Forces. In 1905, Congress enacted a law to promote rifle marksmanship and to sell “magazine rifles” from military surplus “for the use of rifle clubs.” P.L. 58-149, §1, 33 Stat. 986, 987 (1905). That continues today as the Civilian Marksmanship Program (CMP), which functions to “to instruct citizens of the United States in marksmanship,” “to promote practice and safety in the use of firearms,” and “to conduct competitions in the use of firearms....” 36 U.S.C. § 40722. One of the three leading rifles used in competition is the “M16 U.S. Service Rifle or a similar AR15-type commercial rifle....” CMP Highpower Rifle Competition Rules 41 (2026), *available at* <https://thecmp.org/wp-content/uploads/2026/05/2026-Highpower-Rifle.pdf>.⁸

⁷ See, e.g., Springfield Armory Saint, M-LOK® 5.56, AR-15 Rifle, Low Capacity, <https://www.springfield-armory.com/ar-series/saint-ar-15-rifles/saint-556-m-lok-ar-15-rifle-b5-low-capacity/> (length 33” to 36.25”).

⁸ The other two rifles are (a) an M14/M1A-type rifle that was issued by the U.S. Armed Forces, a Springfield Armory manufactured rifle or another commercial rifle of the same type

CMP matches culminate in the Annual National Matches, the “World Series of the Shooting Sports,” which has been held since 1907.⁹ The National Rifle Association also sponsors competitions “based on the AR-15 and/or other appropriate semi-automatic rifles.”¹⁰ And semiautomatic rifles, pistols, and shotguns are in common use in matches sponsored by the United States Practical Shooting Association (USPSA).¹¹

The critical difference between the AR-15 and the M16 is the semiautomatic-only function of the former and the fully automatic function of the latter. The claim that the AR-15’s “*only* meaningful distinction” from the M16 “is that the AR-15 has only semiautomatic capability,” *Bevis v. City of Naperville, Ill.*, 85 F.4th 1175, 1195 (7th Cir. 2023) (emphasis added), revolts against almost a century of legal tradition *not* restricting semiautomatics but severely restricting machineguns in the National Firearms Act of 1934, 48 Stat. 1236. And it ignores

and caliber, and (b) a Caliber .30 U.S. M1 Garand-type rifle. *Id.* at 44, 46.

⁹ Gary Anderson, *The National Matches – Their History and Appeal* 3-4 (Spring 2022), available at <https://thecmp.org/wp-content/uploads/2022/06/NationalMatchesHistoryandAppeal.pdf>.

¹⁰ National Rifle Association of America, *NRA America’s Rifle Challenge (ARC) Program Rulebook 3* (2025), available at <https://arc.nra.org/media/10359/arc-rulebook.pdf>.

¹¹ See Troy McManus, *Everything You Need to Know About USPSA Multi-Gun Competition*, NRA Shooting Sports USA (May 1, 2024), <https://www.ssusa.org/content/everything-you-need-to-know-about-uspsa-multi-gun-competition/>.

that none of the “assault weapon” laws ban a rifle just for being semiautomatic.

While every firearm may have its own unique features, at a higher level of generality the AR-15 functions like all other semiautomatic rifles. A “rifle” is a weapon “fired from the shoulder” which “use[s] the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.” 18 U.S.C. § 921(a)(7). A “semiautomatic rifle” is “any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.” 18 U.S.C. § 921(a)(29). A pistol grip or telescoping stock does not change that definition or convert the rifle into a machinegun. As the following demonstrates, semiautomatic firearm technology has been around for a century and a quarter.

B. The AR-15 Is Just the Latest Evolution in Over a Century’s Tradition of Common Use of Semiautomatic Rifles

Semiautomatic rifles with detachable magazines, some with pistol grips, came into use at the turn of the century. Early versions included the Winchester Models 1903 and 1905, the Remington Model 8, and models by Standard Arms and Browning Arms. *Heller v. District of Columbia*, 670 F.3d 1244, 1287 (D.C. Cir. 2011) (Kavanaugh, J., dissenting) (citing sources). “These semi-automatic rifles were designed and marketed primarily for use as hunting rifles, with a small ancillary market among law enforcement officers.” *Id.* See further

Philip Schreier, “A Short History of the Semi-Automatic Firearm,” *America’s 1st Freedom*, June 28, 2022, <https://www.americas1stfreedom.org/content/a-short-history-of-the-semi-automatic-firearm/>.

The semiautomatic M1 Carbine, which uses a detachable magazine, originated as a military rifle in World War II. Large quantities were later sold to civilians by the federal government. “Many of them are privately owned, and in many States they are a legal deer rifle.” Firearms: Hearing before Senate Com. on Finance, 86th Cong., 2nd Sess., on H.R. 4029, at 14 (1960) (testimony of NRA Secretary Frank Daniel). In 1958-1967 alone, the CMP sold 207,000 M-1 Carbines to the public. “The Way It Used to Be,” 126 *American Rifleman* 12, 13 (Feb. 1978).

The CMP recently announced that it will begin selling military surplus M14 rifles converted to semiautomatic only to civilians. Daniel Terrill, “CMP Approved to Sell More Than 100,000 Surplus M14 Rifles,” *Military Times*, Aug. 10, 2026, <https://www.militarytimes.com/industry/techwatch/2026/08/10/cmp-approved-to-sell-more-than-100000-surplus-m14-rifles/>.

Rinzler v. Carson, 262 So.2d 661, 666 (Fla. 1972), referred to firearms that “are commonly kept and used by law-abiding people for hunting purposes or for the protection of their persons and property, such as semiautomatic shotguns, semiautomatic pistols and rifles.” *Staples v. United States*, 511 U.S. 600, 610–11 (1994), described the AR-15 in the context of the “long tradition of widespread lawful gun ownership” by Americans.

C. The Term “Assault Weapon” Has No Objective Meaning and Has No Constitutional Significance

Etymologically, the term “assault weapon” means an object used in an assault.¹² Denigrating rifles in common use as “assault weapons” is meaningless, as “no pronouncement of a Legislature can forestall attack upon the constitutionality of the prohibition which it enacts by applying opprobrious epithets to the prohibited act....” *United States v. Carolene Products Co.*, 304 U.S. 144, 152 (1938).

The military term “assault rifle” refers to a type of machinegun, not to a semiautomatic like the AR-15. “Assault rifles are short, compact, selective fire weapons that fire a cartridge intermediate in power between submachinegun and rifle cartridges. Assault rifles...are capable of delivering effective full automatic fire....” *Small Arms Identification & Operation Guide* 105 (Defense Intelligence Agency 1980). The M16 selective-fire service rifle has been America’s “standard assault rifle.” *Christianson v. Colt Industries Operating Corp.*, 486 U.S. 800, 804 (1988). Selective fire means that it can fire in semiautomatic, three-shot bursts, or continuous as long as the trigger is pulled.

But “assault weapon” has become a propaganda term. It is cynically argued that “the public’s confusion” between full automatics and semiautomatics — “anything that looks like a machine gun is assumed to be a machine gun—can

¹² *E.g.*, *People v. Alexander*, 189 A.D.2d 189, 193, 595 N.Y.S.2d 279 (1993) (“a tire iron that was believed to be the assault weapon.”).

only increase the chance of public support for restrictions on these weapons.” Josh Sugarmann, *Assault Weapons & Accessories in America* (Violence Policy Center 1988), *available at* <http://www.vpc.org/studies/awaconc.htm>.

Originally, the firearm prohibition movement depicted handguns as bad, long guns as good. In *District of Columbia v. Heller*, 554 U.S. 570 (2008), the Violence Policy Center argued in support of the District that handguns are used in most mass shootings, such as at Virginia Tech in 2007 where 32 students and faculty were murdered. Brief of Violence Policy Center, 2008 WL 136348, *24 (U.S. 2008). It maintained that “shotguns and rifles are much more effective in stopping” a criminal; “handguns—compared with larger shotguns and rifles that are designed to be held with two hands—require a greater degree of dexterity.” *Id.* at *30. Once *Heller* held handguns to be protected, handguns became good, rifles became evil “assault weapons.”¹³

But the prohibitionists cannot agree on what features transform a semiautomatic rifle that accepts a magazine, which by itself is not an “assault weapon,” into one. In Cook County, one feature is having “only a pistol grip without a stock attached.” § 54-211(1)(A), Cook County, Ill., Ordinance No. 06–O–50 (2006). But Conn. Gen. Stat. § 53–202a (1)(E)(II) bans a rifle with a pistol grip only if it *has* a stock attached, as its definition of “rifle” means that it is “fired from the shoulder.” *Id.* § 53a-3(16). And

¹³ See Mark W. Smith, “What Part of ‘In Common Use’ Don’t You Understand?” *Harvard JLPP*, Sept. 27, 2023.

Maryland does not even include a pistol grip, with or without a stock, as a prohibited feature. Md. Code, Criminal Law, § 4-301(d), (h)(1).

It is unclear why a rifle with a pistol grip has no Second Amendment protection if it has no stock attached (Cook County), if it has a stock attached (Connecticut), or if it does not matter either way (Maryland). The definitions of “assault weapon” are a Tower of Babel that criminalize protected “Arms.” The same rifle can be lawful or contraband depending on the jurisdiction, with no historically grounded principle explaining the differences.

The Cook County ordinance was initially upheld because “[t]he features prohibited...were not common in 1791.” *Wilson v. Cook County*, 937 F.3d 1028, 1034 (7th Cir. 2019). But that turned the historical test upside down, as *no* features on rifles were prohibited in 1791. “[T]he Second Amendment extends, *prima facie*, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding.” *Heller*, 554 U.S. at 582. When this Court added that “Arms” include “modern instruments that facilitate armed self-defense,” *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1, 28 (2022), the Seventh Circuit switched to the incredible argument that “the AR-15 is almost the same gun as the M16 machinegun.” *Bevis*, 85 F.4th at 1195.

Connecticut describes the banned features to include a pistol grip that allows one “to grip the weapon, resulting in any finger on the trigger hand in addition to the trigger finger being directly below any portion of the action of the weapon when firing.” Conn. Gen. Stat. § 53–202a (1)(E)(II). Why a rifle

would lose Second Amendment protection because a finger is below (instead of above) the action was not explained when the ban was upheld in *New York State Rifle & Pistol Ass’n, Inc. v. Cuomo*, 804 F.3d 242 (2d Cir. 2015), or more recently in *Lamont*, 153 F.4th 213.¹⁴

The term “assault weapon” is “an Alice-in-Wonderland world where words have no meaning.” *Welsh v. United States*, 398 U.S. 333, 354 (1970) (Harlan, J., concurring). Whether a firearm is protected is said to depend on where one’s fingers are placed when firing it. No principled basis exists to interpret constitutional rights that way.

II. BANNING RIFLES IS INCONSISTENT WITH THIS NATION’S HISTORICAL TRADITION OF FIREARM REGULATION

The AR-15 is “America’s rifle.” It is the most commonly possessed rifle by law-abiding citizens in the United States. Possession of AR-15 rifles falls within centuries of historical tradition of having effective long arms for lawful purposes.

Historically, the militia was “necessary to the security of a free state” for “repelling invasions and suppressing insurrections,” rendering “large

¹⁴ Equally baffling is California’s banned feature of “a grip that allows for a pistol style grasp in which the web of the trigger hand (between the thumb and index finger) can be placed beneath or below the top of the exposed portion of the trigger while firing.” 11 C.C.R. § 5471(z). Presumably the rifle has Second Amendment protection only if the web of the trigger hand can be placed *above*, instead of *beneath or below*, the top of the exposed portion of the trigger.

standing armies unnecessary,” and “resist[ing] tyranny.” *Heller*, 554 U.S. at 597-98. But preservation of the right was “even more important for self-defense and hunting.” *Id.* at 599. Traditionally, the militia consisted of “men bringing arms ‘in common use at the time’ for lawful purposes like self-defense,” as small arms used in the militia and for self-defense were the same. *Id.* at 624-25.¹⁵ The American people have decided that the AR-15 fits these purposes perfectly.

Here, semiautomatic rifles are “Arms” within the plain text, and banning them is utterly inconsistent with this Nation’s historical tradition of firearm regulation. See *Bruen*, 597 U.S. at 17.

A. The English Freeman Had a Right and Duty to Be Armed With Effective Weapons

From medieval England through the early American Republic, the right to keep and bear arms was viewed as both a right and a duty. Far from banning them, the early monarchs required the subjects to possess and train with arms to protect the realm. Accustomed to having their own arms for their own defense, the subjects viewed themselves as entitled to be armed. The right evolved until it found stronger expression in the Second Amendment.

The duty and right to be armed with projectile weapons, from bows and arrows to firearms, appears in various stages of English history. Henry’s Assize

¹⁵ While to be effective as at the Founding, a militia today could “require sophisticated arms that are highly unusual in society,” but “the degree of fit between the prefatory clause and the protected right” has become limited. *Id.* at 627-28.

of Arms of 1181 “directed that the whole free population, the *communa liberorum hominum*, should furnish themselves with arms.”¹ William Stubbs, *The Constitutional History of England* 633 (1873). In 1363, Edward III declared that “the people of our realm, rich and poor alike...shall, upon holidays, make use, in his games, of bows and arrows...and so learn and practise archery.” R.B. Morgan ed., *Readings in English Social History* 150-51 (1923). In 1511, Henry VIII directed that “every man...do use and exercise shooting in longbows, and also to have a bow and arrows ready continually in his house to use himself and do use himself in shooting....” An Act Concerning Shooting in Long Bowes, 3 Hen. VIII c. 3 (1511).

Arrows could “create small entry and large exit wounds in the human skull not unlike modern-day gunshot wounds....” Oliver H. Creighton et al., “The Face of Battle?” 100 *Antiquaries Jour.* 165 (2020). One could continue firing as long as the arrows held out, at a distance of one thousand feet, at the rate of ten to twelve per minute.¹⁶ The subjects who were trusted with arms encompassed “the whole population capable of bearing arms,” a force that “was primarily a weapon of defense, not of aggression.”² William Stubbs, *The Constitutional History of England* 294 (1873).

But the Stuarts broke this historical tradition of trusting the subjects with arms. See Militia Act, 13 & 14 Car. II c.3 (1662); Game Act, 22 Car. II c.25,

¹⁶ Ellen Castelow, *The Longbow* (Mar. 4. 2016), <https://www.historic-uk.com/HistoryUK/HistoryofEngland/The-Longbow/>.

§ 3 (1670). In response, the Declaration of Rights, 1 W. & M., Sess. 2, c.2, (1689), described how James II “caus[ed] several good Subjects, being Protestants, to be disarmed,” and declared: “That the Subjects which are Protestants, may have Arms for their Defence suitable to their Condition, and as are allowed by Law.”

What was meant by “Arms”? “Armes (arma) In the understanding of Law, are extended to any thing that a Man wears for his defence, or takes into his hands, or useth in his wrath to cast at, or strike another.” Thomas Blount, *Nomo-lexikon* (1670). Common muskets were typically .75 caliber. Robert Held, *The Age of Firearms* 107 (1978). That was three times larger in diameter than the .223 caliber bullet usually fired from the AR-15.

William Blackstone described the right “of having arms for their defence” as preserving “the natural right of resistance and self-preservation, when the sanctions of society and laws are found insufficient to restrain the violence of oppression.” 1 Blackstone, *Commentaries* *139. That required effective arms, such as “the *musket* and *bayonet*.” Granville Sharp, *Tracts, Concerning the Ancient & Only True Legal Means of National Defence, by a Free Militia* 14-15 (1782).

In sum, our English heritage entailed the keeping of proficient arms by the people as both a duty and a right. The right to firearms was essential to the historical tradition that the Americans inherited and expanded in the New World.

B. Effective Long Arms Were Essential For Survival for the Colonists

The American settlers brought with them their rights as Englishmen and their arms, particularly long arms, to protect themselves. When the British Crown sought to deprive them of these rights, the Americans resorted to their arms and created an independent America. Through these periods, innovations continued to be made in firearms technology, particularly in the manner in which a spark would ignite the gunpowder to expel the bullet. Far from being a historical tradition of banning advanced long arms, the Americans both mandated their use and recognized the right to possess them.

Jamestown settlers in 1607 mostly had matchlocks, although some had the more advanced wheel locks and snaphaunces which made ignition more reliable. Harold L. Peterson, *Arms & Armor in Colonial America* 43 (2000). Each technological improvement allowed faster, more reliable discharge. Every settler was required to have a “Peece” (musket), sword, 20 lbs. of powder, and “Sixty pound of shot or lead, Pistoll and Goose shot.”³ Susan M. Kingsbury, *The Records of the Virginia Company of London* 578 (1933).

In 1632, Plymouth Colony “ordered that every freeman or other inhabitant of this colony provide for himselfe and each under him able to beare armes a sufficient musket and other serviceable peece....” *The Compact with the Charter and Laws of the Colony of New Plymouth* 31 (1836). A 1712 act declared that “bayonets are of more use, as well for offence and defence,” and thus persons in Boston

obliged to answer an alarm were to provide themselves with such. *Id.* at 399.

A 1650 Connecticut law ordered “[t]hat all persons that are above the age of sixteene years...shall beare arms...and every male person within this jurisdiction, above the said age, shall have in continuall readines, a good muskitt or other gunn....” 1 *Public Records of the Colony of Connecticut* 542 (1850).

From 1689 to 1783, the main firearm of the colonists was the smooth-bore flintlock musket of a large caliber. Peterson, *Arms & Armor* 159-60. “The average colonist could not afford to own a selection of guns, and so he normally chose one which would serve him well in hunting and also pass inspection on muster days. Thus the distinction between military and sporting arms is almost lost.” *Id.* at 179.

While most arms were single shot, multi-shot arms were on the scene. In 1722, John Prim of Boston demonstrated a long gun that “though loaded but once, yet was discharged eleven times following, with bullets....” *Id.* at 347. “[T]his type of repeating flintlock, popular in England from the third quarter of the 17th century, was known and manufactured in Massachusetts early in the 18th century....” *Id.* at 215. And in 1756, the *Boston Gazette* advertised a long gun made by John Cookson that “will fire 9 times distinctly, as quick or slow as you please....”¹⁷

¹⁷ “Database of USA Gunmakers,” Enciclopedia delle armi - a cura di Edoardo Mori, <https://www.earmi.it/USA%20Gunmakers/C.html>.

C. The Colonists Asserted Their Right to Their Militia Arms in Defense of Liberty

From when the British began to disarm them through when they declared independence, the colonists maintained their right to keep and bear their arms, including suitable militia arms. It would have been inconceivable to the Americans that they were entitled to have only the most inferior arms dictated by the British authorities.

In 1768, when British troops were coming to occupy Boston, the town passed a resolution recalling the English Declaration of Rights of 1689 “that the Subjects being Protestants, may have arms for their Defence.” *Boston Chronicle*, Sept. 19, 1768, at 363. The resolution repeated the Massachusetts Bay law that “every listed Soldier and other Householder...shall always be provided with a well fix’d Firelock, Musket, Accouterments and Ammunition....” *Id.*

After seven years of escalating conflict, colonists at Lexington Common faced British regulars. The militiamen were largely armed with their own private muskets. Robert A. Gross, *The Minutemen & Their World* 61, 69–70 (1976). The day of “the shot heard ‘round the world” ended badly for the British. As they retreated under fire from Lexington and Concord, a British officer recalled that the Americans “were generally good marksmen, and many of them used long guns made for Duck-Shooting.” Frederick MacKenzie, *A British Fusilier in Revolutionary Boston* 67 (1926). That exemplified how the colonists adapted their long arms to both military and sporting purposes.

When General Thomas Gage ordered the inhabitants of Boston to surrender their arms, “the people delivered to the selectmen 1778 fire-arms [muskets], 634 pistols, 973 bayonets, and 38 blunderbusses.” Richard Frothingham, *History of the Siege of Boston* 95 (1903). Long guns were by far the norm. The Declaration of Causes of Taking Up Arms of July 6, 1775, denounced how the British confiscated the arms. 2 *Journals of the Continental Congress* 151 (1905).

Rifled arms were now on the scene, and they were far more accurate than smooth-bore muskets. Rifling consists of spiral grooves cut inside the barrel to give the bullet a spin, similar to throwing a football. German gunsmiths brought the technology to Pennsylvania. Frontiersmen depended on rifles for food and protection, leading to “a high degree of proficiency in its use by a relatively large segment of the population.” Peterson, *Arms & Armor*, 193. That leap in technology was not stifled by government naysayers, equivalent to respondents here, claiming that commoners must not be allowed such arms.

While the smooth bores were only accurate at 50 to 75 yards, John Adams wrote in 1775 about patriots who “use a peculiar kind of musket, called a rifle. It has circular or – grooves [sic] within the barrel, and carries a ball with great exactness to great distances.” *Familiar Letters of John Adams and his Wife, Abigail Adams During the Revolution* 65-66 (1876).

British Major General George Hanger described how in America “an expert rifleman, provided he can draw good and true sight..., can hit the head of a man at 200 yards.” George Hanger, A

Letter to the Right Hon. Lord Castlereagh 79 (1808).

Multi-shot firearms were also being further developed. In 1777, Joseph Belton wrote to the Continental Congress about his “improvement in the use of Small Armes” which could be made to fire 8, 16, or 20 balls “one after another” in seconds. Robert Held, *The Belton Systems* 17 (1986). An expert commission reported to the Congress having seen that the musket “discharg’d sixteen balls loaded at one time” and recommended that it “might be Rendered of great service....” *Id.* at 37.

D. The Second Amendment Was Understood to Guarantee a Robust Concept of the “Arms”

According to the original public understanding, the “Arms” that the people have a right to keep and bear has a broad, robust meaning. Their arms had to be effective for survival, hunting, self-defense (against humans and wild animals), protection from hostile tribes, liberation from Britain, and a counterweight to abusive power by government.

Quality, technologically-superior “Arms” were intended in the arms guarantees of the states beginning in 1776, that of the Second Amendment in 1791, and those of the states that were admitted to the Union thereafter. The Founders were acutely aware of the evolution of arms technology in relation to ignition systems, rifling, repeating arms, and other innovations, and they fully anticipated progress to continue.

“Arms” included large-caliber muskets with bayonets at the Founding, and they include AR-15 platform and similar semiautomatic rifles today. No

one could have imagined that the people are entitled only to inferior functioning arms such as respondents here impose by criminal penalties.

The Virginia Declaration of Rights, Art. XIII (1776), declared that “a well regulated Militia, composed of the Body of the People, trained to Arms, is the proper, natural, and safe Defense of a free State....” Its author George Mason helped George Washington organize the Fairfax Independent Militia Company, whose members pledged to “constantly keep by us” a firelock, six pounds of gunpowder, and twenty pounds of lead. 1 *The Papers of George Mason* 210–11 (1970).

The Pennsylvania Declaration of Rights, Art. XIII (1776), provided: “That the people have a right to bear arms for the defense of themselves, and the state....” Vermont passed identical language. Vt. Const., Art. I, Sec. 15 (1777). North Carolina declared: “That the People have a right to bear Arms for the Defense of the State....” N.C. Dec. of Rights, Art. XVII (1776). And Massachusetts declared: “The people have a right to keep and bear arms for the common defence.” Mass. Dec. of Rights, Art. XVII (1780). No matter what the wording, the “Arms” had to be effective for the declared objectives.

When the Constitution was proposed in 1787, Noah Webster argued that “[t]he supreme power in America cannot enforce unjust laws by the sword; because the whole body of the people are armed....” Noah Webster, *An Examination of the Leading Principles of the Federal Constitution* 43 (1787). In *The Federalist* No. 29, Alexander Hamilton urged that a large army could not threaten liberty “while there is a large body of citizens, little if at all inferior

to them in discipline and the use of arms....” 15 *Documentary History of the Ratification of the Constitution* 319 (1984).

Similarly, in *The Federalist* No. 46, James Madison argued that an oppressive army “would be opposed [by] a militia amounting to near half a million of citizens with arms in their hands....” Referring to “the advantage of being armed, which the Americans possess over the people of almost every other nation,” he added that in the European kingdoms “the governments are afraid to trust the people with arms.” *Id.* at 492–93. That is the case with the respondents here.

Pennsylvania’s Dissent of the Minority declared: “That the people have a right to bear arms for the defense of themselves and their own state, or the United States, or for the purpose of killing game....” 2 *Documentary History of the Ratification of the Constitution*, 623–24 (1976). Again, this shows the symmetry between arms for military, self-defense, and hunting uses.

In the Massachusetts convention, Samuel Adams proposed “that the said Constitution be never construed to authorize Congress...to prevent the people of the United States, who are peaceable citizens, from keeping their own arms....” 6 *Documentary History of the Ratification of the Constitution* 1453 (2000). The New Hampshire convention demanded that “Congress shall never disarm any citizen, unless such as are or have been in actual rebellion.” 18 *Documentary History of the Ratification of the Constitution* 188 (1995).

In the Virginia convention, George Mason

recalled that “when the resolution of enslaving America was formed in Great Britain, the British Parliament was advised...to disarm the people; that it was the best and most effectual way to enslave them.” ³ Elliot, *Debates in the Several State Conventions* 380 (1836). And Patrick Henry implored: “The great object is, that every man be armed.” *Id.* at 386. In ratifying the Constitution, the Virginia convention proposed a bill of rights adding to its 1776 militia clause, “That the people have a right to keep and bear arms....” *Id.* at 658–59. North Carolina¹⁸ and Rhode Island¹⁹ demanded the same, and New York sought almost identical language.²⁰

James Madison introduced what became the Bill of Rights to the House of Representatives on June 8, 1789, including the provision: “The right of the people to keep and bear arms shall not be infringed; a well armed, and well regulated militia being the best security of a free country....” ⁴ *Documentary History of the First Federal Congress* 10 (1986). Tench Coxe, under the pen name “A Pennsylvanian,” commented: “As civil rulers...may attempt to tyrannize, and as the military forces...might pervert their power to the injury of their fellow-citizens, the people are confirmed...in their right to keep and bear their private arms.” *Federal Gazette*, June 18, 1789, at 2. Madison

¹⁸ 18 *Documentary History of the Ratification of the Constitution* 316.

¹⁹ 1 Elliot, *Debates in the Several State Conventions* 335 (1836).

²⁰ 18 *Documentary History of the Ratification of the Constitution* 298.

thanked Coxe for his “explanatory strictures.” 12 *Papers of James Madison* 257 (1979).

The Second Amendment was ratified in 1791, and in the same year Congress considered a militia bill. In debate, Rep. James Jackson urged that it was their duty “to provide the means for every man to protect himself as well against tyranny and usurpation, as against assault and invasion.” 14 *Documentary History of the First Federal Congress* 56–57 (1995). Rep. Roger Sherman added that it was “the privilege of every citizen, and one of his most essential rights, to bear arms, and to resist every attack upon his liberty or property, by whomsoever made.” *Id.* at 92–93. As enacted in 1792, the Militia Act required each male citizens aged 18-44 to be enrolled in the militia and to “provide himself with a good musket or firelock,” including a bayonet, or “with a good rifle,” both with ammunition. § 1, 1 Stat. 271 (1792).

The Assize of Arms of 1181 establishing the duty of the subjects to acquire and bear arms was transformed into a right to have arms for their defense in the Declaration of Rights of 1689. This duty-right duality came full circle with the ratification of the Second Amendment in 1791 and the enactment of the Militia Act a year later. Thomas Jefferson best expressed this duality in an 1824 letter as follows: “The constitutions of most of our States assert, that all power is inherent in the people,... that it is their right and duty to be at all times armed....” Thomas Jefferson, *Writings* 1491-92 (1984).

E. The Right to “Arms” Expanded as the Republic and Technology Grew

As new states, beginning with Kentucky in 1792, began coming into the Union, innovation continued in the field of firearm technology, encouraged by the Patent Clause, U.S. Const., Art. I, § 8, cl. 8. Thomas Jefferson had observed the use of interchangeable parts in gun-making in France in 1785, but it would take three decades for the gun industry to adopt the practice. See Felicia J. Deyrup, *Arms Making in the Connecticut Valley* 87–88 (1970).

The need for repeating arms was clear. Compared to a single-shot long gun that could be fired once or twice a minute, an Indian on horseback with a bow and 100 arrows in his quiver “can throw fifteen or twenty in a minute,” making him “a formidable and dangerous enemy.”¹ George Catlin, *Letters & Notes on the Manners, Customs, & Conditions of North American Indians* 33 (1844).

The powerful Girandoni air rifle with a twenty-two-round magazine proved useful on the Lewis and Clark Expedition in 1804.²¹ The Hall breechloading rifle, which could be loaded rapidly from the rear, was patented in 1811. Jim Supica et al., *The Illustrated History of Firearms* 55 (2020). In 1821, the Jennings flintlock rifle that would fire twelve shots before reloading appeared. *Id.* at 60. The introduction in 1836 of the Colt revolver, which had a rifled barrel, changed the landscape forever for repeating firearms. Charles T. Haven et al., *A*

²¹ Robert D. Beeman, “Girandoni Style Air Rifles & Pistols” (2007), <http://www.beemans.net/Austrian%20airguns.htm>.

History of the Colt Revolver 20 (1940). Presiding over a patent infringement suit brought by Colt, Supreme Court Justice Levi Woodbury instructed the jury that Colt “undertook...to get the power, through a revolver, of having more discharges in a short space of time than by a single barrel. That is one great essence of this principle of revolving fire-arms.” Martin Rywell, *The Trial of Samuel Colt* 319 (1953).

Designed in 1856, the Volcanic rifle had a magazine that held between twenty and thirty cartridges. Robert F. Williamson, *Winchester: The Gun that Won the West* 9-13 (1952). This developed into the Henry Repeating Rifle in 1860, which evolved into the Winchester Model 1866, which held seventeen rounds. *Id.* at 22, 49. These rifles used rimfire cartridges, but the Winchester 1873’s use of the new centerfire cartridge prompted its reputation as “the gun that won the West.” *Id.* at 66-67.

F. In the Early Republic, Prohibitions on Arms Were Considered Infringements on the Right

Constitutional commentaries in the early Republic condemned deprivations of arms as infringements of the right protected by the Second Amendment. In the South, slaves were disarmed, and free persons of color might be licensed to possess certain firearms as long as not considered “military.” As applied to citizens, nothing like the regulations enacted by Cook County and Connecticut were consistent with this Nation’s historical tradition of firearm regulation.

St. George Tucker called the Second Amendment “the true palladium of liberty,” explaining:

The right of self defence is the first law of nature: in most governments it has been the study of rulers to confine this right within the narrowest limits possible. Wherever standing armies are kept up, and the right of the people to keep and bear arms is, under any colour or pretext whatsoever, prohibited, liberty, if not already annihilated, is on the brink of destruction.

1 St. George Tucker, *Blackstone's Commentaries* (1803), App. 300.

The laws and decisions below in this case would, to say the least, “confine this right within the narrowest limits.” It would have been unthinkable to ban a rifle or musket based on how it was held.

Justice Joseph Story wrote:

The right of the citizens to keep and bear arms...offers a strong moral check against usurpation and arbitrary power of the rulers; and will generally, even if these are successful in the first instance, enable the people to resist and triumph over them.

3 Joseph Story, *Commentaries on the Constitution* 746 (1833).

Confining the people to the most inferior arms would not allow the people “to resist and triumph” over “usurpation and arbitrary power of the rulers.”

The arms right distinguished a free citizen from a slave. See St. George Tucker, *A Dissertation on Slavery* 55 (1796). The antebellum Southern

states had laws like that of Virginia, which provided that “[n]o negro or mulatto slave whatsoever shall keep or carry any gun, powder, shot, club or other weapon whatsoever, offensive or defensive.” Va. 1819, c. 111, § 7. Further, “[n]o free negro or mulatto, shall be suffered to keep or carry any firelock of any kind, any military weapon, or any powder or lead, without first obtaining a license from the court” where he resided. *Id.* § 8.

But after Nat Turner’s slave revolt in 1831, Virginia repealed the licensing provision and provided: “No free negro or mulatto shall be suffered to keep or carry any firelock of any kind, any military weapon, or any powder or lead....” Va. 1831, c. 22, § 4. The courts below also have a fixation on what they call “military” weapons that citizens should not possess.

G. The Fourteenth Amendment Was Understood to Protect Common “Military” Long Guns

The black codes enacted in 1865 banned freedmen from possession of firearms with “military” features. South Carolina provided that no person of color would, without permission, “be allowed to keep a fire arm,” except “the owner of a farm, may keep a shot gun or rifle, such as is ordinarily used in hunting, but not a pistol, musket, or other fire arm or weapon appropriate for purposes of war.” So. Car. Stat., No. 4730, § XIII, 250 (1865). The musket, the epitome of a long gun of the day, was a military weapon.

During debate on the Freedmen’s Bureau bill, Rep. Josiah Grinnell noted that “a white man in

Kentucky may keep a gun; if a black man buys a gun he forfeits it and pays a fine of five dollars, if presuming to keep in his possession a musket which he has carried through the war.” Cong. Globe, 39th Cong., 1st Sess. 651 (1866). That a musket was a “military” weapon did not disqualify it from protection. “A rifle [musket] could fire a bullet with man-killing accuracy over 800 yards....” William B. Edwards, *Civil War Guns* 13 (1962). Standard bullets were .58 caliber weighing 510 grains, *id.* at 23–24, while “the bullet weight for a .223 caliber rifle is typically between 55 to 77 grains.”²² A wound from either could be devastating, but nothing in America’s historical tradition exists of banning such long guns.

But that military utility did not preclude constitutional protection. Muskets also had civilian uses. A Freedmen’s Bureau official testified that blacks “are proud of owning a musket or fowling-piece. They use them often for the destruction of vermin and game.” Rpt. of Jt. Com. on Reconstruction, H.R. Rep. No. 30, 39th Cong., 1st Sess., pt. 2, at 246 (1866).

During debate on the Fourteenth Amendment, Senator Samuel Pomeroy described “the safeguards of liberty” as including “the right to bear arms for the defense of himself and family,” which would allow a freedman to protect his cabin with “a well-loaded musket.” Cong. Globe, 39th Cong., 1st Sess. 1182 (1866). This Court quoted those words in finding that “the 39th Congress referred to the right to keep and

²² Gary McCloud, *What Is the Bullet Weight for a .223 Caliber Rifle?* (2024), <https://thegunzone.com/what-is-the-bullet-weight-for-a-223-caliber-rifle/>.

bear arms as a fundamental right deserving of protection.” *McDonald v. City of Chicago*, 561 U.S. 742, 775 (2010).

James Lewis, a freedman in Mississippi, was convicted for carrying a musket without a license. Chief Justice Alexander Handy of Mississippi’s highest court upheld the conviction, declaring the federal Civil Rights Act unconstitutional and holding that the state arms guarantee protected only citizens. “The Civil Rights Bill Declared Unconstitutional,” *N.Y. Times*, Oct. 26, 1866, at 2; see *McDonald*, 561 U.S. at 775 n.24. General Ulysses S. Grant noted this decision in a report stating: “The statute prohibiting the colored people from bearing arms, without a special license, is unjust, oppressive, and unconstitutional.” Cong. Globe, 39th Cong., 2d Sess., 33 (1866).

The Freedmen’s Bureau Act of 1866 declared that “[t]he right...to have full and equal benefit of all laws and proceedings concerning personal liberty, personal security, and [property], including the constitutional right to bear arms, shall be secured to and enjoyed by all the citizens....” § 14, 14 Stat. 173, 176–77 (1866). And the arms of that epoch included military muskets and repeating rifles with magazines holding multiple rounds, such as the Spencer and Henry rifles. Edwards, *Civil War Guns*, chs. 13 & 14.

In sum, it was understood that the Second and Fourteenth Amendments would protect the right of the people – including the newly-freed slaves – to keep and bear firearms, including long guns used in military service. Muskets had civilian uses, from self-defense to hunting.

Today, AR-15-platform and similar semiautomatic rifles are in common use by law-abiding citizens for lawful purposes throughout the United States. Banning their possession is inconsistent with this Nation's historical tradition of firearm regulation.

CONCLUSION

The Court should reverse the judgment of the court below and hold that the following violate the Second and Fourteenth Amendments: Cook County, Ill. Code § 54-212(a) (2024), and Conn. Gen. Stat. §§ 53-202b, 53-202c, 53-202d, 53-202w(b).

Respectfully submitted,

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