

ARTICLES

The Tradition of Armor Use and Regulation in America

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INTRODUCTION

This Article describes the historical use and regulation of armor in America. The Article also explains how that history fits within the Supreme Court’s test for Second Amendment challenges.

The Article starts in Part I, like the Court’s test, with an analysis of the Second Amendment’s plain text to determine whether armor is among the “Arms” protected by the Amendment.

Keeping with the Court’s test, the remainder of the Article focuses on tradition. Part II examines the tradition of keeping and bearing armor in America. Section B discusses the dependency on armor of the early European expeditioners who explored America from Christopher Columbus through the end of the sixteenth century. Section C surveys the use of armor in the American colonies throughout the seventeenth century. Section D explains the diminished but continued role of armor in America during the eighteenth century, including during the French and Indian War and Revolutionary War. Section E demonstrates that armor was sometimes used during the nineteenth century, including by both Union and Confederate soldiers in the Civil War.

Part III examines the tradition of armor regulation in America. It identifies the few historical regulations involving armor and considers whether other aspects of the Court’s test can potentially justify modern regulations.

In conclusion, the Article notes the deeply rooted tradition of keeping and wearing armor in America and finds that throughout American history, whenever armor’s usefulness outweighed the burden of wearing it, armor was used. That tradition, combined with the lack of historical restrictions, evinces a robust right to possess and wear body armor for self-defense.

I. THE SECOND AMENDMENT’S PLAIN TEXT

In *New York State Rifle & Pistol Ass’n v. Bruen*, the Supreme Court set forth the following test for all Second Amendment challenges:

When the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation. Only then may a court conclude that the individual’s conduct falls outside the Second Amendment’s “unqualified command.”¹

A Second Amendment analysis begins, therefore, with an analysis of the Amendment’s plain text. The Court conducted this plain text analysis in *District of Columbia v. Heller*.²

1. *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 24 (2022) (quoting *Konigsberg v. State Bar of Cal.*, 366 U.S. 36, 50 n.10 (1961)).

2. *District of Columbia v. Heller*, 554 U.S. 570, 576–600 (2008).

The Second Amendment protects “the right of the people to keep and bear Arms.”³ The initial question that this Article must address, then, is whether armor falls within the word “Arms” as *Heller* defined it.

To define “Arms,” the *Heller* Court consulted dictionaries from around America’s founding era, noting that “[t]he 18th-century meaning is no different from the meaning today.”⁴ The first dictionary the Court consulted was the 1773 edition of Samuel Johnson’s dictionary, which “defined ‘arms’ as ‘weapons of offence, or *armour of defence*.’”⁵ Next, “Timothy Cunningham’s important 1771 legal dictionary defined ‘arms’ as ‘*any thing that a man wears for his defence, or takes into his hands, or useth in wrath to cast at or strike another.*’”⁶ Third, the Court cited Noah Webster’s dictionary, which defined arms as “[w]eapons of offense, or *armor for defense and protection of the body,*” and stated that “[t]o take *arms* is to arm for attack or *defence.*”⁷ While the Court cited one founding-era thesaurus that “‘limited ‘arms’ . . . to ‘instruments of offence generally made use of in war,’”⁸ the Court made clear that this definition was not the one it adopted.⁹ The Court concluded its analysis by declaring that “the Second Amendment extends, *prima facie*, to *all instruments that constitute bearable arms[.]*”¹⁰ *Heller*’s plain text analysis strongly supports including armor among the “Arms” that the Second Amendment protects.

This conclusion is buttressed by a closer look at the dictionaries *Heller* relied on. Johnson and Webster both defined “Armor” as “Defensive arms.”¹¹ Cunningham defined “Armour or Arms” together, demonstrating that the words were used interchangeably.¹² Elsewhere in *Heller*’s plain text analysis, to define “bear,” the Court relied on Thomas Sheridan’s 1796 dictionary.¹³ Sheridan included among arms “weapons of offence” and “*armour of defence.*”¹⁴ Like Johnson and Webster, Sheridan defined “Armour” as “Defensive arms.”¹⁵ These definitions are consistent with the ordinary usage from the colonial and founding eras—early Americans, as demonstrated below, regularly referred to armor as “arms.”

3. U.S. CONST. amend. II.

4. *Heller*, 554 U.S. at 581.

5. *Id.* (quoting 1 SAMUEL JOHNSON, *DICTIONARY OF THE ENGLISH LANGUAGE* 106 (4th ed. 1773) (reprinted 1978)) (emphasis added) (brackets omitted).

6. *Id.* (quoting 1 TIMOTHY CUNNINGHAM, *A NEW AND COMPLETE LAW DICTIONARY* (1771) (unpaginated)) (emphasis added).

7. *Id.* (citing 1 NOAH WEBSTER, *AMERICAN DICTIONARY OF THE ENGLISH LANGUAGE* (1828) (unpaginated)) (emphasis added).

8. *Heller*, 554 U.S. at 581 (quoting 1 JOHN TRUSLER, *THE DISTINCTION BETWEEN WORDS ESTEEMED SYNONYMOUS IN THE ENGLISH LANGUAGE* 37 (3d ed. 1794)) (emphasis omitted).

9. “Although one founding-era thesaurus limited ‘arms’ (as opposed to ‘weapons’) to ‘instruments of offence generally made use of in war,’ even that source stated that all firearms constituted ‘arms.’” *Id.*

10. *Id.* at 582 (emphasis added).

11. 1 JOHNSON, *supra* note 5, at 106 (“Armour”); 1 WEBSTER, *supra* note 7 (“Armor”).

12. 1 CUNNINGHAM, *supra* note 6.

13. *Heller*, 554 U.S. at 584 (citing THOMAS SHERIDAN, *A COMPLETE DICTIONARY OF THE ENGLISH LANGUAGE* (6th ed. 1796)).

14. SHERIDAN, *supra* note 13.

15. *Id.*

Definitions of “Armor” were broad. As noted, Cunningham referred to armor when describing “*any thing* that a man wears for his defence” as “Arms.”¹⁶ Webster included “*any habit worn to protect the body in battle,*” while adding that “A complete *armor* formerly consisted of a casque or helmet, a gorget, cuirass, gauntlets, tasses, brassets, cuishes, and covers for the legs to which the spurs were fastened.”¹⁷ As is the case with firearms, armor has improved significantly since the founding era. But this does not alter the Second Amendment’s protections. The Court has repeatedly made clear that “even though the Second Amendment’s definition of ‘arms’ is fixed according to its historical understanding, that general definition covers modern instruments that facilitate armed self-defense.”¹⁸

In sum, every dictionary the Supreme Court used to define “Arms” included armor in the definition, and so did a dictionary it consulted to define another term in the plain text. Those same dictionaries defined “Armor” as arms. And they defined “Armor” broadly, as including all protective equipment. The Court’s conclusion that “the Second Amendment extends, *prima facie*, to all instruments that constitute bearable arms” is most reasonably read as including armor. This reading is consistent with the Court’s finding that “the inherent right of self-defense has been central to the Second Amendment right.”¹⁹ “Defensive arms” like armor serve that sole purpose.

II. THE TRADITION OF BEARING ARMOR IN AMERICA

The early European explorers and early English colonists invariably wore armor for protection against arrows during the frequent and often unexpected skirmishes against American Indians. The Charters for the Virginia and Massachusetts Bay colonies—the first written arms rights guarantees for any Englishmen—granted the colonists the right to bring, import, keep, make, and use armor in America. Armor use declined throughout the century, however, as it proved cumbersome against Indian tribes’ guerilla warfare tactics, especially as the tribes increasingly fought the colonists with firearms rather than bows and arrows. But armor continued to be used to some extent throughout the eighteenth century, including during the Revolutionary War. After another period of decline in the nineteenth century, Union and Confederate soldiers privately acquired and used armor during the Civil War. Thus, there is a long tradition of keeping and bearing armor throughout America history.

16. 1 CUNNINGHAM, *supra* note 6 (emphasis added).

17. 1 WEBSTER, *supra* note 7 (emphasis added).

18. *See Bruen*, 597 U.S. at 28 (citing *Caetano v. Massachusetts*, 577 U. S. 411, 411–12 (2016)); *see also Heller*, 554 U.S. at 582 (“Some have made the argument, bordering on the frivolous, that only those arms in existence in the 18th century are protected by the Second Amendment. We do not interpret constitutional rights that way. . . . the 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.”).

19. *Heller*, 554 U.S. at 628.

A. Glossary of Terms

Before examining the historical uses of armor throughout American history, it will be helpful to define the terms used throughout this Part of the Article.²⁰

- *Back and breast.* “The usual description of body armor worn in the 17th century. It consisted of a cuirass, back plate, and some sort of an open helmet.”²¹
- *Beaver.* “The part of a helmet that covers the face.”²²
- *Brassard.* “Plate armor for the entire arm.”²³ “They are divided into several parts of which the most important are—the *vambrace* or *avantbras* for the forearm, the *elbow cop* or *coudiere* for the elbow; and the *rerebrace* or *arriere-bras* for the upper arm. The *shoulder cop*, *pauldron* or *epauliere* which covered the shoulder, and often a large part of the breast and back, was usually considered a part of the arm guard.”²⁴
- *Breastplate.* “A plate, or set of plates, covering the front of the body from the neck to a little below the waist.”²⁵
- *Buckler.* “A shield, more especially the small, round shield held in the left hand when fencing.”²⁶
- *Buff coat.* “A heavy leather coat. . . . originally made of buffalo leather.”²⁷ “It was a long skirted coat, frequently without a collar.”²⁸
- *Cabasset.* “An open helmet worn[.]”²⁹
- *Chain mail.* “[A]rmore made of interlaced links.”³⁰
- *Corslet.* “Originally it meant leather armor. . . . Later its meaning was strictly plate armor for the body only.”³¹
- *Cotton coat.* “A thick cotton coat which covered part of the arms and thighs, made in one piece,” which protected against arrows.³²
- *Crupper.* “The armor for the hind quarters of a horse.”³³

20. Many of the definitions in the glossary are replicated from David B. Kopel & Joseph G.S. Greenlee, *The History of Bans on Types of Arms Before 1900*, 50 J. LEGIS. 223, 250–51 (2024).

21. GEORGE CAMERON STONE, A GLOSSARY OF THE CONSTRUCTION, DECORATION AND USE OF ARMS AND ARMOR IN ALL COUNTRIES AND IN ALL TIMES 84 (1999).

22. 1 SAMUEL JOHNSON, DICTIONARY OF THE ENGLISH LANGUAGE (4th ed. 1773).

23. STONE, *supra* note 21, at 142.

24. *Id.*

25. *Id.* at 143.

26. *Id.* at 150.

27. *Id.* at 152.

28. *Id.*

29. *Id.* at 158.

30. *Id.* at 424 (“Mail, Chain Mail”).

31. *Id.* at 192 (“Corselet, Corslet”).

32. Walter Hough, *Primitive American Armor*, in ANNUAL REPORT OF THE BOARD OF REGENTS THE SMITHSONIAN INSTITUTION 647 (Washington, Gov’t Printing Off. 1895).

33. STONE, *supra* note 21, at 195 (“Crupper, Croupiere Bacul”).

- *Cuishes*. “Defenses for the thighs. . . [t]he later ones were entirely of small plates and mail, except for the knee cop which was a large elliptical plate.”³⁴
- *Culet*. “A skirt of articulated plates attached to the backplate to guard the loins.”³⁵
- *Curat*. Armor covering the “back and breast.”³⁶
- *Cuirass*. “The cuirass was originally a breastplate of leather as its name implies. Later it was made of bronze and finally of steel. Both back and breast are included in the term.”³⁷
- *Escaupilles*. “[A] garment of quilted cotton covering the body down to the lower part of the thighs. It was considered arrow proof.”³⁸
- *Gauntlet*. “Armor for the hands.”³⁹
- *Gorget*. “Armor for the neck.”⁴⁰
- *Helmet*. “Generically any headpiece, specifically the open headpiece of the time of the Norman conquest.”⁴¹
- *Jack*. “Body armor” including “either a padded coat, or one interlined with mailplates or horn.”⁴²
- *Knee cops*. Armor for the knees. “The earliest were made of leather, the later of plate. At first these pieces only covered the knee and were fastened to mail, or leather, thigh pieces. . . . In the 15th century the knee cops were merged in the plate cuisses.”⁴³
- *Morian*. “A light, open headpiece with a high comb and a brim forming high peak front and back, and turned down at the sides.”⁴⁴
- *Pectoral*. “A covering for the breast, either defensive or ornamental.”⁴⁵
- *Quilted coat*. “Armor made of several thicknesses of linen, or other cloth, quilted or pour-pointed together.”⁴⁶
- *Taces*. “[L]aminated defenses for the thighs” that are “very similar” to tassets.⁴⁷
- *Target*. “A round shield with loops on the back through one of which the arm was passed while the other was grasped by the hand.”⁴⁸

34. *Id.* at 196–97 (“Cuisses, Cuissards, Cuissarts, Cuishes, Garde de Cuisses, Quishes, Quysshews”).

35. *Id.* at 198 (“Culet, Culeset, Garde de Reins”).

36. *Id.*

37. *Id.* at 196.

38. *Id.* at 222.

39. *Id.* at 245.

40. *Id.* at 250 (“Gorget, Colletin”).

41. *Id.* at 289.

42. *Id.* at 310.

43. *Id.* at 364.

44. *Id.* at 457 (“Morian, Morion”).

45. *Id.* at 492.

46. *Id.* at 520 (“Quilted Armor”).

47. *Id.* at 598 (“Taces, Tuilles”).

48. *Id.* at 605 (“Target, Targe”).

- *Tassets*. “Protections of plate for the thighs made of a single plate, or of several narrow plates flexibly connected by straps and rivets.”⁴⁹

B. *Discovery and Exploration of the New World*

This Section underscores the dependency on armor of the early European explorers of America. Several were Spanish, and while Americans predominantly adopted English traditions, they embraced some Spanish traditions as well.⁵⁰ “[A]ssociating themselves with a colonial history that was not British”—specifically, traditions of “Spanish America”—“enabled U.S. patriots to bypass their British heritage and assert their cultural independence.”⁵¹ Thus, Thomas Jefferson wrote that “the ancient part of American history is written chiefly in Spanish.”⁵² The Spanish explorers’ heavy reliance on armor, combined with the English and other European explorers’ heavy reliance on armor, demonstrates how deeply rooted the use of armor is in American history.

When Christopher Columbus reached the Americas in 1492, the “strange beings clad in glittering steel . . . landing upon the beach” caused the natives to

49. *Id.* at 606.

50. For example, Christopher Columbus, who led four Spanish expeditions to America, is deeply ingrained in the heritage of the United States. As early as 1697, Samuel Sewall, a justice of the Massachusetts Bay Colony’s highest court, passionately argued that “*men should rather call [America] Columbina, from the magnanimous Heroe Christopher Columbus a Genuse, who was manifestly Appointed of GOD to be the Finder out of these Lands.*” Samuel Sewall, PHENOMENA QUÆDAM APOCALYPTICA AD ASPECTUM NOVI ORBIS CONFIGURATA. OR, SOME FEW LINES TOWARDS A DESCRIPTION OF THE NEW HEAVEN AS IT MAKES TO THOSE WHO STAND UPON THE NEW EARTH 55 (Boston, Green & Allen 1697). Throughout the eighteenth and nineteenth centuries, the American colonies and later the United States were regularly referred to as “Columbia.” See, e.g., Phillis Wheatley, *His Excellency Gen. Washington*, in 1 CYCLOPEDIA OF AMERICAN LITERATURE 369 (Duyckinck & Duyckinck eds., New York, Charles Scribner 1856) (1775); JOEL BARLOW, THE VISION OF COLUMBUS: A POEM, IN NINE BOOKS 176 (Hartford, Hudson & Goodwin 1787); JOEL BARLOW, THE COLUMBIAD: A POEM (Philadelphia, Fry & Kammerer 1807); THE POEMS OF PHILIP FRENEAU: POET OF THE AMERICAN REVOLUTION (Fred Lewis Pattee ed., 1907) (three volumes). The nation’s unofficial national anthem until 1931 was “Hail, Columbia,” the country was long personified as “Lady Columbia,” and the nation’s capital was established in the territory of “Columbia.” See *Hail Columbia*, LIBR. OF CONG., <https://www.loc.gov/item/ihas.200000008> [<https://perma.cc/7VLQ-7F96>]; Cari Shane, *Before Lady Liberty, There Was Lady Columbia, America’s First National Mascot*, SMITHSONIAN MAG., <https://smithsonianmag.com/history/before-lady-liberty-lady-columbia-180982722> [<https://perma.cc/PZP3-X9SV>]; 3 JOHN PINKERTON, MODERN GEOGRAPHY: A DESCRIPTION OF THE EMPIRES, KINGDOMS, STATES, AND COLONIES; WITH THE OCEANS, SEAS, AND ISLES; IN ALL PARTS OF THE WORLD 93 (London, T. Cadell et al. 1807).

51. Caitlin A. Fitz, *The Hemispheric Dimensions of Early U.S. Nationalism: The War of 1812, Its Aftermath, and Spanish American Independence*, 102 J. AM. HIST. 356, 358 (2015).

52. Letter from Thomas Jefferson to Thomas Mann Randolph, July 6, 1787, in 2 THE WRITINGS OF THOMAS JEFFERSON 177 (H. A. Washington ed., 1871). Jefferson echoed this line the following month while recommending that his nephew learn Spanish: “Our future connections with Spain and Spanish America, will render that language a valuable acquisition. The ancient history of that part of America, too, is written in that language. I [will] send you a dictionary.” Letter from Thomas Jefferson to Peter Carr, Aug. 10, 1787, in 2 THE WRITINGS OF THOMAS JEFFERSON, *supra*, at 238. Jefferson owned many books about Spanish and other European expeditions to America. See THOMAS JEFFERSON’S LIBRARY: A CATALOG WITH THE ENTRIES IN HIS OWN ORDER 140–47 (Wilson & Gilreath eds., 2010).

“fle[e] in affright to their woods.”⁵³ “During the ceremonies” that took place soon after, the natives “remained gazing in timid admiration at the complexion, the beards, the shining armour, and splendid dress of the Spaniards.”⁵⁴ On Columbus’s second voyage to America from 1493 to 1496, when Columbus wanted to “impress” with “his present power and importance, he appeared with a numerous train of his principal officers, all richly dressed or in glittering armour.”⁵⁵ It is known that “corselets” were among the armor brought on this second expedition.⁵⁶ In 1494, “Columbus set out at the head of about four hundred men well armed and equipped, with shining helmets and corslets” as they ventured into the interior of La Española.⁵⁷ The fact that “[o]ne Spaniard was killed by a poisoned arrow that pierced his buckler” demonstrates their use of shields.⁵⁸ On Columbus’s third voyage to America from 1498–1500, Indians ambushed some of his men during a river crossing, and “notwithstanding the protection of their targets, many of the Spaniards were wounded.”⁵⁹ The Spaniards pursued their ambushers, but “the Indians took to flight” and evaded the Spaniards “who were encumbered with armour, targets, cross-bows and lances.”⁶⁰ On Columbus’s final voyage to America from 1502 to 1504, the Spaniards were armed “with swords, bucklers, cuirasses, and cross-bows.”⁶¹

The name “America” is derived from Amerigo Vespucci,⁶² who made a disputed number of voyages to America for both Spain and Portugal between 1497 and 1504.⁶³ Vespucci marveled that “when [the natives] advance to war they cover no part of their bodies for the sake of protection, so like beasts are they in this matter.”⁶⁴ The natives’ lack of defensive coverings and especially their practice of cannibalism disturbed Vespucci and his men, who “endeavored to the extent of our power to dissuade them and persuade them to desist from these

53. 1 WASHINGTON IRVING, *A HISTORY OF THE LIFE AND VOYAGES OF CHRISTOPHER COLUMBUS* 241 (London, John Murray 1828).

54. *Id.*

55. 2 *id.* at 54.

56. 1 *id.* at 446.

57. 2 *id.* at 94.

58. 1 *THE CHRISTOPHER COLUMBUS ENCYCLOPEDIA* 37 (Silvio A. Bedini ed., 1992).

59. 2 IRVING, *supra* note 53, at 480.

60. *Id.* at 480–81.

61. 3 *id.* at 227.

62. *THE CHRISTOPHER COLUMBUS ENCYCLOPEDIA*, *supra* note 58, at 18–19. Martin Waldseemüller first applied the name “America” to the new continent on a terrestrial globe he produced in 1506, and more influentially, in a map he published in 1507. *Id.* at 19. The widespread popularity of Vespucci’s accounts of his voyages, compared with the relatively little publicity Columbus initially received, led to the continent being named “America.” *Id.* at 18.

63. Some historians believe that Vespucci fabricated at least one, and possibly two, of his voyages. See FREDERICK ALBION OBER, *AMERIGO VESPUCCI* 101–25 (1907); *Amerigo Vespucci*, *BRITANNICA*, <https://www.britannica.com/biography/Amerigo-Vespucci> [<https://perma.cc/RJZ9-54J9>].

64. 5 VESPUCCI REPRINTS, TEXTS, AND STUDIES: *THE MUNDUS NOVUS IN TRANSLATION* 7 (George Tyler Northup trans., 1916). Vespucci’s *Mundus Novus* “quickly spread to other countries and was published in at least fourteen editions between 1503 and 1505.” *THE CHRISTOPHER COLUMBUS ENCYCLOPEDIA*, *supra* note 58, at 18.

depraved customs[.]”⁶⁵ A famous depiction of Vespucci in America is an allegorical drawing by Johannes Stradanus from the 1580s, which shows Vespucci in armor, holding a sword, astrolabe, and banner displaying the Southern Cross.⁶⁶

Juan Ponce de León joined Columbus on his second voyage to America. He returned to America in 1513, landing in present-day Florida—which he named *La Florida*—and is widely credited for its discovery.⁶⁷ León and his men regularly went about fully clad in metal armor.⁶⁸ While highly effective, the armor was not impenetrable. Returning to Florida in 1521 to establish Spain’s first colony in today’s continental United States, “no sooner had [León] landed than the savages came down with overwhelming force” to repel the incursion.⁶⁹ “[T]hough sheathed in armor from throat to toe, he was struck in the thigh by an arrow.”⁷⁰ His men rushed him to the ship to sail to Cuba for surgical aid. Hearing the taunts of the Indians as his men retreated, León “called for his armor” to sally forth again but collapsed on the deck and eventually succumbed to his injuries.⁷¹

Spain sent the Narváez expedition—consisting of three hundred men—to “conquer and govern” the Florida territory in 1527.⁷² The second-in-command, Álvar Núñez Cabeza de Vaca, later published a narrative about the catastrophic expedition. The Spaniards’ mistreatment of virtually every native they encountered led to relentless attacks from bow-wielding natives during their time in Florida. The Spaniards developed “galled shoulders from carrying armor,”⁷³ but many were still killed by the powerful arrows that “pierced through” red oak trees “from side to side.”⁷⁴ In July 1528, several Spaniards were injured during an

65. 5 VESPUCCI REPRINTS, TEXTS, AND STUDIES, *supra* note 64, at 7. “[W]e owe the term ‘cannibal’ to [Columbus’s] conflation of the term ‘Caniba’—an appellation for the fierce peoples of the eastern Caribbean—with their custom of eating human flesh. Eventually, the term was applied to all man-eating peoples.” ANDRÉS RESÉNDEZ, *THE OTHER SLAVERY* 40–41 (2016).

66. *Allegory of America*, THE MET, <https://www.metmuseum.org/art/collection/search/343845> [perma.cc/ZL2X-LVBV] (last visited Dec. 19, 2023). Stradanus’s drawing was made into an engraving by Theodoor Galle around 1600. *Allegory of America, from New Inventions of Modern Times (Nova Reperta)*, plate 1 of 19, THE MET, <https://www.metmuseum.org/art/collection/search/659655> [perma.cc/5JRP-87Q3] (last visited Dec. 19, 2023).

67. There is reason to believe that Florida may have been “discovered” by earlier Europeans. For example, the Cantino Planisphere, a 1502 map created by a Portuguese explorer, arguably depicts Florida’s shorelines. Douglas T. Peck, *The First European Charting of Florida and the Adjacent Shores*, 34 *FLA. GEOGRAPHER* 82, 86–94 (2003).

68. *See, e.g.*, FREDERICK A. OBER, *JUAN PONCE DE LEÓN* 103–04, 106, 130, 146, 153–54, 248, 250, 252–53, 257 (1908).

69. *Id.* at 278.

70. *Id.*

71. *Id.* at 279.

72. *The Narrative of Alvar Nuñez Cabeza de Vaca*, in *SPANISH EXPLORERS IN THE SOUTHERN UNITED STATES 1528–1543*, at 17 (Frederick W. Hodge ed., 1907).

73. *Id.* at 27.

74. *Id.* at 31. De Vaca wrote, “The Indians we had so far seen in Florida are all archers . . . The bows they use are as thick as the arm, of eleven or twelve palms at length, which they discharge at two hundred paces with so great precision that they miss nothing.” *Id.* at 32.

attack while crossing a lake;⁷⁵ “the good armor they wore did not avail.”⁷⁶ In September, “the Indians twice attacked and killed ten men” while they were “gathering shell-fish”: “We found their corpses traversed from side to side with arrows,” de Vaca wrote, “and for all some had on good armor, it did not give adequate protection or security against the nice and powerful archery[.]”⁷⁷ By the end of that month, forty additional men had died from disease and hunger while the survivors resorted to eating their horses.⁷⁸ The remaining men—now fewer than 200—built makeshift rafts to escape to the Spanish colonies in Mexico.⁷⁹ Narváez’s raft was swept away at sea.⁸⁰ The two other rafts shipwrecked on a Texas island.⁸¹ Three men drowned.⁸² Of the eighty men who made it to the island, most died of disease or starvation.⁸³ Some resorted to cannibalism.⁸⁴ The survivors were enslaved by Indians and badly abused.⁸⁵ All but four were killed by their enslavers,⁸⁶ a fellow Spaniard,⁸⁷ exposure,⁸⁸ or starvation.⁸⁹ The four survivors, including Cabeza de Vaca, traveled across Texas and possibly into New Mexico and Arizona before encountering European slavers in 1536 and finally returning to Spain.⁹⁰

The Spanish explorer Hernando de Soto set sail for North America in 1538 with roughly “600 men in armor.”⁹¹ According to the earliest published narrative of the expedition, “the Portuguese” on the expedition were “armed with very excellent armor,” while “[m]ost of the Castilians wore poor and rusty coats of mail,” and “all [the men wore] helmets.”⁹² In a particularly ruthless campaign,

75. *Id.* at 31. “There were those this day who swore that they had seen two red oaks, each the thickness of the lower part of the leg, pierced through from side to side by arrows; and this is not so much to be wondered at, considering the power and skill with which Indians are able to project them. I myself saw an arrow that had entered the butt of an elm to the depth of a span.” *Id.* at 31–32.

76. *Id.* at 31.

77. *Id.* at 36.

78. *Id.*

79. *Id.* at 35–36.

80. *Id.* at 62.

81. *Id.* at 46–48. There is a scholarly debate over whether the men shipwrecked on Galveston Island or Follet’s Island. See ANDRÉS RESÉNDEZ, *A LAND SO STRANGE: THE EPIC JOURNEY OF CABEZA DE VACA* 243, 277 n.2 (2007).

82. *The Narrative of Alvar Nuñez Cabeza de Vaca*, *supra* note 72, at 46.

83. *Id.* at 49, 58, 63.

84. *Id.* at 49.

85. *Id.* at 50, 59, 64.

86. *Id.* at 58, 62, 68.

87. *Id.* at 63.

88. *Id.* at 58, 63.

89. *Id.* See also STEVEN RINELLA, *AMERICAN BUFFALO: IN SEARCH OF A LOST ICON* 17–19 (2008).

90. JOHN L. KESSELL, *SPAIN IN THE SOUTHWEST: A NARRATIVE HISTORY OF COLONIAL NEW MEXICO, ARIZONA, TEXAS, AND CALIFORNIA* 384 n.28 (2002).

91. 2 THE STANDARD REFERENCE WORK FOR THE HOME, SCHOOL, AND LIBRARY (1912) (unpaginated) (under heading, “De Soto”).

92. A Gentleman from Elvas, *True Relation of the Hardships Suffered by Governor Don Hernando de Soto and Certain Portuguese Gentlemen in the Discovery of the Province of Florida*, in 1 THE DE SOTO CHRONICLES: THE EXPEDITION OF HERNANDO DE SOTO TO NORTH AMERICA IN 1539–1543, at 50 (1995) (originally published in 1557).

the expedition explored what is now the southeastern United States, becoming the first Europeans to cross the Mississippi River.⁹³ Although often outnumbered, the Spaniards' armor gave them a considerable advantage in battle.⁹⁴ De Soto demonstrated the advantage when he "drew out more than twenty arrows that [his private secretary] carried hanging from his armor, which was a quilted tunic of thick cotton."⁹⁵

The Spaniards quickly learned that not all their armor was effective, however. "A sharpened cane passes through a shield," they realized,⁹⁶ which rendered arrows made of cane problematic: "Generally when arrows [of fish bone or stone] strike against armor, they break off at the place where they are fastened on. Those of cane split and enter through the links of mail and are more hurtful."⁹⁷ As it turned out, some coats of mail were more useful than others. An arrow wounded the *maestre de campo*, Luis de Moscoso Alvarado, during one of the first skirmishes with the natives: "Moscoso received an arrow wound in the right side" after the arrow "passed through a quilted doublet" he wore as well as "a buckskin jacket and a coat of mail that he wore beneath it."⁹⁸ This alarmed the Spaniards because Moscoso wore an expensive "highly burnished" coat of mail that "[t]he rich men had brought many of."⁹⁹ So the Spaniards had a native they captured shoot one from fifty paces away. The first shot "passed through the coat of mail."¹⁰⁰ The Spaniards then added a second coat of mail in front of the first. The next "arrow passed through four thicknesses of steel and lodged there, halfway through."¹⁰¹ Consequently, some of the men discarded their previously coveted expensive coats of mail and replaced them with cheaper coats of mail that proved to be more effective—which they wore under "loose quilted jackets" for extra protection.¹⁰²

When de Soto contracted a fever and died in 1542, his men had to conceal his death from the Indians because it would undermine the claim that de Soto was a god.¹⁰³ They made a coffin out of the trunk of an evergreen oak, "weighted the rude coffin with armor, and sank it in the bosom of the 'Father of Waters' [the

93. FINAL REPORT OF THE UNITED STATES DE SOTO EXPEDITION COMMISSION 228 (1939). De Soto's expedition traversed present-day Florida, Georgia, South Carolina, North Carolina, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, and Texas. *Id.* at VII.

94. See JOHN S.C. ABBOTT, FERDINAND DE SOTO, THE DISCOVERER OF THE MISSISSIPPI 129 (New York, Dodd & Mead 1873).

95. Rodrigo Rangel, *Account of the Northern Conquest and Discovery of Hernando de Soto*, in 1 THE DE SOTO CHRONICLES, *supra* note 92, at 293.

96. A Gentleman from Elvas, *supra* note 92, at 59.

97. *Id.*

98. Garcilaso de la Vega, *La Florida del Ynca*, in 1 THE DE SOTO CHRONICLES, *supra* note 92, at 235 (originally published in 1605).

99. *Id.*

100. *Id.*

101. *Id.*

102. *Id.* at 236.

103. De Soto claimed to be the "son of the sun." A Gentleman from Elvas, *supra* note 92, at 77, 115, 134.

Mississippi River].”¹⁰⁴ De Soto was not the last man from his expedition to be draped in armor at the bottom of the Mississippi. When Indians upset the Spaniards’ canoes during a skirmish in 1543, roughly a dozen of them drowned because their armor weighed them down.¹⁰⁵

The Spanish explorer Francisco Vázquez de Coronado led an expedition from what is now Mexico to Kansas from 1540 to 1542. Records of the muster roll completed the day before Coronado set out on the expedition describe the armor his men brought on the expedition.¹⁰⁶ Nearly every one of the 289 men listed on the muster roll brought armor: 260 men brought “native” armor, such as round shields, quilted cotton tunics, and traditional feathered headgear;¹⁰⁷ 61 men brought European-style body armor, such as Castilian armor, chain mail vests, chain mail doublets, and chain mail breeches;¹⁰⁸ 45 brought European-style helmets, such as sallets;¹⁰⁹ many also brought elk hide jackets, chain mail sleeves, beavers (chin guards), breastplates, gauntlets, or gorgets.¹¹⁰ Coronado brought armored horse trappings for his horses.

Arms historian Harold Peterson provides further insight into the armor worn on the Narváez, de Soto, and Coronado expeditions: “The infantry wore chain mail shirts probably with reinforcing pieces of plate in the form of cuishes to protect the thighs, knee-cops, and possibly brassards for the arms”; “[s]ome carried targets, and all wore helmets.”¹¹¹ “The cavalry were more heavily armed, some very probably in full suits of plate armor. Even the horses were protected.”¹¹²

Juan de Oñate and Pedro Ponce de León both sought to lead a Spanish expedition to New Mexico in 1598. Oñate offered to supply “Six coats of mail. Six cuishes, Six helmets with beavers, Six sets of horse armor. . . . Two complete coats of armor. . . . Six buckskin jackets.”¹¹³ Beyond what he promised to supply, de Oñate requested “one dozen coats of mail from the armory of his Majesty on condition that he pay for them.”¹¹⁴ León offered to supply twelve coats of mail, twelve cuishes, twelve helmets with beavers, twelve sets of horse armor, four complete coats of armor, thirty buckskin jackets, four steel shields, and four helmets.¹¹⁵ Beyond what he promised to supply, León requested “the power to take

104. 2 THE STANDARD REFERENCE WORK FOR THE HOME, SCHOOL, AND LIBRARY (1912) (unpaginated) (under heading, “De Soto”). Notably, there are other theories about his burial. For example, one claims that his coffin was “weighted with sand and allowed to sink into the depths of the Rio Grande.” FINAL REPORT, *supra* note 93, at 260.

105. *Id.* at 265.

106. The muster was conducted on February 22, 1540. DOCUMENTS OF THE CORONADO EXPEDITION, 1539–1542, at 139 (Flint & Flint eds., 2005).

107. *Id.* at 138.

108. *Id.*

109. *Id.*

110. *Id.* at 139–50.

111. HAROLD PETERSON, ARMS AND ARMOR IN COLONIAL AMERICA 1526–1783, at 106 (1956).

112. *Id.*

113. 1 HISTORICAL DOCUMENTS RELATING TO NEW MEXICO, NUEVA VIZCAYA, AND APPROACHES THERETO, TO 1773, at 283 (Charles Wilson Hackett ed., 1923).

114. *Id.* at 285.

115. *Id.* at 283.

from these kingdoms all the arms, offensive and defensive . . . that he may wish, besides what is granted to him.”¹¹⁶ The Crown ultimately selected Oñate.¹¹⁷ Some of Oñate’s men brought their own armor in addition to what he provided. For example, a captain swore that he was taking “three complete suits of armor, to arm himself and two other soldiers in coats of mail, with thigh piece, beaver, and helmet, all complete, and with nothing lacking”; “Three sets of horse armor of buckskin, lined with undressed leather, for the flanks, foreheads, breasts, necks”; “two shields for defense against arrows”; and “complete equipment of armor” for each of his two servants.”¹¹⁸ Oñate proceeded to establish the first Spanish settlement in the territory that is now New Mexico and became its first governor.¹¹⁹

Spaniards continued to depend on defensive arms in America throughout the sixteenth century, especially the practical and inexpensive cotton armor.¹²⁰ A 1570 investigation of the Spanish fort at St. Augustine found that “the *escaupiles* that were taken there have been used by the soldiers as shirts” and that “they have much need of . . . other *escaupiles*.”¹²¹ A 1573 investigation found that “within two years” each soldier who arrived at the fort at St. Augustine was provided “girdles, . . . some hose, some arms which are called *escaupiles*.”¹²² In 1577, Spanish Florida’s third governor requested “one hundred and fifty *escaupiles*” for the fort at Santa Elana—the capital of Spanish Florida at the time and present-day Parris Island, South Carolina.¹²³ “In later Spanish expeditions into the Southwest, the mail shirt was also apparently standard equipment.” For example, Vicente de Zaldívar y Mendoza, the *maestre de campo* of an expedition to New Mexico in 1602, took “[o]ne hundred coats of mail. One hundred cuishes. Fifty steel helmets with beavers.”¹²⁴

Rene Goulaine de Laudonnière, a French explorer, led an expedition in 1564 that unsuccessfully attempted to colonize what is now Florida.¹²⁵ A painter on the expedition, Jacques Le Moyne de Morgues, created two illustrations revealing

116. *Id.* at 293.

117. León was initially selected but failed to raise enough money for the expedition after falling ill. 1 CHARLES F. COAN, A HISTORY OF NEW MEXICO 174 (1925).

118. 1 HISTORICAL DOCUMENTS RELATING TO NEW MEXICO, *supra* note 113, at 429–33.

119. COAN, *supra* note 117, at 175–80; INVENTORY OF THE COUNTY ARCHIVES OF SANDOVAL COUNTY NEW MEXICO 7 (1939).

120. PETERSON, *supra* note 111, at 125.

121. *Investigation of the Return from Florida of Esteban de Las Alas*, Dec. 22, 1570, in 1 COLONIAL RECORDS OF SPANISH FLORIDA 1570–1577, at 307 (Jeannette Thurber Connor ed. & trans., 1925).

122. *Investigation Made in Madrid by Licentiate Gamboa on Matters Concerning Florida*, Feb. 4, 1573, in 1 COLONIAL RECORDS OF SPANISH FLORIDA, *supra* note 121, at 97.

123. Letter from Pedro Menéndez Márquez to the King, Oct. 21, 1577, in 1 COLONIAL RECORDS OF SPANISH FLORIDA, *supra* note 121, at 275.

124. *The Council of the Indies to the president of the Casa de Contratacion. Valladolid, June 12, 1602*, in HISTORICAL DOCUMENTS RELATING TO NEW MEXICO, *supra* note 113, at 403.

125. The French explorer Samuel de Champlain had better luck founding Quebec and New France in 1608. Champlain and his men were heavily armed with items such as corselets, burgonets, tassets, backplates, breastplates, and shields. 2 VOYAGES OF SAMUEL DE CHAMPLAIN, 1604–1610, at 240, 242 (Charles Pomeroy Otis trans., Boston, John Wilson & Son 1878); PETERSON, *supra* note 111, at 133.

the armor the Spaniards wore on the expedition. A painting of a battle in which the French supported Chief Outina of the Timucua against his rival Chief Pontanou shows the French officers wearing breastplates, cabassets, and padded clothing to protect against arrows and clubs, while de Laudonnière utilizes a circular steel target to shield himself from a blow with a club.¹²⁶ Le Moyne's other illustration portrays a ceremony in which de Laudonnière wears a breastplate and the men behind him wear morions.¹²⁷

Sir Walter Raleigh led England's first attempt to establish an American colony in 1585 with his ill-fated settlement on Roanoke Island. Raleigh's military adviser recommended that he bring substantial amounts of armor on the expedition, including: "100[] swordes and lyght moddena [Modena] targetes"; "Then 100. Armed men with millan [Milan] corseletes lyght"; "Then 50. Armed men with lyght Corseletes."¹²⁸ It is unclear what Raleigh ended up taking on the expedition, but Raleigh had previously warned in *Maxims of State* about societies in which the people "grow . . . negligent of Armour" or "weakened of Armour."¹²⁹ In any event, Raleigh's adviser's directions "reflect the general attitude of contemporary military men towards the requisites for a colony."¹³⁰

Like their Spanish, French, and English predecessors, the colonists who founded the American colonies in the seventeenth century depended on armor for survival, as explained in the next Section.

C. Seventeenth Century

This Section will discuss the use of armor in the first two permanent English settlements in Virginia and Massachusetts before discussing the militia mandates that required militiamen (generally, all able-bodied males) to keep and bear armor throughout the American colonies in the seventeenth century. But before focusing on two specific colonies, Peterson's general summary of armor use in America provides helpful insight:

The armor that was used in America during the 1600's was much the same as that worn in the second half of the preceding century. The target was used everywhere, and the morion and cabasset continued to be very popular. Shirts of mail were still in use, and so were quilted and padded garments. In the English colonies, the latter were frequently called jacks or jack-coats.¹³¹

126. *Outina defeats Pontanou with the aid of the French*, LIBR. OF CONG., <https://www.loc.gov/resource/cph.3a04315/> [<https://perma.cc/U9YL-JGXX>] (last visited Dec. 15, 2023).

127. *Narrative of Le Moyne, an Artist who accompanied the French Expedition to Florida Under Laudonnière, 1564*, LIBR. OF CONG., https://www.loc.gov/resource/gdcwdl.wdl_15521/?sp=47&r=-0.355.0.18.1.678.0.707.0 [<https://perma.cc/X33L-FSKM>] (last visited Dec. 15, 2023).

128. 1 THE ROANOKE VOYAGES, 1584–1590, at 131 (David Beers Quinn ed., 2017). For an image of "the type of armor Raleigh's advisor referred to as 'millan corseletes—lyght,'" see PETERSON, *supra* note 111, at 131.

129. Sir Walter Raleigh, *Maxims of State*, in REMAINS OF SIR WALTER RALEIGH 34, 40 (1669).

130. PETERSON, *supra* note 111, at 128.

131. *Id.* at 132.

1. Virginia

The Virginia colonists who formed the first permanent English settlement in America had the express right to import and use armor. In the First Charter of Virginia in 1606, the King James I, binding his “Heirs, and Successors,” granted Virginia colonists the right to travel to the colony “With sufficient Shipping, and Furniture of Armour, Weapons, Ordnance, Powder, Victual, and all other things, necessary for the said Plantations, and for their Use and Defence there.”¹³² Once the colonists arrived at the colony, they had the right to import from Great Britain “the Goods, Chattels, Armour, Munition, and Furniture, needful to be used by them, for their said Apparel, Food, Defence, or otherwise. . . .”¹³³ The Second Charter of Virginia in 1609 guaranteed the right of colonists to “take” on the Voyage to Virginia and to “inhabit there in the said Colony” with “sufficient Shipping, Armour, Weapons, Ordinance, Munition, Powder, Shot, . . . and all other things necessary . . . for their Use, and Defence, and Trade with the People there.”¹³⁴ The Third Charter of Virginia in 1611–12 guaranteed the right of colonists to take “Armour, Weapons, Ordnance, Munition, Powder, Shot . . . and all other Things necessary for their Use and Defence.”¹³⁵

“The settlers who arrived at Jamestown in 1607 were well equipped with armor.”¹³⁶ On May 5, 1607, nine days before founding the Jamestown settlement, George Percy—who “was three times at the head of the affairs of the colony during the periods of the first and second charters”¹³⁷—wrote that the “Rapahanna” Indians invited the colonists to meet with them.¹³⁸ Before heading to the meeting, Percy explained, “[w]ee manned our shallop with Muskets and Targetiers sufficiently.”¹³⁹ On May 20, some colonists set up a leather shield for a Paspahegh Indian to shoot to see how effectively it would stop an arrow. When the leather shield underperformed, they set up a steel shield, which provided better a result:

One of our Gentlemen having a Target which hee trusted in, thinking it would beare out a slight shot, hee set it up against a tree, willing one of the Savages to

132. *The First Charter of Virginia (1606)*, reprinted in 7 THE FEDERAL AND STATE CONSTITUTIONS: COLONIAL CHARTERS, AND OTHER ORGANIC LAWS OF THE STATES, TERRITORIES, AND COLONIES NOW OR HERETOFORE FORMING THE UNITED STATES OF AMERICA 3786 (Francis Newton Thorpe ed., 1909).

133. *The First Charter of Virginia (1606)*, reprinted in 7 THE FEDERAL AND STATE CONSTITUTIONS, *supra* note 132, at 3787.

134. *The Second Charter of Virginia (1609)*, reprinted in 7 THE FEDERAL AND STATE CONSTITUTIONS, *supra* note 132, at 3799.

135. *The Third Charter of Virginia (1611–12)*, reprinted in 7 THE FEDERAL AND STATE CONSTITUTIONS, *supra* note 132, at 3807.

136. PETERSON, *supra* note 111, at 138.

137. George Percy, *A Trewe Relacyon*, in 3 TYLER’S Q. HIST. AND GENEALOGICAL MAG. 259, 259 (1921).

138. George Percy, *Observations of Master George Percy, 1607*, in NARRATIVES OF EARLY VIRGINIA 1606–1625, at 13 (Lyon Gardiner Tyler ed., 1907). It appears that Percy was mistaken, and that the colonists actually met with Quioughcohanock Indians. A. W. Bohannon, *Jamestown Island and ‘The Surry Side,’* 55 VA. MAG. HIST. AND BIOGRAPHY 105, 126 (1947).

139. *Observations of Master George Percy*, *supra* note 138, at 13.

shoot; who tooke from his backe an Arrow of an elle long, drew it strongly in his Bowe, shoots the Target a foote thorow, or better: which was strange, being that a pistoll could not pierce it. Wee seeing the force of his Bowe, afterwards set him up a steele Target; he shot again, and burst his arrow all to pieces. He presently pulled out another Arrow, and bit it in his teeth, and seemed to bee in a great rage; so hee went away in great anger.¹⁴⁰

Percy makes clear throughout the rest of his narrative that the men regularly carried their “targets.”¹⁴¹

John Smith wrote about arriving to meet Indians at Werowocomoco with 20 men “armed in Jacks.”¹⁴² When a chief asked why they “came armed in that fort,” Smith explained that it was not for lack of trust, but because “it was the custome of our Country.”¹⁴³ Smith left Jamestown in October 1609 after being injured in a gunpowder accident. That same month, the colonists reported having more “curats, pikes, swords, and moryons” than men.¹⁴⁴

Earlier that year, the Virginia Company’s nine-vessel “third supply” expedition had set sail for Jamestown.¹⁴⁵ The flagship *Sea Venture*, which carried most of the supplies, shipwrecked in the Bermudas.¹⁴⁶ The men aboard—including Thomas Gates and George Yeardley—all survived but did not arrive in Jamestown on the new boats they built in the Bermudas until May 1610. Meanwhile, in Jamestown, all but roughly 60 of the 500 colonists had perished from starvation or Indian attacks over the winter. Soon after arriving, Gates issued orders for the colonists to follow. Thomas Dale arrived the following year “and broughtt with him thre hundrethe men besydes greatt store of Armour.”¹⁴⁷ Dale added more orders to Gates’s, including a military code. These orders, which became known as “Dale’s Code,” required the men of Virginia to appear in copious armor.

Hee [the Governor] shall not suffer in his Garrison any Souldier to enter into Guard, or to bee drawne out into the field without being armed according to the Marshals order, which is, that every shot [musketeer] shall either be furnished with a quilted coate of Canvas, a headpiece, and a sword, or else with a light Armor, and Bases quilted, with which hee shall be furnished: and every Targiteer with his Bases to the small of his legge, and his headpeece, sword and pistoll, or Scuppet provided for that end. And likewise every Officer armed as before, with a firelocke, or Snaphause, headpiece, and a arget, onely the

140. *Id.* at 17. Percy explained the Indians’ arrows as well: “Their Bowes are made of tough Hasell, headed with very sharp stones, and are made artificially like a broad Arrow: other some of their Arrowes are headed with the ends of Deere hornes, and are feathered very artificially.” *Id.*

141. *See, e.g., id.* at 58, 168, 173.

142. JOHN SMITH, *A TRUE RELATION OF VIRGINIA* 47 (Boston, Wiggan & Lunt 1866).

143. *Id.* at 53.

144. Richard Pott & William Phettiplace, *The Proceedings of the English Colony in Virginia, in NARRATIVES OF EARLY VIRGINIA*, *supra* note 138, at 197.

145. *Id.* at 191.

146. *Id.*

147. Percy, *A Trewe Relacyon*, *supra* note 137, at 276.

Serieant in Garrison shall use his Halbert, and in field his Snaphaunse and Target.

The Governour shall have a Principall care, that he use his Garrison to the daily wearing of these Armors, least in the field, the souldier do find them the more uncouth strange and troublesome.¹⁴⁸

“The word ‘base’ used in the quotation referred to a defense for the lower body and thighs. Traditionally it designated a padded skirt, but by 1611 it is possible that it was also used to describe padded or quilted breeches.”¹⁴⁹

According to Percy, Dale “wente ageinste the Nancemondies with a hundrethe men in Armour where he had dyvrs encownters and skirmishes with the Salvages bothe by Lande and waters dyvrs of his company beinge wownded.”¹⁵⁰ “Dale himself narrowly eskafe[d]” an arrow that hit “juste upon the edge or Brimme of his headepeece.”¹⁵¹ The natives, “nott beinge acquainted nor acustomed to encownter with men in Armour” were befuddled when “they did nott see any of our men fall” from their arrows.¹⁵² They eventually resorted to a rain dance hoping “to cawse Raine to fall from the Clowdes to extinguishe and putt owtt our mens matches” on their matchlocks.¹⁵³ But it was to no avail, as the colonists proceeded to “Cutt downe their Come Burned their howses and besydes those which they had slayne broughtt some of them prisoners to our foarte.”¹⁵⁴

Yeardley served as governor from 1616–1617 before returning to England. He was then appointed governor again, and set sail for Virginia again, this time as the ship’s captain. On this second trip, the Virginia Company provided the 36 men onboard with “Twenty brest plates and 36 head peece”¹⁵⁵

Company records from 1619 state that the company “plentifully furnished . . . the People that goe” to Virginia with “Armour, weapons, tooles, and sundry other necessaries” and that “a supply of Armour, Powder, and many necessary provisions” were being sent to those already in Virginia.¹⁵⁶ The Company provided a similar assurance the following year.¹⁵⁷ When the Company sent Captain John Woodliffe and 38 settlers to Virginia in 1619, the Company instructed the settlers to “immediately” erect a shelter “for the safe keeping of the tooles, implements of husbandry powder, shott, Armor, and victual” and appointed someone to “take

148. FOR THE COLONY IN VIRGINEA BRITANNIA: LAWS, DIVINE, MORALL AND MARTIAL, &C. 32 (1612). For an image of Jamestown settlers equipped according to this code, see PETERSON, *supra* note 111, at 144.

149. PETERSON, *supra* note 111, at 140.

150. Percy, *A Trewe Relacyon*, *supra* note 137, at 277.

151. *Id.*

152. *Id.*

153. *Id.*

154. *Id.*

155. 3 THE RECORDS OF THE VIRGINIA COMPANY OF LONDON 96 (Susan Myra Kingsbury ed., 1933).

156. *A Note of the Shipping, Men, and Provisions, Sent to Virginia, by the Treasurer and Company in the yeere 1619*, in 3 THE RECORDS OF THE VIRGINIA COMPANY, *supra* note 155, at 117.

157. 3 THE RECORDS OF THE VIRGINIA COMPANY, *supra* note 155, at 353.

care of our Armor.”¹⁵⁸ To supply the expedition, the Company purchased supplies from around town, including “4. Armors” from one “mr Huggins”¹⁵⁹ and “3. Corslets” from one “Mr Berkeley.”¹⁶⁰ The following year, a ship called *The Supply* sailed for Virginia. To help supply that expedition, the Company acquired “9 corslets” and “4 coates of plate” from one “Mr. Tracy,”¹⁶¹ and “2. Corslets” from “A.B.”¹⁶²

In 1620, “some 8 or tenn Engleshe with ther Armes” assisted an Indian seeking revenge against another tribe for murdering women in his. Apparently feeling indebted the Indian offered “to Carry thire Armor for them” on their way to future battles.¹⁶³ Relations were not so good with other Indians, however. On March 22, 1622, an Indian massacre nearly wiped out the Jamestown settlement:

[O]n the 22d of March, 1622, a little before noon, at a Time when our men were all at Work abroad in their plantations, disperst and unarm'd. This Hellish Contrivance was to take Effect upon all the several Settlements at one and the same instant. . . . The very Morning of the Massacre, they came freely and unarm'd among them, eating with them, and behaving themselves with the same Freedom and Friendship as formerly, till the very Minute they were to put their Plot into Execution. Then they fell to Work all at once everywhere, knocking the English unawares on the Head, some with their Hatchets, which they call Tommahawks, others with the Hows and Axes of the English themselves, shooting at those who escap'd the Reach of their Hands; sparing neither Age nor Sex, but destroying Man, Woman, and Child, according to their cruel Way of leaving none behind to bear Resentment.¹⁶⁴

After the massacre, defense immediately became a top priority. New laws provided that “every dwelling house shall be pallazaded in for defence against the Indians” and required arms for traveling or working in the field.¹⁶⁵ Additionally, the Council of Virginia petitioned the king for “Armes and munitione.”¹⁶⁶ They were sent out of the royal treasury “2000 skulls of iron, 100 brigandines, 40 plate

158. Sir William Throckmorton et al., *ORDNANCES, DIRECCONS AND INSTRUCTIONS TO CAPTAIN JOHN WOODLEFE*, in 3 *THE RECORDS OF THE VIRGINIA COMPANY*, *supra* note 155, at 117, 210.

159. The Cost of Furnishing the “Margaret,” in 3 *THE RECORDS OF THE VIRGINIA COMPANY*, *supra* note 155, at 188.

160. *Id.* at 185.

161. 3 *THE RECORDS OF THE VIRGINIA COMPANY*, *supra* note 155, at 390.

162. *Id.* at 386.

163. *Id.* at 228.

164. ROBERT BEVERLEY, *THE HISTORY AND PRESENT STATE OF VIRGINIA* 39–40 (Richmond, J.W. Randolph 1855).

165. 1 *THE STATUTES AT LARGE: BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA FROM THE FIRST SESSION OF THE LEGISLATURE, IN THE YEAR 1619*, at 127 (William Waller Hening ed., New York, R. & W. & G. Bartow 1823).

166. *A Letter to the Virginia Company of London*, (after Apr. 20, 1622), in 3 *THE RECORDS OF THE VIRGINIA COMPANY*, *supra* note 155, at 614; *see also* 2 *THE RECORDS OF THE VIRGINIA COMPANY*, *supra* note 155, at 342.

Coats and 400 shirts[] and Coate of Maile.”¹⁶⁷ Thereafter, it was recommended that every person or family emigrating to Virginia bring “One Armour compleat, light” in addition to offensive weapons and accoutrements.¹⁶⁸

When the Virginia Company dissolved and Virginia became a royal colony in 1625, King James commissioned a census of the people and goods in the colony.¹⁶⁹ “It was incomplete because some areas failed to file reports, and because of peculiar overlapping and unspecific groupings it is not as helpful on the subject of armor as it might have been.”¹⁷⁰ But it does show that the 1,232 inhabitants (including men, women, children, servants, and slaves) owned 342 “Armours, complete,” 260 “Coats of Male & headpeeces,” 20 “Quilted coats & Buffe Coat,” 26 “Jackets, Jack Coats & Corselet.”¹⁷¹ Even still, the colonists felt that this was “not half enough” of the armor they needed.¹⁷² Because of the muster roll’s incompleteness, the individual reports are also insightful. For example, Sir Francis Wyatt reported possessing “4 Armours, 1 Jack Coat, 2 Coats of mail, 1 steel coat, 1 corslett, and 2 good head pieces” at his “plantation at Pasbehaighs” and “6 armors” at his “residence in Jamestown.”¹⁷³ George Yardley possessed “10 Armours.”¹⁷⁴ George Sandys possessed “30 Armours, steel coats & coats of mail,” while “Captain Samuel Matthews reported 24, Edward Blaney 17, William Epes 16.”¹⁷⁵ John Smith, “an old planter,” kept “1 armour, 1 coat of steel, 2 coats of mail.”¹⁷⁶

In 1648, Beauchamp Plantagenet published a pamphlet encouraging “adventurers” to settle in “New Albion,” which was the name of a large amount of land granted to Sir Edmund Plowden in 1632.¹⁷⁷ “The vast plantation, described as ‘in North Virginia,’ lay really in Delaware, New Jersey and Long Island.”¹⁷⁸ Plantagenet provided a list of items “each man” should bring with him, including “half an old slight armor, that is, two to one armor.”¹⁷⁹ In 1650, Edward Williams published a pamphlet with advice for prospective planters considering settling in Virginia. Among “those Necessaries, that if wanted there, would greatly prove

167. A Warrant to the Lord Treasurer, Sep. 22, 1622, in 3 THE RECORDS OF THE VIRGINIA COMPANY, *supra* note 155, at 676; *see also* Note of Arms in the Tower for which the Virginia Company are Suitors, in 3 THE RECORDS OF THE VIRGINIA COMPANY, *supra* note 155, at 665.

168. 3 THE RECORDS OF THE VIRGINIA COMPANY, *supra* note 155, at 578.

169. *See* ALEXANDER BROWN, THE FIRST REPUBLIC IN AMERICA 616 (Boston, Houghton, Mifflin & Co. 1898).

170. PETERSON, *supra* note 111, at 140.

171. *The Virginia Census, 1624–25*, 7 VA. MAG. HIST. AND BIOGRAPHY 337, 367 (1900).

172. BROWN, *supra* note 169, at 628.

173. *Id.* at 625.

174. *Id.* at 625–26.

175. *Id.* at 626.

176. *Id.*

177. BEAUCHAMP PLANTAGENET, A DESCRIPTION OF THE PROVINCE OF NEW ALBION 26 (1648).

178. WRIGHT HOWES, U.S.IANA: A SELECTIVE BIBLIOGRAPHY IN WHICH ARE DESCRIBED 11,620 UNCOMMON AND SIGNIFICANT BOOKS RELATING TO THE CONTINENTAL PORTION OF THE UNITED STATES 415 (2d ed. 1962).

179. PLANTAGENET, *supra* note 177, at 26.

your prejudice, and render you obnoxious to many evils,” Williams included one “Suit of complete light Armour.”¹⁸⁰

2. Massachusetts

The 1620 Charter of New England granted colonists the right “to take, load, carry, and transport . . . Armour, Weapons, Ordinances, Munition, Powder, Shott, Victuals, and all Manner of Cloathing, Implements, Furniture, Beasts, Cattle, Horses, Mares, and all other Things necessary for the said Plantation, and for their Use and Defence, and for Trade with the People there.”¹⁸¹

One month before the Pilgrims set sail for America, they stressed their need for more armor in a letter to the investors supporting their voyage: “We are in shuch a streate at presente . . . scarce having any butter, no oyle, not a sole to mend a shoe, nor every man a sword to his side, wanting many muskets, much armoure, &c.”¹⁸² It is unclear whether they acquired more, but the first Pilgrims who stepped foot in America were bearing armor. After arriving at Cape Cod in the *Mayflower* on November 11, 1620, the Pilgrims began preparing their shallop to survey the coast and find a suitable place to establish a settlement.¹⁸³ In the meantime, their leader William Bradford wrote, “16. of them well armed” explored the land to “discovere those nearest places,” led by Captain Myles Standish.¹⁸⁴ “[W]hen they had marched aboute the space of a mile by the sea side, they espied 5. or 6. persons with a dogg coming towards them, who were salvages.”¹⁸⁵ The natives “fled from them,” but the “English followed them, partly to see if they could speake with them, and partly to discover if ther might not be more of them lying in ambush.”¹⁸⁶ The Pilgrims’ pursuit continued into the following day, but “they soone lost both them [the natives] & them selves, falling into shuch thickets as were ready to tear their cloaths & armore in peeces.”¹⁸⁷ Indeed, “weighted down as they were with their armor, heavy boots and muskets, they were no match in speed for the scantily clothed [natives].”¹⁸⁸ Later that day, they came across baskets of corn buried in the ground. But they could not take as much as they needed, “for we were so laden with armour, that we could carry no more.”¹⁸⁹

180. E.W. GENT, *To the Worthy Gentlemen, Adventurers and Planters in Virginia*, VIRGINIA: MORE ESPECIALLY THE SOUTH PART THEREOF, RICHLY AND TRULY VALUED: VIZ. 10, 10 (2d ed. 1650).

181. *The Charter of New England (1620)*, reprinted in 3 THE FEDERAL AND STATE CONSTITUTIONS, *supra* note 132, at 1834–35.

182. William Bradford, *Of Plimoth Plantation (1651)*, in BRADFORD’S HISTORY OF PLIMOTH PLANTATION 77 (Boston, Wright & Potter Printing Co. 1898).

183. *Id.* at 97.

184. *Id.* at 97–98.

185. *Id.* at 98.

186. *Id.*

187. *Id.*

188. Raymond E. Hanson & Herbert B. Turner, *A Provincetown Pilgrimage*, 44 PHOTO-ERA: AM. J. PHOTOGRAPHY 236, 242 (1920).

189. *A Relation or Journal of a Plantation Settled at Plymouth in New England, and Proceedings Thereof (1622)*, in 8 COLLECTIONS OF THE MASSACHUSETTS HISTORICAL SOCIETY 203, 210 (Boston, Munroe & Francis 1802).

It was not long before the Pilgrims had their “first encounter” with the natives. In mid-December 1620, ten Pilgrims who set out to explore the area were ambushed by a group of natives during breakfast at their camp.¹⁹⁰ As “arowes came flying amongst them,” two Pilgrims with muskets kept the natives at bay while the others, “with coats of malle on, & cutlasses in their hands,” ran to the shallop to retrieve their muskets, with “Indeans wheeling aboute upon them.”¹⁹¹ Once the men procured the muskets and began firing, the natives dispersed, without any party suffering a loss.¹⁹²

The Pokonoket sachem, Massasoit, was so impressed with the Pilgrims’ armor at their first meeting in March 1621 that he tried to purchase some: “After he had eaten and drunk himself, and given the rest to his company, he looked upon our messenger’s sword and armour, which he had on, with intimation of his desire to buy it; but, on the other side, our messenger showed his unwillingness to part with it.”¹⁹³

Throughout the decade, settlers in Massachusetts Bay continued to bring and rely on armor. In 1629, for example, a ship from London carried a corslet for each of the 60 pikemen.¹⁹⁴ The purchase agreement with a London armorer for 20 of the corslets reveals other types of armor that the men carried: “20 armes, viz, coslett, brest, back, culet, gorgett, tases, & hed peece to ech, varnished all black, with lethers & bucklers, at 17s ech armour, excepting 4, which are to bee with closed head peeces, & theis 4 armours at 24, a peece.”¹⁹⁵ It was presumed that “the 90 musketeers would wear buff or quilted coats although none were listed.”¹⁹⁶ And “[p]rivately owned armor undoubtedly augmented the number in public possession.”¹⁹⁷

Armor saved many lives during the Pequot War (1636–1638), New England’s first Indian war.¹⁹⁸ For example, “Captain [Nathan] Turner . . . received a shot upon the breast of his corselet, as if it had been pushed with a pike, and if he had not had it on, he had lost his life.”¹⁹⁹ Captain John Underhill wrote that, “Captain Mason and myself entering into the wigwams, he was shot, and received many arrows against his head-piece. God preserved him from many wounds. Myself received a shot in the left hip, through a sufficient buff coat, that if I had not been

190. Bradford, *supra* note 182, at 103.

191. *Id.*

192. *Id.* at 103–04.

193. *A Relation or Journal of a Plantation Settled at Plymouth*, *supra* note 189, at 229.

194. The Company’s Records (Feb. 26, 1628), in 1 RECORDS OF THE GOVERNOR AND COMPANY OF THE MASSACHUSETTS BAY IN NEW ENGLAND 21, 26 (Nathaniel B. Shurtleff ed., Boston, William White 1853).

195. *Id.* at 31.

196. PETERSON, *supra* note 111, at 142.

197. *Id.*

198. See NICHOLAS JOHNSON ET AL., FIREARMS LAW AND THE SECOND AMENDMENT: REGULATION, RIGHTS AND POLICY 212 (3d ed. 2022).

199. CAPTAIN JOHN UNDERHILL, NEWS FROM AMERICA; OR, A NEW AND EXPERIMENTALL DISCOVERIE OF NEW ENGLAND (1638), *reprinted*, in 6 COLLECTIONS OF THE MASSACHUSETTS HISTORICAL SOCIETY 1, 6 (Boston, American Stationers’ Co. 1837).

supplied with such a garment, the arrow would have pierced through me. Another I received between neck and shoulders, hanging in the linen of my head-piece.”²⁰⁰ Other times, Underhill noted, their armor deterred any attack at all: “They seeing us (lying in ambush) gave us leave to pass by them, considering we were too hot for them to meddle with us. Our men being completely armed, with corselets, muskets, bandoleers, rests, and swords . . . did much daunt them.”²⁰¹ During this time, apparently, the weight of the armor seemed less burdensome. John Winthrop wrote to William Bradford describing a series of skirmishes and noting that “[o]ur People are all in health, (the Lord be praised,) and although they had marched in their arms all the day, and had been in fight all the night, yet they professed they found them selves so fresh as they could willingly have gone to such another business.”²⁰²

When the towns of Plymouth, Duxborrow, and Marshfield established a military company in 1643, they required every man to appear with a vest and also provided for 16 pikemen.²⁰³ The pikeman’s suit was “[p]robably the most popular form of plate armor” at the time and “normally consisted of a backplate, a breastplate, wide tassets, sometimes a gorget, and an open helmet.”²⁰⁴

As explained next, armor continued to be required for Massachusetts militiamen throughout the seventeenth century. Some notable pieces have been preserved, including a buff coat belonging to John Leverett and a suit of armor belonging to Fitz-John Winthrop.²⁰⁵ Leverett served as major-general of the Massachusetts militia from 1663–1673, then as governor of the Massachusetts Bay Colony from 1673–1679. Winthrop served in King Philip’s War and later served as Connecticut’s governor from 1698 until his death in 1707.²⁰⁶ In 1939, a tasset belonging to John Howland was discovered during the excavation of the hearth at his home in Kingston, Massachusetts. Howland came to America on the Mayflower, and at one point was thrown overboard during a storm but grabbed a halyard and climbed back aboard. Howland’s tasset is one of only two known surviving pieces of armor from Plymouth Colony.²⁰⁷

Interestingly, while the use of armor declined throughout the century, a survey of probate inventories from Plymouth Colony revealed that inventories from the

200. *Id.* at 24.

201. *Id.* at 12.

202. Letter from John Winthrop to William Bradford (July 28, 1637), in Bradford, *supra* note 182, at 430.

203. Establishment of a Military Company (Aug. 29, 1643), in THE COMPACT, CHARTER AND LAWS OF THE COLONY OF NEW PLYMOUTH 326 (William Brigham ed., Boston, Dutton & Wentworth 1836).

204. PETERSON, *supra* note 111, at 133; *see also id.* at 134 (image of pikeman’s armor used by an early Massachusetts colonist).

205. Images of these pieces can be seen at *id.* at 141, 143.

206. Fitz-John Winthrop was the son of John Winthrop, Jr., who served as Connecticut’s governor from 1659–1676, and the grandson of John Winthrop, who served as governor of the Massachusetts Bay Colony. *See* Adam Winthrop et al., The Winthrop Papers (Part IV), in 8 COLLECTIONS OF THE MASSACHUSETTS HISTORICAL SOCIETY 3 (1882); Adam Winthrop et al., The Winthrop Papers (Part V), in 3 COLLECTIONS OF THE MASSACHUSETTS HISTORICAL SOCIETY 3 (1889).

207. THE HOWLAND QUARTERLY 22 (1939).

1680s included more armor than in any previous decade.²⁰⁸ Corslets were the most common armor mentioned in inventories, followed by helmets.²⁰⁹ Other evidence that armor remained in use near the end of the century is an inventory of arms at a fort in New York in 1692. The fort kept cuirasses along with firearms, halberts, pikes, and swords.²¹⁰

3. Militia Mandates

Militiamen were sometimes required to keep and bear armor. The following is a list of items that English colonies required in the seventeenth century.

- “Armer.”
 - Middlesex County, Virginia (1687).²¹¹
- *Breastplate*.
 - Connecticut (1687);²¹²
 - New Hampshire (1687);²¹³
 - New York (1691), (1694).²¹⁴
- *Buff coat*.
 - Massachusetts (1666), (1671), (1672).²¹⁵
- *Corslet*.
 - Massachusetts (1646), (1660), (1671), (1672).²¹⁶
- *Crupper*.
 - Connecticut (1687);²¹⁷
 - New Hampshire (1687);²¹⁸
 - New York (1694), (1691).²¹⁹
- “[D]efensive Coat or Armour.”
 - Virginia (1644).²²⁰

208. PLYMOUTH ARCHAEOLOGICAL REDISCOVERY PROJECT, PRELIMINARY REPORT ON THE JOHN AND ELIZABETH HOWLAND HOUSE SITE ARCHAEOLOGICAL COLLECTIONS 59 (2015), <https://www.plymoutharch.com/wp-content/uploads/2015/02/howland-final-report.pdf> [<https://perma.cc/93ZT-NN38>].

209. *Id.*

210. *Memoir on Acadia, New England, New-York and Virginia 1692*, in 9 DOCUMENTS RELATIVE TO THE COLONIAL HISTORY OF NEW YORK 548 (E. B. O’Callaghan ed., Albany, Weed, Parsons & Co. 1855).

211. *Extracts from the County Record*, 8 VA. MAG. HIST. AND BIOGRAPHY 113, 189 (1900).

212. 2 BACKGROUNDS OF SELECTIVE SERVICE: MILITARY OBLIGATION: THE AMERICAN TRADITION, pt. 2, at 46 (Arthur Vollmer ed., 1947) (Connecticut) (1687).

213. *Id.*, pt. 7, at 13 (New Hampshire) (1687).

214. *Id.*, pt. 9, at 4, 16 (New York) (1694, 1691).

215. *Id.*, pt. 6, at 78, 95, 107 (Massachusetts) (1666, 1671, 1672).

216. *Id.* at 29, 56, 86, 100 (1646, 1660, 1671, 1672).

217. *Id.*, pt. 2, at 46 (Connecticut) (1687).

218. *Id.*, pt. 7, at 13 (New Hampshire) (1687).

219. *Id.*, pt. 9, at 4, 16 (New York) (1694, 1691).

220. *Acts, Orders and Resolutions of the General Assembly of Virginia*, 23 VA. MAG. HIST. AND BIOGRAPHY 225, 231 (1915).

- *Helmet.*
 - Massachusetts (1646), (1660), (1671), (1672);²²¹
 - Virginia (1644).²²²
- *Quilted coat.*
 - Massachusetts (1666), (1671), (1672).²²³
- *Vest.*
 - Massachusetts (1643).²²⁴

Several Connecticut laws required towns to keep armor, so that it was available when needed. In 1637, the following towns had to keep the following number of “Coslets”: Hartford (21), Windsor (12), Weathersfeild (10), Agawam (7).²²⁵ Starting the following year, towns could choose between keeping “corseletts” or “cotton coates”: Wyndor (12), Hartford (20), Weathersfield (8), Seabrook (3), Farmington (3), Fairfield (6), Stratford (6), Southhampton (3), Pequett (3).²²⁶ In 1642, the government ordered three towns to keep coats “basted with cotton wooll and made defensive against Indean arrowes; Hartford (40), Wyndor (30), Wethersfield (20).”²²⁷ In 1650, towns were again allowed to choose between corslets or cotton coats: Wyndor (9), Hartford (12), Weathersfield (8), Seabrook (3), Farmington (3), Fairfield (6), Stratford (6), Southhampton (3), Pequett (3).²²⁸

The New Haven colony, founded in 1638 and absorbed by Connecticut in 1662, required “every famly” to “have a coate of cotton woole, well and substantially made, so as itt may be fitt for service,” in 1643.²²⁹ Two years later, the New Haven colony ordered “every famly within the plantation” to “provide, & after continew furnished with a coate well made & soe quilted with cotten woole as may be fit for service, & a comfortable defence against Indian arrowes.”²³⁰ The “taylors about the towne” were required to “take care that” the coats be constructed “wihout unnecessary delay.”²³¹

History reveals that armor was a necessity through the first half of the seventeenth century. It proved very effective against arrows and, although heavy, was considered

221. 2 BACKGROUNDS OF SELECTIVE SERVICE, *supra* note 212, pt. 6, at 29, 56, 86, 100 (Massachusetts) (1646, 1660, 1671, 1672) (“head peeces,” “head peece,” “head piece,” “head-piece”).

222. *Acts, Orders and Resolutions of the General Assembly*, *supra* note 220, at 231.

223. 2 BACKGROUNDS OF SELECTIVE SERVICE, *supra* note 212, pt. 6, at 78, 95, 107 (Massachusetts) (1666, 1671, 1672).

224. *Establishment of a Military Company*, *supra* note 203, at 326.

225. THE PUBLIC RECORDS OF THE COLONY OF CONNECTICUT, PRIOR TO THE UNION WITH NEW HAVEN COLONY, MAY 1665, at 14 (J. Hammond Trumbull ed., Hartford, Brown & Parsons 1850).

226. 2 BACKGROUNDS OF SELECTIVE SERVICE, *supra* note 212, pt. 2, at 7–8 (Connecticut) (1638).

227. *Id.* at 10.

228. *Id.* at 13–14.

229. RECORDS OF THE COLONY AND PLANTATION OF NEW HAVEN, FROM 1638 TO 1649, at 121 (Charles J. Hoadly ed., Hartford, Case, Tiffany & Co. 1857).

230. *Id.* at 214.

231. *Id.*

worth the burden of carrying at nearly all times.²³² Plate armor was especially effective; “there is no definite instance in which an arrow pierced plate.”²³³ “Leather and cloth armor were tried everywhere, and they were universally efficient.”²³⁴ “The success of mail as a defense varied.”²³⁵ As the century progressed, a combination of two factors led to a significant decline in the use of armor. First, the colonists started adopting the Indians’ method of warfare. This required more speed and agility, both of which armor impeded.²³⁶ Even more importantly, while the armor of the time provided great protection against arrows, it proved less effective against firearms. Colonists were willing to endure the burden of bearing heavy armor when it provided reliable protection.²³⁷ But as the Indians began using firearms and the English colonists began engaging more frequently with European adversaries, “it was no longer sufficiently effective to be worth the effort and expense of acquiring and wearing” armor.²³⁸

D. Eighteenth Century

The use of armor declined in the eighteenth century, but it never fell out of use entirely. Indeed, “[i]t would be impossible to select any period of 100 years in American history in which some form of armor was not used in warfare.”²³⁹ This Section begins with eighteenth-century militia mandates and then focuses on armor usage during the French and Indian War and Revolutionary War.

1. Militia Mandates

Armor continued to be required for cavalries in eighteenth-century militias:

- *Breastplate.*
 - New York (1702), (1702), (1721), (1724), (1739), (1743), (1744), (1746), (1755), (1764), (1772), (1775), (1778), (1782);²⁴⁰
 - North Carolina (1760), (1764), (1766), (1774);²⁴¹
 - Rhode Island (1718), (1793), (1798);²⁴²
 - Virginia (1705), (1723), (1738), (1755).²⁴³

232. See PETERSON, *supra* note 111, at 149 (“It was this simple factor of effectiveness that caused armor to remain in active use in America as long as or even longer than it was really used in most of western Europe.”).

233. *Id.*

234. *Id.*

235. *Id.*

236. See *id.* at 5.

237. See *id.* at 149 (“As long as the colonist had a sure defense against the weapons of his adversaries, he was inclined to use it.”).

238. *Id.*

239. *Id.* at 307.

240. 2 BACKGROUNDS OF SELECTIVE SERVICE, *supra* note 212, pt. 9, at 46, 53, 80, 89, 116, 134, 148, 165, 188, 227, 243, 252, 273, 311 (New York) (1702) (1702) (1721) (1724) (1739) (1743) (1744) (1746) (1755) (1764) (1772) (1775) (1778) (1782).

241. *Id.*, pt. 10, at 29, 35, 41–42, 52 (North Carolina) (1760) (1764) (1766) (1774).

242. *Id.*, pt. 12, at 45, 206, 219 (Rhode Island) (1718) (1793) (1798).

243. *Id.*, pt. 14, at 65, 78, 105, 145, 150 (Virginia) (1705) (1723) (1738) (1755).

- *Crupper*.
 - New York (1702), (1702), (1721), (1724), (1739), (1743), (1744), (1746), (1755), (1764), (1772), (1775), (1778), (1782);²⁴⁴
 - North Carolina (1760), (1764), (1766), (1774);²⁴⁵
 - Rhode Island (1718), (1793), (1798);²⁴⁶
 - Virginia (1705), (1723), (1738), (1755).²⁴⁷
- *Helmet*.
 - Connecticut (1784).²⁴⁸
- *Pectoral*.
 - Connecticut (1702).²⁴⁹

Additionally, the federal Uniform Militia Act—enacted the year following the Second Amendment’s ratification—required “[e]ach dragoon to furnish himself with a serviceable horse, at least fourteen hands and an half high, a good saddle, bridle, mail-pillion and valise, holster, and a b[r]e[a]st plate and crupper, a pair of boots and spurs; a pair of pistols, a sabre, and a cartouchbox to contain twelve cartridges for pistols.”²⁵⁰

2. Armor Uses in the French and Indian War and Revolutionary War

During the French and Indian War, both French and British troops in America used armor. A demand made in 1758 for “indispensable” equipment from France for French artillery in New York included 100 “Cuirasses, or complete armor.”²⁵¹ Additionally, when the French constructed Fort Ticonderoga in New York, starting in 1755, they placed a backplate from a suit of engineer’s armor in the wall for good luck, “in accordance with a superstitious practice of the time.”²⁵²

Charles Willson Peale’s famous 1772 painting of George Washington as colonel in the Virginia Regiment portrays the future first president wearing a gorget engraved with the royal arms.²⁵³ Lieutenant Colonel Adam Stephen, who served under Washington in the French and Indian War, wore a gorget that has been preserved by the National Museum of American History.²⁵⁴ Commissioned officers

244. *Id.*, pt. 9, at 46, 53, 80, 89, 116, 134, 148, 165, 188, 227, 243, 252, 273, 311 (New York) (1702) (1721) (1724) (1739) (1743) (1744) (1746) (1755) (1764) (1772) (1775) (1778) (1782).

245. *Id.*, pt. 10, at 29, 35, 42, 52 (North Carolina) (1760) (1764) (1766) (1774).

246. *Id.*, pt. 12, at 45, 206, 219 (Rhode Island) (1718) (1793) (1798).

247. *Id.*, pt. 14, at 65, 78, 105, 145, 150 (Virginia) (1705) (1723) (1738) (1755).

248. *Id.*, pt. 2, at 256 (Connecticut) (1784).

249. *Id.* at 60 (1702).

250. Militia Act of 1792, 1 Stat. 271, 272 (1792).

251. *Statement of what is indispensable to send from France, by the first ships, for the service of the Artillery of this Colony*, in 10 DOCUMENTS RELATIVE TO THE COLONIAL HISTORY OF THE STATE OF NEW-YORK 864 (E. B. Callaghan ed., Albany, Weed, Parsons & Co. 1858).

252. PETERSON, *supra* note 111, at 308; 6 THE BULLETIN OF THE FORT TICONDEROGA MUSEUM 115 (July 1942).

253. See *George Washington Portrait by Charles Willson Peale*, MOUNTVERNON.ORG, <https://www.mountvernon.org/george-washington/artwork/george-washington-portrait-by-charles-willson-peale/> [<https://perma.cc/Y4JG-NSZR>] (last visited Dec. 15, 2023).

254. *Adam Stephen’s Waistcoat and Gorget*, NAT’L MUSEUM OF AM. HIST., https://americanhistory.si.edu/collections/nmah_441079 [<https://perma.cc/3DMZ-5ZG4>].

in America regularly wore gorgets throughout the first half of the eighteenth century.²⁵⁵

During the Revolutionary War, “French officers wore gorgets of gilded copper” while “[o]fficers of some German troops in the Revolution wore gorgets.”²⁵⁶ At least some Americans wore gorgets. Two images of General Washington from the War show him wearing a gorget.²⁵⁷ William Knox’s gorget is currently preserved at the Fort Ticonderoga Museum. Knox, of the Boston Independent Company, wore a gorget with an image of an armored arm hoisting an unsheathed sword with the motto “Inimica Tyrannis,” meaning “Hostile to Tyrants.” The letters “U S,” for United States, are stamped over the initials “G R,” for Georgius Rex (King George).²⁵⁸ Lieutenant Alexander Hume of the Second South Carolina Regiment also wore a gorget, possibly gifted to him by George Washington. It depicted the liberty pole and the arms of war with the motto “Libertas. Portior. Vita,” meaning “liberty is more important than life.”²⁵⁹ It is currently preserved at Mount Vernon. Another gorget worn by a South Carolina officer during the war contained the coiled snake portrayed on the Gadsden Flag.²⁶⁰ After the war, “the regular army as well as many militia units returned to the practice of wearing gorgets.”²⁶¹

“[T]here is reason to believe that some of the engineers in the American Revolution were . . . equipped” with heavy suits of armor.²⁶² Engineers “mark[ed] out the ground for fortifications” and regularly “operated within the range of an entrenched enemy,” making it “highly logical that they should have had the protection of armor.”²⁶³ A popular military manual from 1776 that George Washington owned “recommended such suits for any force that was sent against a fortified enemy in daylight.”²⁶⁴

255. PETERSON, *supra* note 111, at 311.

256. *Id.* at 312. For an example of a French gorget worn during the war, see *French Gorget*, MUSEUM OF THE AM. REVOLUTION, <https://www.amrevmuseum.org/collection/french-gorget> [<https://perma.cc/5YEN-97P7>].

257. THE AMERICAN REVOLUTION IN DRAWINGS AND PRINTS: A CHECKLIST OF 1765–1790 GRAPHICS IN THE LIBRARY OF CONGRESS 66, 67 (Donald H. Cresswell ed., 1975) (1780 engraving) (1781 portrait). The 1780 engraving can be viewed at *General Washington*, LIBR. OF CONG., <https://www.loc.gov/item/2004666687> [<https://perma.cc/YM2A-6VSR>]. John Norman’s 1781 portrait can be viewed at *His excy. George Washington Esqr. captain general of all the American forces*, LIBR. OF CONG., <https://www.loc.gov/resource/pgs.11781> [<https://perma.cc/AV2W-K3UH>]. Another portrait, although “fictitious,” also shows Washington wearing a gorget. THE AMERICAN REVOLUTION IN DRAWINGS AND PRINTS, *supra*, at 66–67.

258. *Ticonderoga Online Collections*, FORTTICONDEROGA.ORG, <https://fortticonderoga.catalogaccess.com/objects/2090> [<https://perma.cc/3JRD-9Q63>].

259. *Gorget*, MOUNTVERNON.ORG, <https://emuseum.mountvernon.org/objects/889/gorget> [<https://perma.cc/YTJ8-LK8L>].

260. PETERSON, *supra* note 111, at 313.

261. *Id.*

262. “Such armor for British engineers was mentioned as late as 1754, and in the French service it remained popular still later.” *Id.* at 307.

263. 1 WEBSTER, *supra* note 7 (“ENGINEER”); PETERSON, *supra* note 111, at 307, 308.

264. A CATALOGUE OF THE WASHINGTON COLLECTION IN THE BOSTON ATHENAEUM 13 (William Coolidge Lane ed., 1897); PETERSON, *supra* note 111, at 307.

Ship captains during America's founding era often found it necessary to bear armor. Jacques-Pierre Bourd  de la Villehuet, a French naval officer, wrote an influential book on naval tactics in 1765 that earned a "high degree of reputation" among "men of nautical skill."²⁶⁵ Villehuet argued that ship captains should be heavily armored, because their survival was essential to everyone on the ship, and they had less need to maneuver compared to their crew:

I could then wish that the Captains of ships should, during an engagement, be covered with a good armour musket-proof, which would be a great advantage, for they would then have hardly any thing else to fear but the great shot. This armour could not be cumbersome to them, because . . . they are bound never to quit the deck on which they are acting . . . thus, an armour could not hinder a Captain from executing with ease all the motions necessary in the course of an engagement. The utility and advantages resulting from such a precaution can therefore not be denied. . . . After all, it is less for one's self than for others and the State, that a Captain is bound to take care of himself: therefore, he should not be ashamed of wearing armour²⁶⁶

John Paul Jones, sometimes called the "Father of the American Navy," was the best-known naval captain during the Revolutionary War.²⁶⁷ In 1779, Jones commanded the *USS Bonhomme Richard* in a lengthy battle against the British frigate *HMS Serapis*.²⁶⁸ When the British asked if Jones was ready to surrender after seriously damaging the *Bonhomme Richard*, Jones famously replied, "I have not yet begun to fight."²⁶⁹ Jones proceeded to defeat the British in an important and symbolic victory off the coast of England. The breast and back plates of the corslet Jones wore during the battle are currently preserved at the U.S. Naval Academy Museum.²⁷⁰

The Americans won their decisive victory over the British at the Battle of Yorktown in 1781. The Continental Army, led by General Washington, and French forces, led by Comte de Rochambeau, laid siege to Yorktown on

265. Jacques-Pierre Bourd  de la Villehuet, *THE MANOEUVERER, OR SKILFUL SEAMAN: BEING AN ESSAY ON THE THEORY AND PRACTICE OF THE VARIOUS MOVEMENTS OF A SHIP AT SEA, AS WELL AS OF NAVAL EVOLUTIONS IN GENERAL*, at iv (Chevalier de Sauseuil trans., London, S. Hooper 1788).

266. *Id.* at 218–19.

267. F. E. Cross, *The Father of the American Navy*, 53 U.S. NAVAL INST. PROC. 1296, 1296–98 (1927), <https://www.usni.org/magazines/proceedings/1927/december/father-american-navy> [<https://perma.cc/3NTT-3D55>].

268. *THE LIFE OF JOHN PAUL JONES 163–76* (James Otis ed., 1900). Jones named the ship in honor of Benjamin Franklin. *The United States Navy: American Revolution to Vietnam—A Brief Survey of Influence on America's History*, in *THE UNITED STATES NAVY* 5 (1969).

269. *THE UNITED STATES NAVY*, *supra* note 268, at 5.

270. For the breast plate, see *The front part of the body armor of John Paul Jones*, NAVAL HIST. AND HERITAGE COMMAND, <https://www.history.navy.mil/our-collections/photography/numerical-list-of-images/nhnc-series/nh-series/NH-48000/NH-48652.html> [<https://perma.cc/QU9E-FU3Z>]. For the back plate, see *The back part of the body armor of John Paul Jones*, NAVAL HIST. AND HERITAGE COMMAND, <https://www.history.navy.mil/our-collections/photography/numerical-list-of-images/nhnc-series/nh-series/NH-48000/NH-48653.html> [<https://perma.cc/S3LA-S4CH>].

September 28. Suffering great losses and cut off from aid or escape, the British army, led by General Charles Cornwallis, was forced to surrender on October 19. The victory eventually led to the Treaty of Paris and American independence. During the war, Joel Barlow started writing his epic poem, *The Vision of Columbus*, while serving in the Continental Army.²⁷¹ Finally published in 1787 by subscription—its subscribers including George Washington (who purchased 20 copies), Benjamin Franklin, and Thomas Jefferson²⁷²—Barlow depicts “Brave Rochambeau, in gleamy steel array’d” as he unites with Washington to march to Yorktown.²⁷³ Armand Louis de Gontaut, duc de Lauzun, who personally financed and led a French force that assisted Rochambeau at Yorktown, is depicted by Barlow “beneath his sail, in armour bright” as he sailed down the Chesapeake.²⁷⁴ Elsewhere in the poem, Friedrich Wilhelm von Steuben, the inspector general of the Continental Army who commanded a force at Yorktown, is described “in veteran armour drest, the noble ensign beaming on his breast.”²⁷⁵ In 1807, Barlow published *The Columbiad*, another epic poem that expanded upon *The Vision of Columbus*. In *The Columbiad*, Rochambeau, Lauzun, and Steuben are all portrayed in armor again.²⁷⁶ It is possible that Barlow was invoking imagery “reminiscent of other epics,” but it is also plausible that Rochambeau, Lauzun, and Steuben wore some armor as others did during the war.²⁷⁷ At the least, Barlow’s writing makes clear that the Founders had not neglected the notion of defensive armor.

Many American soldiers during the Revolutionary War wore helmets, including the Philadelphia City Troop of Light Horse,²⁷⁸ the Provost Company,²⁷⁹ Pulaski’s Legion,²⁸⁰ Lee’s Legion,²⁸¹ the Continental Light Dragoons,²⁸² 1st

271. Brian Lee Pelanda, *Declarations of Cultural Independence: The Nationalistic Imperative Behind the Passage of Early American Copyright Laws, 1783–1787*, 58 J. COPYRIGHT SOC’Y U.S.A. 431, 442 (2011).

272. A CATALOGUE OF THE WASHINGTON COLLECTION, *supra* note 264, at 16; Carla J. Mulford, *Barlow, Joel*, in 2 AMERICAN NATIONAL BIOGRAPHY 166–168 (John A. Garraty & Mark C. Carnes eds., 1999), <https://doi.org/10.1093/anb/9780198606697.article.1600077> [<https://perma.cc/EG5M-2R7M>]; THOMAS JEFFERSON’S LIBRARY: A CATALOG WITH THE ENTRIES IN HIS OWN ORDER 112 (Wilson & Gilreath eds., 2010). Jefferson also owned Barlow’s *The Columbiad*. *Id.*

273. JOEL BARLOW, THE VISION OF COLUMBUS: A POEM IN NINE BOOKS 190 (Hartford, Hudson & Goodwin 1787).

274. *Id.*

275. *Id.* at 170.

276. JOEL BARLOW, THE COLUMBIAD: A POEM 199 (Steuben), 263 (Rochambeau and Lauzun, now referred to as “Biron”) (Philadelphia, Fry & Kammerer 1807).

277. STEVEN BLAKEMORE, JOEL BARLOW’S COLUMBIAD: A BICENTENNIAL READING 204 (2007).

278. DIGBY SMITH & KEVIN F. KILEY, AN ILLUSTRATED ENCYCLOPEDIA OF UNIFORMS FROM 1775–1783: THE AMERICAN REVOLUTIONARY WAR 68 (2008).

279. *Id.* at 95.

280. *Id.* at 113.

281. *Id.*

282. *Id.* at 115.

Regiment of Continental Light Dragoons,²⁸³ 2nd Continental Light Dragoons,²⁸⁴ 3rd Continental Light Dragoons,²⁸⁵ 4th Continental Light Dragoons,²⁸⁶ the Rhode Island Train of Artillery,²⁸⁷ Virginia Light Dragoons,²⁸⁸ and Washington's Life Guard.²⁸⁹ Some British soldiers wore helmets as well.²⁹⁰

Although armor was not as ubiquitous in the eighteenth century as it had been in previous centuries, it remained in use throughout the century—including during the Revolutionary War. As in the late-seventeenth century, armor was worn when its usefulness outweighed the burden of wearing it. For ship captains during the war, for example, it was worth the burden of wearing a corslet because agility and quick movements were less of a concern. Engineers found heavy armor worthwhile because they regularly exposed themselves to enemy fire. For some cavalry, infantrymen, and artillery, helmets were sufficient. So, Americans continued to keep and bear armor to the extent that it was effective and efficient against the arms of the time.

E. Nineteenth Century

Many Union troops and some Confederate troops used armor during the Civil War. “Inventors, manufacturers, and retailers were quick to respond to th[e] desire to prevent battlefield deaths, resulting in the appearance of various forms of body armor.”²⁹¹

“[I]t was not uncommon to find advertisements for bulletproof vests in the pages of *Harper's Weekly*, *Frank Leslie's Illustrated Newspaper*, local newspapers, and gentlemen's clothing catalogues.”²⁹² Indeed, “[s]everal firms attempted to sell . . . bullet proof vests during the war.”²⁹³ Their advertisements attempted to address the two primary reasons soldiers hesitated to purchase body armor:

283. *Id.* at 116.

284. See *Thomas Youngs Seymour (1757–1811), B.A. 1777* (painting), YALE UNIV. ART GALLERY, <https://artgallery.yale.edu/collections/objects/67> [<https://perma.cc/G9EV-KEAQ>]; *Benjm. Tallmadge. Major Second Regiment Light Dragoons Continental Army* (illustration), THE N.Y. PUB. LIBR. DIGIT. COLLECTIONS, <https://digitalcollections.nypl.org/items/ba49b950-6970-0130-9f6c-58d385a7bbd0> [<https://perma.cc/TE5L-QUG4>].

285. SMITH & KILEY, *supra* note 278, at 117.

286. *Id.*

287. CHARLES MACKUBIN LEFFERTS, *UNIFORMS OF THE AMERICAN, BRITISH, FRENCH AND GERMAN ARMIES IN THE WAR OF THE AMERICAN REVOLUTION, 1775–1783*, at 91 (1970).

288. PETERSON, *supra* note 111, at 315.

289. See MATTHIAS CHRISTIAN SPRENGEL, *CALENDER ODER JAHRBUCH DER MERKWURDIGSTEN NEUEN*, app., illus. 5 (Leipzig, Haude und Spener 1784).

290. See, e.g., SMITH & KILEY, *supra* note 278, at 149.

291. Sarah Jones Weicksel, *Armor, Manhood, and the Politics of Mortality*, in *ASTRIDE TWO WORLDS: TECHNOLOGY AND THE AMERICAN CIVIL WAR* 157 (Barton C. Hacker ed., 2016).

292. *Id.* at 158.

293. *1862 Civil War Bulletproof Vest Broadside*, SETH KALLER, INC., <https://www.sethkaller.com/item/407-21777-1862-Civil-War-Bulletproof-Vest-Broadside&from=7> [<https://perma.cc/Z7BZ-N48N>].

skepticism about its effectiveness²⁹⁴ and the appearance of cowardice.²⁹⁵ Therefore, many advertisements emphasized how easily concealed the body armor was, the bravery of the people who wore it, or how well the armor protected against bullets and edged weapons.²⁹⁶

On March 29, 1862, an advertisement for “The Soldiers’ Bullet Proof Vest” in *Harper’s Weekly* boasted that the armor “[h]as been repeatedly and thoroughly tested with Pistol Bullets at 10 paces, Rifle Bullets at 40 rods, by many Army Officers, and is approved and worn by them.”²⁹⁷ The ad further stated that “[i]t is simple, light, and is a true economy of life—it will save thousands. It will also double the value and power of the soldier; and every man in an army is entitled to its protection.”²⁹⁸ The ad noted that this armor was sold by private businesses in New York and Washington, D.C.²⁹⁹ An advertisement by Charles Stokes and Company in Philadelphia assured that the springs that supported the vest of their body armor over the shoulders “are sufficient to resist a blow of the heaviest Sabre.”³⁰⁰

A broadside issued on April 17, 1862, informed Union “officers and soldiers” that Bartlett & Munn had received more “of those MONITOR[S], or Bullet Proof Vests,” and would be selling them at a stand opposite the post office in New Bern, North Carolina.³⁰¹ “Monitors” was an “obvious reference to the Union iron-clad who had stood toe to toe with the *C.S.S. Virginia* in the Battle of Hampton Roads on March 8–9, 1862,” and thus associated the use of the armor with

294. President Lincoln was among those not sold on the effectiveness of the armor. His private secretary wrote about a bullet proof vest brought to the White House: “It has been there week after week, and everybody stops and turns it over. . . . It claims to be bullet-proof, and Mr. Lincoln says that if that’s the case, he approves of it; but that there must be a thorough test made. The inventor can put it on, and a detail of sharpshooters can practice at it, to see whether or not a bullet will go through.” WILLIAM O. STODDARD, *INSIDE THE WHITE HOUSE IN WAR TIMES* 39–40 (New York, Charles L. Webster & Co. 1890).

295. Weicksel, *supra* note 291, at 158 (“For many men, however, the use of body armor raised the specter of cowardice. . . . [W]earing a bullet proof vest called into question . . . a man’s willingness to sacrifice his life for the sake of the nation[.]”). Captain William Vermilion of the Thirty-Sixth Regiment of Iowa Infantry Volunteers (and later a state senator) assured his wife that he intended to wear his steel armor vest, “not through cowardice but because I consider it my duty to protect myself,” before insisting, “Don’t speak of it to anyone, Dollie. The boys here don’t know it.” *Id.* at 176 (citation omitted). A Massachusetts colonel conveyed a common sentiment when justifying his decision not to wear body armor to his wife: “Bullet proofs are looked upon as indicating timidity if not cowardice.” PATRICK R. GUINEY, *COMMANDING BOSTON’S IRISH NINTH: THE CIVIL WAR LETTERS OF COLONEL PATRICK R. GUINEY, NINTH MASSACHUSETTS VOLUNTEER INFANTRY* 71 (Christian G. Samito ed., 1998).

296. See Weicksel, *supra* note 291, at 159, 176. One advertisement claimed that the vests were only “worn by our best and bravest men.” *Id.* at 176. Another asserted that “the soldier protected” was “twice the man as the soldier exposed.” *Id.* at 177. Yet another declared that the vest would “double the value and the power of the soldier.” 8 FRANK LESLIE’S *ILLUSTRATED NEWSPAPER* 252 (1862).

297. 6 HARPER’S *WEEKLY* 208 (1862).

298. *Id.*

299. *Id.*

300. Weicksel, *supra* note 291, at 163.

301. 1862 *Civil War Bulletproof Vest Broadside*, SETH KALLER, INC., <https://www.sethkaller.com/item/407-21777-1862-Civil-War-Bulletproof-Vest-Broadside&from=7> [<https://perma.cc/Z7BZ-N48N>].

bravery. Other advertisements attempted to alleviate concerns over ineffectiveness by boasting endorsements by military officers.³⁰²

Many newspaper and magazine articles promoted the use of armor.³⁰³ *Harper's Weekly* argued that Union soldiers should embrace body armor:

Why not mail men as well as ships? If a suit of iron makes wood invincible, why should not the same material make men invulnerable? If a man can buy for a reasonable price a light, bullet-proof armor, and, as it were, go about the battle-field in a casemate, why should he lose his life?

This is the question which is sought to be practically answered by the bullet-proof vest, of which Messrs. Elliott, at 292 Broadway [in New York], are the agents. It is light in weight and in price. . . .

Whatever saves precious lives in war incalculably strengthens the force of the army. Here is a simple sheath which can be slipped within the waistcoat upon going into action. Think of it, soldiers, who wish to fight as long as the rebels do. Think of it, wives and mothers, who wish those soldiers to return.³⁰⁴

The *Scientific American*, on October 26, 1861, advocated for the use of the "Secret Steel Breastplate" presented by the "ingenious inventor and mechanic," J. S. Smith:

It is very strong in proportion to its weight, as it can resist the thrust of a bayonet or sword, and it will repel the bullets of muskets and pistols at ranges which would otherwise be fatal to life. We saw it successfully resist a powerful thrust from a heavy steel-pointed pike. It answers every purpose of a light steel cuirass.³⁰⁵

A North Carolina paper reported on the *Scientific American's* article while using the opportunity to deride Union soldiers: "[I]t is said, [body armor] is being extensively worn by the officers and the men in the Federal army. . . . The principal objection to the thing, is that it gives protection to the front, whereas the Yankees most need protection to the rear."³⁰⁶

The body armor produced mixed results in actual battle. But armor usage was not rare.³⁰⁷ As General Nathan Wales wrote, "it was worn more often than we had any idea of, but many officers felt that they should not be better protected than

302. Weicksel, *supra* note 291, at 169.

303. *See id.* at 160.

304. *Id.* at 211.

305. *Secret Steel Breastplate*, 5 SCI. AM.: AN ILLUSTRATED J. ART & SCI. 264 (1861).

306. *Very Yankeeish*, FAYETTEVILLE OBSERVER, SEMI-WKLY., Nov. 21, 1861, at 3.

307. "The range of battles and regiments in which armor was used, along with the survival of a number of vests in varying degrees of preservation, suggests that armor use was not infrequent." Weicksel, *supra* note 291, at 166.

their men, consequently those who wore the armor did not advertise it.”³⁰⁸ Wales noted that “two of as brave officers as I ever knew wore it, my colonel . . . and my major,” and that his own life was saved by it at the Battle of Antietam: “I had been presented with a steel vest by my father when I left Massachusetts, but I left it in Washington. When I entered the fight a brother officer, who was wounded, insisted on my putting on his steel vest. . . . When I advanced . . . a bullet struck me just below the heart . . . knocking me down.”³⁰⁹ Wales retreated to analyze his wound before realizing that he was wearing the vest and that it had saved his life.³¹⁰

A Union soldier writing about the Battle of Oak Grove explained how a steel-plated vest saved a lieutenant’s life and contended that Union soldiers’ reputation for wearing vests prompted Confederates to shoot at their legs: “Two [balls] struck him [a lieutenant] fairly in the chest. He wore a steel-plated vest, which undoubtedly saved his life. He frankly confesses that when he discovered the first ball did not hurt him, he ‘was ten times as brave’ as he had been. It is probable that the rebels shoot at the legs of our men, under a belief that their breasts are protected by steel-plated vests.”³¹¹

“One Wisconsin officer and 26 of his men were reported to have worn armor and were ‘struck by rifle shot and not hurt.’”³¹² An 1862 newspaper reported that “[i]n one of these [body armor vests] was an indentation made by a Minnie bullet three-fourths of an inch deep, showing that the invention is a really effectual defence against shots striking the body. . . . The officer from whom the one in question was taken was killed by a ball in the head.”³¹³ An advertisement published that same year listed several examples of armor allegedly saving lives, including a claim that “[o]ne man, under McClellan, when before Yorktown, was struck EIGHT times in the breast, but not hurt.”³¹⁴

But there were also many accounts demonstrating the ineffectiveness of some of the armor being sold. Lucius Chittenden, while serving as the first Register of the Treasury,³¹⁵ recalled finding a fallen officer after the Battle of Fort Stevens: “I placed my hand on his chest to detect any sign of life. It encountered a metallic substance. I opened his clothing, and took from beneath it a shield of boiler-iron, moulded to fit the anterior portion of his body, and fastened at the back by straps

308. BASHFORD DEAN, *HELMETS AND BODY ARMOR IN MODERN WARFARE* 58 (1920). “[T]he men who owned and used body armor for a length of time tended to be officers, who had better access to horse and transport wagons than did the ordinary volunteer private.” Weicksel, *supra* note 291, at 167.

309. DEAN, *supra* note 308, at 59–60.

310. *Id.* at 60.

311. *A National Account, June 26, 1862, in 5 THE REBELLION RECORD: A DIARY OF AMERICAN EVENTS, WITH DOCUMENTS, NARRATIVES, ILLUSTRATIVE INCIDENTS, POETRY, ETC.* 232 (Frank Moore ed., New York, G. P. Putnam 1863).

312. Weicksel, *supra* note 291, at 166.

313. *THE NORTH CAROLINA STANDARD*, Apr. 30, 1862, at 2.

314. *COLUMBIAN REGISTER*, Aug. 23, 1862, at 3.

315. Chittenden’s great-grandfather, Thomas Chittenden, was Vermont’s first governor.

and buckles. . . . Directly over his heart, through the shield and through his body, was a hole large enough to permit the escape of a score of human lives.”³¹⁶

Over at the Eighteenth Connecticut Volunteers:

Col. Ely found a man in the camp dispensing to the soldiers “bullet proof vests.” To be “iron clad” when the bullets should fly as thick as hail! what more could a soldier ask? But Col. Ely . . . was incredulous of the statement made by the dispenser of the steel vests. He took one of the garments from the dealer, and setting it up as a target for his revolver put several holes through it. He then ordered the arrest of the vender, made him refund to each soldier the amount which he had received in exchange for the worthless armor, and gave him an opportunity for reflection in the regimental guard-house.³¹⁷

Nevertheless, soldiers on both sides of the conflict bore armor. Every man in the 15th Connecticut Volunteers was expected to “provide[] themselves with the ‘bullet proof vests’ recommended by the *Morning Journal and Courier*.”³¹⁸ They were delayed, a sergeant later recalled, when it was discovered that “the boys had not all” done so.³¹⁹ But they cured this deficiency by contacting a representative from the Atwater Armor Company, who then “sold over two hundred of these ‘iron-clad life preservers’ in one day.”³²⁰ “At least a few benefactors outfitted entire regiments with bulletproof vests, including one Massachusetts man who presented a bulletproof vest to each man in the 37th Massachusetts.”³²¹ The regiment became known as “the ‘iron clads,’ because when they first arrived every man had a steel plate in his vest.”³²² Many of the “men threw them away” during the first march, however, and the plates were later used “to fry pork in.”³²³

Due to metal shortages in the South, the “armor that was worn in the Confederate army was generally either captured from Union soldiers or produced by local blacksmiths.”³²⁴ “[T]hose soldiers who did discuss armor, or who were associated with its use by way of newspaper reportings, hailed from a wide range of backgrounds, among them regiments from Connecticut, Illinois, Indiana,

316. LUCIUS EUGENE CHITTENDEN, RECOLLECTIONS OF PRESIDENT LINCOLN AND HIS ADMINISTRATION 419–20 (New York, Harper & Bros. 1891).

317. CHAPLAIN WM. C. WALKER, HISTORY OF THE EIGHTEENTH REGIMENT CONN. VOLUNTEERS IN THE WAR FOR THE UNION 21 (Norwich, 1885).

318. SHELDON B. THORPE, THE HISTORY OF THE FIFTEENTH CONNECTICUT VOLUNTEERS IN THE WAR FOR THE DEFENSE OF THE UNION, 1861–1865 (New Haven, The Price, Lee & Adkins Co. 1893).

319. *Id.*

320. *Id.* Many found the armor too burdensome, however, as “at least fifty per cent of the regiment first wore away and then swore away this device.” *Id.*

321. Weicksel, *supra* note 291, at 175.

322. ALL FOR THE UNION: THE CIVIL WAR DIARY AND LETTERS OF ELISHA HUNT RHODES 112 (Robert Hunt Rhodes ed., 1985) (Civil War Library ed. 1992).

323. *Id.*

324. Weicksel, *supra* note 291, at 165. Confederate soldiers also collected armor used by Union soldiers as war trophies. *See, e.g.*, THE NORTH CAROLINA STANDARD, Apr. 30, 1862, at 2 (“Among the trophies exhibited here are several shields taken from the bodies of men and officers, in which they were enveloped from neck to hips.”); Weicksel, *supra* note 291, at 167.

Iowa, Massachusetts, Minnesota, and Wisconsin.” Additionally, armor was used in battles in Virginia, Maryland, Tennessee, and Mississippi.³²⁵

Ultimately, “[n]umerous examples of armor were submitted to the U.S. Army, presented to President Abraham Lincoln, commissioned by individual soldiers, purchased from peddlers and sutlers, and sold in retail stores.”³²⁶ “The availability of bulletproof garments through the emerging mass market democratized body armor. . . . [A] vest could be purchased by any man who could pay for it.”³²⁷

The primary takeaways from the historical uses of armor throughout American history are that Americans used armor when the benefits outweighed the burdens, and that while armor never again reached the prominence it enjoyed in the sixteenth and much of the seventeenth centuries, it never fell out of use entirely. Therefore, the absence of historical regulations, discussed next, cannot be blamed on an absence of armor use in society.³²⁸

III. HISTORICAL REGULATIONS

Bruen requires courts to examine the nation’s historical tradition of regulation to determine whether the Second Amendment permits restrictions on conduct covered by the Amendment’s plain text.³²⁹ For laws that burden the keeping or bearing of armor, this is an easy task. There were very few restrictions on armor before 1900.

Four colonies in the seventeenth century forbade selling armor to American Indians: Massachusetts in 1633 and 1637,³³⁰ Connecticut in 1665,³³¹ Pennsylvania in 1676,³³²

325. These battles include “Bull Run, Shiloh, Yorktown, Williamsburg, Corinth, Seven Pines/Fair Oaks, Port Republic, Oak Grove, Malvern Hill, South Mountain, Fredericksburg, Stones River, Gettysburg, Boonsboro, Fort Stevens, and Dandridge.” Weicksel, *supra* note 291, at 166.

326. *Id.* at 160. Sutlers provided supplies to Union soldiers during the Civil War. “The sutler was a civilian, a sort of peripatetic P.X. One was allowed to each regiment and was appointed either by the governor of the state from which the regiment came or by regimental or brigade officers.” JACK COGGINS, ARMS AND EQUIPMENT OF THE CIVIL WAR 124 (Dover Publ’ns 2004) (1962). “[T]he Inspector Generals Department listed the articles he could sell, checked his merchandise, and watched his prices.” *Id.*

327. Weicksel, *supra* note 291, at 168.

328. Even during the rush for armor in the early years of the Civil War, it remained entirely unregulated. “[N]o official government entity monitored quality or safety standards, nor were there regulations regarding design, manufacturing, or testing.” Weicksel, *supra* note 291, at 169.

329. N.Y. State Rifle & Pistol Ass’n v. Bruen, 597 U.S. 1, 24 (2022).

330. “Nor shall any [person] amend or repair any gun belonging to any Indian, nor shall sell any armour or weapons, upon penalty of ten pounds for every gun, armour or weapons so sold, given or bartered” THE CHARTERS AND GENERAL LAWS OF THE COLONY AND PROVINCE OF MASSACHUSETTS BAY 133 (Boston, T. B. Wait & Co. 1814).

331. “It is Ordered, that noe man wthin this Jurisdiction . . . shall sell or giue to any Indean, directly or indirectly, any such gun or gunpowder, or shott, or lead, or mould, or millitary weapons, or armor, nor shall make any arrowe heads, vppon payne of ten pownd fyne for every offence at lest[.]” THE PUBLIC RECORDS OF THE COLONY OF CONNECTICUT, PRIOR TO THE UNION WITH THE NEW HAVEN COLONY 79 (J. Hammond Trumbull ed., Hartford, Brown & Parsons 1850) (1665).

332. “No Person shall sell give or Barter directly or indirectly any Gun or Guns Powder, Bullet, shott, Lead . . . to any Indian . . . nor should amend or repair any Gun belonging to any Indian, nor shall Sell any armour or weapons, upon penalty of ten pounds for every Gun, Armour, weapon, Vessell, or Boat, so Sould given or Bartered” CHARTER TO WILLIAM PENN, AND LAWS OF THE PROVINCE OF PENNSYLVANIA, PASSED BETWEEN THE YEARS 1682 AND 1700, PRECEDED BY DUKE OF YORK’S LAWS IN FORCE FROM THE YEAR 1676 TO THE YEAR 1682 32 (Staughton George et al. eds., Harrisburg, Lane S. Hart 1879).

and New York in 1680.³³³ These laws restricted sales only to members of hostile foreign nations and do not establish a tradition that justifies modern restrictions on American citizens.

In 1783, Connecticut made it a capital offense to “commit Burglary” or “Robbery” while “armed with any dangerous Armour or Weapon.”³³⁴ It did not restrict the keeping or bearing of armor by peaceable persons.

Finally, Massachusetts in 1692,³³⁵ Virginia in 1786,³³⁶ and North Carolina by 1792³³⁷ forbade carrying arms—including armor—into courthouses or in a manner that spread fear or terror among the public. The Supreme Court has addressed these laws. The Court determined that “courthouses” are “‘sensitive places’ where arms carrying [can] be prohibited consistent with the Second Amendment.”³³⁸ As for the restrictions on “bearing arms in a way that spreads ‘fear’ or ‘terror’ among the

333. “No Person shall sell give or Barter directly or indirectly any Gun or Guns, Powder, Bullet, shott, Lead . . . to any Indian . . . nor shall amend or repair any Gun belonging to any Indian, nor shall Sell any armour or weapons, upon penalty of ten pounds for every Gun, Armour, weapon, Vessell, or Boat, so Sould given or Bartered . . .” 1 THE COLONIAL LAWS OF NEW YORK FROM THE YEAR 1664 TO THE REVOLUTION 40–41 (Albany, James B. Lyon 1894).

334. 1783 Conn. Acts 633.

335. [E]very justice of the peace, in the county where the offence is committed, may cause to be stayed and arrested all affrayers, rioters, disturbers or breakers of the peace, and such as shall ride, or go armed offensively before any of their majesties’ justices, or other their officers or ministers doing their office, or elsewhere, by night or by day, in fear or affray of their majesties’ liege people, and such others as shall utter any menaces or threatening speeches; and upon view of such justice or justices, confession of the party, or other legal conviction of such offence, shall commit the offender to prison until he find sureties for the peace and good behaviour, and seize and take away his armour or weapons, and shall cause them to be apprized and answered to the king as forfeited[.]

THE CHARTERS AND GENERAL LAWS OF THE COLONY AND PROVINCE OF MASSACHUSETTS BAY 239–40 (Boston, T. B. Wait & Co. 1814).

336. That no man, great nor small, of what condition soever he be . . . be so hardy to come before the justices of any court, or either of their ministers of justice, doing their office, with force and arms, on pain, to forfeit their armour to the commonwealth, and their bodies to prison, at the pleasure of a court; nor go nor ride armed by night nor by day, in fairs or markets, or in other places, in terror of the county, upon pain of being arrested and committed to prison by any justice on his own view, or proof by others, there to abide for so long a time as a jury, to be sworn for that purpose by the said justice, shall direct, and in like manner to forfeit his armour to the commonwealth; but no person shall be imprisoned for such offence by a longer space of time than one month.

12 THE STATUTES AT LARGE; BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA, FROM THE FIRST SESSION OF THE LEGISLATURE, IN THE YEAR 1619 334 (William Waller Hening ed., Richmond, George Cochran 1823).

337. [T]hat no man great nor [s]mall, of what condition [s]oever he be . . . be so hardy to come before the King’s justices, or other of the King’s Mini[s]ters doing their office with force and arms, nor bring no force in affray of peace, nor to go nor ride armed by night nor by day, in fairs, markets nor in the presence of the King’s Ju[s]tices, or other mini[s]ters, nor in no part el[s]ewhere, upon pain to forfeit their armour to the King, and their bodies to pri[s]on at the King’s plea[s]ure.

A COLLECTION OF THE STATUTES OF THE PARLIAMENT OF ENGLAND IN FORCE IN THE STATE OF NORTH-CAROLINA 60–61 (Francois-Xavier Martin ed., New Bern, Editor’s Press 1792).

338. N.Y. State Rifle & Pistol Ass’n v. Bruen, 597 U.S. 1, 30 (2022).

people,” these laws do not justify “banning the carrying of any class of [arms].”³³⁹ Nor do they justify modern laws that “broadly restrict arms use by the public generally.”³⁴⁰ Rather, they may justify modern laws that “mitigate demonstrated threats of physical violence.”³⁴¹

In sum, there were no historical restrictions on keeping or bearing armor that applied to peaceable persons outside of sensitive places. But there are additional considerations that should be addressed.

The *Heller* Court, in adjudicating a handgun prohibition, addressed “what types” of arms the Second Amendment protects.³⁴² The Court recognized a “historical tradition of prohibiting the carrying of ‘dangerous and unusual weapons.’”³⁴³ Based on that tradition, the Court determined that the Second Amendment protects arms “‘in common use,’”³⁴⁴ but “does not protect those weapons not typically possessed by law-abiding citizens for lawful purposes.”³⁴⁵ It should be considered then whether body armor is “dangerous and unusual.”

To be “dangerous and unusual” an arm must be both dangerous *and* unusual. The Supreme Court made this clear in *Caetano v. Massachusetts*.³⁴⁶ In *Caetano*, the Court summarily reversed and remanded the Massachusetts Supreme Judicial Court’s opinion upholding a ban on stun guns. After determining that the Massachusetts Supreme Judicial Court’s analysis of whether stun guns were “unusual” was flawed, the Supreme Court declined to consider whether stun guns qualified as “dangerous.”³⁴⁷ Justice Alito, joined by Justice Thomas, elaborated in a concurring opinion:

As the *per curiam* opinion recognizes, this is a conjunctive test: A weapon may not be banned unless it is *both* dangerous *and* unusual. Because the Court rejects the lower court’s conclusion that stun guns are “unusual,” it does not need to consider the lower court’s conclusion that they are also “dangerous.”³⁴⁸

Thus, body armor cannot be “dangerous and unusual” unless it is both exceptionally dangerous and uncommon.³⁴⁹

339. *Id.* at 47; *see also id.* at 51 (Addressing North Carolina’s law and explaining that “the North Carolina Supreme Court acknowledged ‘that the carrying of a gun’ for a lawful purpose ‘*per se* constitutes no offence.’ Only carrying for a ‘wicked purpose’ with a ‘mischievous result . . . constituted a crime.” (quoting *State v. Huntly*, 25 N.C. 418, 422–23 (1843)) (brackets omitted).

340. *United States v. Rahimi*, 144 S. Ct. 1889, 1901 (2024).

341. *Id.*

342. *District of Columbia v. Heller*, 554 U.S. 570, 624 (2008).

343. *Id.* at 627.

344. *Id.* (quoting *United States v. Miller*, 307 U.S. 174, 179 (1939)).

345. *Id.* at 625.

346. 577 U.S. 411 (2016).

347. *Id.* at 412, 417.

348. *Id.* at 417 (Alito, J., concurring).

349. *See Friedman v. City of Highland Park*, 784 F.3d 406, 409 (7th Cir. 2015) (If “the banned weapons are commonly owned . . . then they are not unusual.”).

Body armor is not exceptionally dangerous. As a defensive arm, armor is the least dangerous of all arms protected by the Second Amendment. Unlike weapons—such as knives and firearms—armor cannot be used to harm another person. At worst, armor can be misused to provide enhanced protection to criminals, but it is implausible to suggest that this makes armor more dangerous than offensive weapons, which can also be misused by criminals and are nevertheless protected arms.

Since body armor is not exceptionally dangerous, the “dangerous and unusual” analysis ends there. Moreover, except for New York’s prohibition on acquiring body armor, no state prohibits the possession of armor.³⁵⁰ Thus, armor is “widely owned and accepted as a legitimate means of self-defense across the country.”³⁵¹

In *Bruen*, the Court briefly discussed armor in addressing England’s 1328 Statute of Northampton.³⁵² The Statute “provided that, with some exceptions, Englishmen could not ‘come before the King’s Justices, or other of the King’s Ministers doing their office, with force and arms, nor bring no force in affray of the peace, nor to go nor ride armed by night nor by day, in Fairs, Markets, nor in the presence of the Justices or other Ministers, nor in no part elsewhere, upon pain to forfeit their Armour to the King, and their Bodies to Prison at the King’s pleasure.’”³⁵³ The Court noted that the Statute “appears to have been centrally concerned with the wearing of armor,” which “makes sense given that armor” was “generally worn” at the time “only when one intended to engage in lawful combat or—as most early violations of the Statute show—to breach the peace.”³⁵⁴ The Court determined that the ancient English Statute provided little support for restricting the carrying of handguns in America. For one, “by the time Englishmen began to arrive in America in the early 1600s, the public carry of handguns was no

350. Under a recent New York law,

A person is guilty of the unlawful purchase of body armor when, not being engaged or employed in an eligible profession, they knowingly purchase or take possession of body armor, as such term is defined in subdivision two of section 270.20 of this article. This section shall not apply to individuals or entities engaged or employed in eligible professions, which shall include police officers as defined in section 1.20 of the criminal procedure law, peace officers as defined in section 2.10 of the criminal procedure law, persons in military service in the state of New York or military or other service for the United States, and such other professions designated by the department of state in accordance with section one hundred forty-four-a of the executive law.

N.Y. PENAL LAW § 270.21. Subdivision two of section 270.20 defines body armor as “any product that is a personal protective body covering intended to protect against gunfire, regardless of whether such product is to be worn alone or is sold as a complement to another product or garment.” *Id.* § 270.20. The “[u]nlawful purchase of body armor is a class A misdemeanor for a first offense and a class E felony for any subsequent offense.” *Id.* § 270.21. It is also illegal to “sell or deliver body armor to any individual or entity not engaged or employed in an eligible profession[.]” N.Y. GEN. BUS. LAW § 396-eee.

351. *Caetano*, 577 U.S. at 420 (Alito, J., concurring).

352. See *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 40–41 (2022).

353. *Id.* at 40 (quoting 2 Edw. 3 c. 3 (1328)).

354. *Id.* at 41.

longer widely proscribed.”³⁵⁵ The same is true for armor, which was carried nearly everywhere in America at that time. Second, by “the decades leading up to the founding” of America, the Statute forbade only carry “accompanied with such Circumstances as are apt to terrify the People.”³⁵⁶ As with handguns, there is no evidence that wearing armor around the founding “would terrify people.”³⁵⁷ Therefore, the Court cautioned that “English common-law practices and understandings at any given time in history cannot be indiscriminately attributed to the Framers of our own Constitution.”³⁵⁸ Rather, “in interpreting our own Constitution, ‘it [is] better not to go too far back into antiquity for the best securities of our liberties,’ unless evidence shows that medieval law survived to become our Founders’ law.”³⁵⁹ In short, no English restriction can overcome the deeply rooted American tradition of keeping and bearing armor for lawful purposes.

Another consideration is whether historical restrictions on other types of arms can be used as analogues to justify modern restrictions on body armor. *Bruen* indicates that they cannot. The *Bruen* Court considered only *handgun* carry restrictions when holding New York’s handgun carry law unconstitutional. And because body armor long predates the Second Amendment, it is unnecessary to look beyond the tradition that relates to body armor. To the extent that such analogues are appropriate, however, there is no tradition of banning any particular types of arms.³⁶⁰ Rather, for offensive weapons, the mainstream American legal tradition was to limit the mode of carry (e.g., no concealed carry), to limit sales to minors (either with bans or requirements for parental permission), and/or to impose extra punishment for use in a crime.³⁶¹

This does not suggest that all body armor regulations are unconstitutional. For example, several states prohibit wearing body armor during the commission of a violent crime.³⁶² Because the perpetration of criminal violence is not protected by

355. *Id.* at 42.

356. *Id.* at 45 (quoting W. HAWKINS, 1 PLEAS OF THE CROWN 136 (1716)).

357. *Id.*

358. *Id.* at 35.

359. *Id.* (quoting *Funk v. United States*, 290 U.S. 371, 382 (1933)) (brackets omitted).

360. See generally Kopel & Greenlee, *supra* note 20.

361. *Id.* at 386.

362. See, e.g., MD. CODE ANN., CRIM. LAW § 4-106(b) (LexisNexis 2024) (“A person may not wear bulletproof body armor in the commission of a crime of violence.”); OR. REV. STAT. ANN. § 166.643 (West 2023) (Class B felony if offender knowingly “(a) Wears body armor; and (b) Possesses a deadly weapon” while “committing or attempting to commit a felony or misdemeanor involving violence”); VA. CODE ANN. § 18.2-287.2 (2024) (Class 4 felony for “wearing body armor” and possessing a “firearm or knife” while committing a crime of violence or felony); FLA. STAT. ANN. § 775.0846(2) (LexisNexis 2024) (“No person may possess a bulletproof vest while . . . he or she commits or attempts to commit any murder, sexual battery, robbery, burglary, arson, aggravated assault, aggravated battery, kidnapping, escape, breaking and entering with intent to commit a felony, criminal gang-related offense . . . or aircraft piracy.”); N.J. STAT. ANN. § 2C:39-13 (West 2024) (forbidding the use of armor “while engaged in the commission of, or an attempt to commit, or flight after committing or attempting to commit murder, manslaughter, robbery, sexual assault, burglary, kidnaping, criminal escape or assault”); TENN. CODE ANN. § 39-17-1323(a)(1) (2024) (prohibiting individuals from committing “any felony whose statutory elements involve the use or threat of violence to a human being” while “knowingly wear[ing] a

the Second Amendment, the lack of historical restrictions on body armor likely does not cast doubt on most applications of these laws.

CONCLUSION

Armor was indispensable to the early European explorers and English colonists. Columbus's men bore armor as they first stepped foot on American soil, as did the Pilgrims. The first ever written arms rights guarantees for Englishmen granted the colonists the express right to possess armor. And they wore armor at nearly all times. Although the use of armor declined as evolving methods of warfare limited its usefulness later in the seventeenth century, it never fell out of use entirely. Cavalry and engineers wore armor throughout the French and Indian War and the Revolutionary War, while gorgets were worn ornamentally. Some Union and Confederate soldiers wore armor during the Civil War. Throughout American history, whenever the usefulness of armor outweighed the burden of wearing it, armor was used.

Unlike firearms, edged weapons, and impact weapons, the keeping and bearing of armor by peaceable persons was not restricted before 1900. The nation's tradition of regulation, therefore, evinces a robust right to possess and wear body armor for self-defense.

body vest"); S.C. CODE ANN. § 16-3-1080(A) (2024) (Felony to commit, attempt, or threaten to commit "a violent crime . . . while wearing body armor").