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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION
2500 TULARE STREET | FRESNO, CA 93721

JEFF SILVESTER, BRANDON
COMBS, THE CALGUNS
FOUNDATION, INC., a non-profit
organization, and THE SECOND
AMENDMENT FOUNDATION,
INC., a non-profit organization,

Plaintiffs,

vs.

KAMALA HARRIS, Attorney General
of California, and DOES 1 to 20,

Defendants.

Case No.: 1:11-CV-2137 AWI SKO

PLAINTIFFS' RESPONSE TO
DEFENDANTS' TRIAL BRIEF

Judge: Hon. Anthony W. Ishii
Courtroom: 8th Floor, Room 2
Trial Date: March 25, 2014
Time: 8:30 a.m.
Case Filed: Dec. 23, 2011

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I. INTRODUCTION

The flaw in Defendants' approach to this case can be summed up by the implied premise of the current state of the law. That gun owners/purchasers, as a collective group are to be presumed guilty of causing gun violence; therefore government policies, like a 10-Day Waiting Period to purchase a firearm can, and should, be imposed on all gun owners/purchasers as a class.

But the government can have no interest in enforcing a policy that infringes the fundamental rights of persons already known to the state to be trustworthy, e.g., (1) gun owners with registered guns already in their possession, and/or (2) gun owners with a Certificate of Eligibility to acquire/own/possess firearms that is issued by the State's top law enforcement agency (Defendants herein), and/or (3) gun owners with a state license to carry, on their person at all times, a loaded and concealable firearm after that license has been issued by the local chief of police or county sheriff and monitored by Defendants herein.

Background checks for all gun buyers may be constitutionally appropriate. 10-Day Waiting Periods may be appropriate to keep first-time gun buyers (at least for the first purchase in California) from committing impulsive violent acts and because they are strangers to California's "gun-owner database." But a 10-Day Waiting Period for gun-owners who are known by the state to be trustworthy is an irrational and overbroad infringement on Second Amendment rights.

The exceptions to the 10-Day Waiting Period – also the basis for Plaintiffs' Equal Protection Claim – are also a clue to the fundamental irrationality of the law. Why is there no presumption of collective guilt and inchoate violence for:

1. Certain law enforcement transactions. Penal Code §§26950, 27050, 27055, 27060, 27065 (exempting §26815); §§27600, 27605, 27610, 27615, and 27650 (exempting §27540).
2. A dealer who delivers a firearm other than a handgun at an auction or similar event. Penal Code §§26955 (exempts from §26815); §27655 (exempts from §27540).

3. Dealer-to-dealer transfers of firearms. Penal Code §§27110 and 27125 (exempts from §26815); §§27710, and 27725 (exempts from §27540).
4. Transfers of firearms by a dealer to him or herself. Penal Code §§26960 and 27130 (exempts from §26815); §§27660 and 27730 (exempts from §27540.)
5. Transactions between or to importers and manufacturers of firearms. Penal Code § 27100 (exempts from § 26815); § 27700 (exempts from §27540).
6. Persons with a “short barrel rifle” or “short barrel shotgun” permit pursuant to Penal Code § 33300. Penal Code §§ 26965 and 21740 (exempts from § 26815); §§ 27665 and 27740 (exempts from § 27540).
7. Persons who have an —assault weapons. permit pursuant to Penal Code section 30500, *et seq.* Penal Code §21740 (exempts from §26815); §27740 (exempts from §27540).
8. Persons who have a —machinegun. permit pursuant to Penal Code section 32650 *et seq.* Penal Code §§26965 and 27140 (exempts from §26815); §§27665 and 27740 (exempts from §27540).
9. Persons who have a —machinegun. license pursuant to Penal Code section 32700. Penal Code §26965 (exempts from §26815); § 27665 (exempts from §27540).
10. Persons who have a —destructive device. permit pursuant to Penal Code section 18900. Penal Code §26965 (exempts from §26815); §27665 (exempts from §27540).
11. Persons with curio and relic collector's licenses issued by the Bureau of Alcohol, Tobacco, Firearms and who have a valid Certificate of Eligibility issued by the California Department of Justice and only when purchasing curio and relic firearms. Penal Code §26970 (exempts from §26815); §27670 (exempts from §27540).
12. Transactions regarding firearms serviced or repaired by a gunsmith. Penal Code §27105 (exempts from §26815); §27705 (exempts from §27540).
13. Dealer sales to persons residing out-of-state. Penal Code §27115 (exempts from §26815) and §27715 (exempts from §27540).
14. Deliveries to wholesalers. Penal Code §27120 (exempts from §26815); §27720 (exempts from §27540).
15. Loans by dealers who operate target facilities. Penal Code §27135 (exempts from §26815); §27735 (exempts from §27540).

- 1 16. Certain loans of firearms for use as props. Penal Code §27000 (exempts
- 2 from §26815); §27745 (exempts from §27540).
- 3 17. Loans to consultants or evaluators. Penal Code §27005 (exempts from
- 4 §26815); §27750 (exempts from §27540).
- 5 18. Lawful transactions involving cane guns, firearms that are not
- 6 immediately recognizable as firearms, undetectable firearms, wallet
- 7 guns, unconventional pistols, and zip guns. Penal Code §21740
- 8 (exempts from §26815); §27740 (exempts from §27540).

9 Presumably the persons whose transactions are described by these exceptions

10 have convinced the legislature, by some methodology that is presently unknown,

11 that they will never become felons, never become violent misdemeanants, never

12 suffer a mental break-down, never engage in suicidal ideation or never commit an

13 impulsive violent act. And that as a class they are so trustworthy with firearms

14 that no 10-Day Waiting Period is required.

15 There is no question that acquisition of a firearm is a necessary prerequisite

16 to exercising the right to keep and bear arms. In *Andrews v. State* – cited favorably

17 in *District of Columbia v. Heller*, 554 U.S. 570, 608, 614 (2008), the High Court of

18 Tennessee found much in common between that State’s guarantee of the “right to

19 keep and bear arms” and the Second Amendment when it held:

20 The right to keep and bear arms, necessarily

21 involves the right to purchase them, to keep them in a

22 state of efficiency for use, and purchase and provide

23 ammunition suitable for such arms, and keep them in

24 repair. [...]

25 *Andrews v. State*, 50 Tenn. 165, 178, 8 Am. Rep. 8, 13 (1871)

26 This case stands for the proposition that plaintiffs (and persons similarly

27 situated) who are:

- 28 (1) a person who already has a registered (i.e., they are known by the
- 29 state to be in lawful possession of a) firearm at his/her home; and/or
- 30 (2) a person licensed to carry a loaded and concealable firearms on their
- 31 person at all times by their local chief of police or sheriff; and/or
- 32 (3) a person who submits to yearly backgrounds checks and obtains a

1 Certificate of Eligibility to own/purchase/possess firearms from the
 2 California Department of Justice;
 3 are all equally as trustworthy as many if not all of the 18 exceptions listed above
 4 and are therefore entitled to the same exemption from the 10-Day Waiting Period.

5 Sometimes governments cannot avoid making classifications. But when
 6 those classifications infringe a fundamental right, the Courts are required to
 7 examine those classifications, and the underlying policies, with exacting scrutiny.
 8 A 10-Day Waiting Period to exercise the “right to keep and bear” a firearm that was
 9 just purchased, by someone who has already demonstrated to the State of California
 10 that they are a trustworthy gun owner, is an infringement of the Second
 11 Amendment as that right was understood in 1791 and 1868.

12 *District of Columbia v. Heller*, 554 U.S. 570 (2008) rejected a “collective
 13 rights” interpretation of the Second Amendment in favor of a finding that the “right
 14 to keep and bear arms” is a fundamental, individual right. This Court should reject
 15 the “collective guilt” theory of gun control advanced by the State of California in
 16 favor a more narrowly tailored remedy that will comply with the Constitution.

17 18 **II. RESPONSE TO THE ATTORNEY GENERAL'S INTRODUCTION AND** 19 **SUMMARY OF THE CASE FOR THE DEFENSE**

20 The Attorney General (AG) attempts to argue that the laws being challenged
 21 in this action are longstanding, presumptively lawful regulations on the possession
 22 of firearms. California imposed its first waiting period (which was only two days,
 23 did not apply to long guns (rifles and shotguns) and did not apply to private party
 24 sales) in 1923. The law went through many permutations before settling on its
 25 current iteration in 1991 when a 10-Day Waiting Period invaded all transactions.

26 Acknowledging that there were no laws prohibiting the immediate possession
 27 of firearms in colonial times, the AG attempts to argue that there was a “natural” or
 28 “built-in” waiting period because for most Americans the nearest gun store was a

1 day's horseback ride away and people could not have expected to “obtain firearms
 2 on demand.” But here, the AG is conflating market conditions (assuming there is
 3 admissible evidence of this fact) with state action. A gun dealer’s remote location
 4 or inventory (or lack thereof) is not an interference with anyone’s fundamental
 5 right. Furthermore, the AG presents no plausible argument (because there isn’t
 6 one) that a person walking into a gun smith’s shop in 1791 or 1868 would have
 7 suffered a government imposed waiting period before they could walk out of the
 8 door with a firearm they had just purchased.

9 The AG lists five (5) categories of prohibited persons that the background
 10 check and 10-Day Waiting Period are supposed to keep disarmed: (1) felons, (2)
 11 violent misdemeanants, (3) persons with mental-health disqualifications, (4)
 12 persons subject to restraining orders, and (5) probationers.

13 But for all these categories, the AG is already under a duty to establish and
 14 maintain an online database known as the “Prohibited Armed Persons File” that is
 15 supposed to cross-reference persons who are known to the State of California to
 16 have owned or possessed a firearm on or after January 1, 1991. Penal Code §
 17 30000(a). Furthermore, this online database is available through the California
 18 Law Enforcement Telecommunications System (CLETS) for the specific purpose of
 19 assisting government agencies identified in Penal Code § 11105 with determining if
 20 someone is prohibited from possessing firearms. Penal Code § 30000(b). The
 21 mechanics of that law are set forth in Penal Code § 30005 and covers all five (5)
 22 categories of persons disqualified from exercising Second Amendment rights in this
 23 state. Furthermore, the AG’s office has recently been allocated the sum of
 24 \$24,000,000.00 from the Dealer Record of Sale Special Account to enforce the
 25 provisions of the Armed Prohibited Persons System. Penal Code § 30015.

26 If California already has the information, the technical means and the
 27 resources to track down, confiscate weapons – and if necessary – prosecute persons
 28 known to the State to have become prohibited and who already own firearms, then

1 the Armed Prohibited Persons Systems is the narrowly tailored (or better fit)
 2 remedy that will address the public policy advanced by the State for the 10-Day
 3 Waiting Period. And, it has the virtue of not interfering with the rights of law-
 4 abiding gun buyers.

5 Furthermore, the 10-Day Waiting Period for plaintiffs (and those similarly
 6 situated) is irrational because it assumes that someone who already owns a firearm
 7 will commit an impulsive violent act (or suicide) only after they have acquired a
 8 new (or another) firearm. This policy only makes sense in the case of a first-time
 9 gun buyer.

10 Finally, in their introduction, and throughout their trial brief, the Attorney
 11 General advances a new species of constitutional scrutiny to analyze whether a
 12 regulation of firearms infringes the Second Amendment. The AG refers to this as “A
 13 Lenient Form of Intermediate Scrutiny.” This is a legal animal with no pedigree in
 14 the case law that Plaintiffs have been able to find. It appears to be an attempt to
 15 dress the rational-basis wolf in the sheep’s clothing of heightened scrutiny.

16 17 **III. THE TWO-STEP SECOND AMENDMENT ANALYSIS** 18 **DESCRIBED AND APPLIED**

19 **A. Plaintiffs Have a Limited Burden to Show a Violation of a** 20 **Constitutional Right and State Action as Part of Step #1** 21 **of the *Ezell/Chovan/Peruta* Test for Second Amendment Rights.**

22 Though this is a bench trial, the Ninth Circuit Civil Jury Instructions for
 23 Civil Rights Actions under 42 U.S.C. § 1983 are instructive on this issue.

24 **Introductory Comment**

25 In this revision to Chapter 9, the committee provides
 26 separate "elements" instructions for 42 U.S.C. § 1983
 27 claims against individuals (Instructions 9.2–9.3) and
 28 against local governing bodies (Instructions 9.4–9.7)
 because there are different legal standards to establish
 liability against these two types of defendants. This
 revision also provides updated instructions to establish
 the deprivation of particular constitutional rights

(Instructions 9.9–9.25). The committee intends an elements instruction to be used only in conjunction with a "particular rights" instruction appropriate to the facts of the case at hand.

42 U.S.C. § 1983 provides:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

[...]

Finally, this chapter contains instructions for violations of particular federal rights to be used in conjunction with an elements instruction. **"Where a particular amendment 'provides an explicit textual source of constitutional protection' against a particular sort of government behavior, 'that Amendment, not the more generalized notion of 'substantive due process,' must be the guide for analyzing these claims.'"** *Albright v. Oliver*, 510 U.S. 266, 273 (1994) (plurality opinion) (quoting *Graham v. Connor*, 490 U.S. 386, 395 (1989)). When necessary, these instructions include right-specific mental states because § 1983 itself "contains no independent state-of-mind requirement" apart from what is necessary to state a violation of the underlying right. *Daniels v. Williams*, 474 U.S. 327, 328 (1986).

Bold and underlined emphasis added.

The emerging analysis of Second Amendment claims is to mirror how First Amendment claims are adjudicated, *Ezell v. City of Chicago*, 651 F.3d 684 (7th Cir.

2011); *U.S. v. Chovan*, 735 F.3d 1127 (9th Cir. 2013) and *Peruta v. County of San Diego*, ___ F.3d ___, No. 10-056971, 2014 WL 555862 (9th Cir. Feb. 13, 2014).

A plaintiff need only establish (1) a 42 U.S.C. § 1983 claim (see Instruction 9.4 as modified below), and (2) Violation of a particular right (see Instruction 9.10 as modified below) – by a preponderance of evidence. The relevant case law then shifts the burden to the State Actor to overcome the prima facie case under a two-step constitutional analysis required by the *Ezell/Chovan/Peruta* line of cases.

Ninth Circuit Civil Jury Instruction 9.4 (Section 1983 Claims against Local Governing Body Defendant Based on Official Policy, Practice or Custom – Elements and Burden of Proof) as modified for this case would require proof the Defendant:

1. Acted under color of law.
2. The action deprived the plaintiff of a Second Amendment Right.
3. The defendant acted pursuant to an expressly adopted official policy.

Ninth Circuit Civil Jury Instruction 9.10 (Particular Rights – First Amendment – “Citizen” Plaintiff) as modified by the Second Amendment and the *Ezell/Chovan/Peruta* line of case would probably read:

Under the Second Amendment, a citizen has the right to keep and bear arms, which includes the right to acquire firearms in accordance with regulations at the point of sale that are tailored to address the legitimate public policy of denying firearms to prohibited persons and that does not overreach into the rights of the law-abiding.

In order to prove that the defendant deprived the plaintiff of this Second Amendment right, the plaintiff must prove the following additional elements by a preponderance of the evidence:

1. The plaintiffs are engaged, and will engage in the future, in the acquisition of firearms, an activity protected under the Second Amendment.
2. The plaintiffs are known to the State of California to be gun owners.
3. The State of California knows that the plaintiffs are not: (1) felons, (2) violent misdemeanants, (3) persons with mental-health disqualifications, (4) persons subject to restraining orders, and (5) probationers.

1 4. After an otherwise lawful sale by a willing firearms dealer, the
 2 Defendants prevented the plaintiffs from “keeping and bearing” the
 arms just purchased for a period of 10 days.

3 Step #1 of the *Ezell/Chovan/Peruta* two-part test focuses on whether a 10-
 4 Day Waiting Period burdens the Second Amendment. That inquiry is a legal one
 5 and has already been performed by this Court in its Order Denying the Defendants’
 6 Motion for Summary Judgment (Doc #44):

7 The first step is a historical inquiry that seeks to determine
 8 whether the conduct at issue was understood to be within the scope of
 9 the right to keep and bear arms at the time of ratification. *Chester*, 628
 10 F.3d at 680; see *Chovan*, 2013 U.S. App. LEXIS at *23-*25; *N.R.A.*, 700
 11 F.3d at 194; *Ezell v. City of Chicago*, 651 F.3d 684, 702-03 (7th Cir.
 2011). If a law burdens conduct that falls outside of the Second
 Amendment's scope, then the analysis ends and there is no violation.
 See *N.R.A.*, 700 F.3d at 195; *Ezell*, 651 F.3d at 703.
 12 [...]

13 Under the *Chovan* framework, the first step is to determine
 14 whether the challenged law burdens a right protected under the
 Second Amendment. The WPL prohibits every person who purchases a
 15 firearm from taking possession of that firearm for a minimum of 10
 days. That is, there is a period of at least 10 days in which California
 16 prohibits every person from exercising the right to keep and bear a
 firearm. There can be no question that actual possession of a firearm is
 17 a necessary prerequisite to exercising the right keep and bear arms.
 Further, there has been no showing that the Second Amendment, as
 18 historically understood, did not apply for a period of time between the
 purchase/attempted purchase of a firearm and possession of the
 19 firearm. [fn.3: The Court notes that Harris has not refuted Plaintiffs’
 20 assertion that waiting periods of any duration before taking possession
 of a firearm were uncommon in both 1791 and 1868. Cf. *Ezell*, 651 F.3d
 21 at 702-03; *Chester*, 628 F.3d at 680.] Cf. *Chovan*, 2013 U.S. App.
 LEXIS 23199 at *25 (“... we are certainly not able to say that the
 22 Second Amendment, as historically understood, did not apply to
 persons convicted of domestic violence misdemeanors.”). Although
 23 Harris argues that the WPL is a minor burden on the Second
 Amendment, Plaintiffs are correct that this is a tacit acknowledgment
 24 that a protected Second Amendment right is burdened. Therefore, the
 Court concludes that the WPL burdens the Second Amendment right
 25 to keep and bear arms.
 26

27 Order on Defendant’s Motion
 28 For Summary Judgment
 (Doc #44, pg. 6: 22-28; and pg. 7:22 -8:7)

1 The “Law of the Case” doctrine ordinarily prohibits a trial court from
 2 revisiting a decision made by a higher court, however Ninth Circuit law also
 3 cautions a trial court against reconsidering its own prior decisions. See *United*
 4 *States v. Houser*, 804 F.2d 565, 567 (9th Cir. 1986) (stating that “reconsideration of
 5 legal questions previously decided should be avoided”).

6 The Ninth Circuit has also said that “[u]nder the ‘law of the case’ doctrine, a
 7 court is ordinarily precluded from reexamining an issue previously decided by the
 8 same court, or a higher court, in the same case.” *United States v. Smith*, 389 F.3d
 9 944, 948 (9th Cir. 2004) (citing *Richardson v. United States*, 841 F.2d 993, 996 (9th
 10 Cir. 1988)) (emphasis added). “Issues that a district court determines during
 11 pretrial motions become law of the case.” *United States v. Phillips*, 367 F.3d 846,
 12 856 (9th Cir. 2004). “The doctrine is a judicial invention designed to aid in the
 13 efficient operation of court affairs, and is founded upon the sound public policy that
 14 litigation must come to an end.” *Smith*, 389 F.3d at 948 (citations and quotation
 15 marks omitted). At the same time, the “law of the case” doctrine is “not an
 16 inexorable command,” *Hanna Boys Ctr. v. Miller*, 853 F.2d 682, 686 (9th Cir. 1988)
 17 (citation omitted), and is “discretionary.” *United States v. Lummi Indian Tribe*, 235
 18 F.3d 443, 452 (9th Cir. 2000).

19 Because there is no evidence that waiting periods for firearm purchases were
 20 common in 1791 and 1868, *Ezell v. City of Chicago*, 651 F.3d 684, 703 (2011), and
 21 because this is a bench trial wherein the Defendants have waived their right to
 22 have facts determined by a jury, this Court should exercise its discretion, apply the
 23 “law of the case” doctrine and decline to revisit this issue.

24 The Court should make a finding that the Plaintiffs have already made their
 25 prima facie case based in the undisputed facts already adjudicated during the
 26 Summary Judgment Motion, and that the burden at trial now shifts to the
 27 Defendants.

28 ////

1 Furthermore, and while still critical of the balancing test implied by
 2 intermediate scrutiny, the *Peruta* Court's criticism of that method was borne out
 3 further by its finding that: "In light of **the states' failure to demonstrate**
 4 **sufficient narrow tailoring** in *Drake*, *Wollard*, and *Kachalsky*, the gun
 5 regulations at issue in those cases should have been struck down even under
 6 intermediate scrutiny." *Peruta*, at page 75 of the slip opinion. (emphasis added)

7 Furthermore, the cases cited by the AG for the proposition that all statutes
 8 are presumed Constitutional dealt with low level scrutiny and did not involve
 9 fundamental rights. *Town of Lockport v. Citizens for Community Action at Local*
 10 *Level, Inc.*, 430 U.S. 259 (1977) was an equal protection case dealing with a
 11 non-suspect class (voters in a specific district) and only required rational basis
 12 scrutiny. *People of State of New York v. O'Neil*, 359 U.S. 1 (1959) dealt with a
 13 Privileges and Immunities Clause violation unrelated to the case at hand, and
 14 *United State ex rel. Madden v. General Dynamics Corp.*, 4 F.3d 827 (9th Cir. 1993)
 15 dealt with was a separation of powers case involving the False Claims act, which is
 16 totally unrelated to the case at hand.

17 There just isn't any controversy regarding the burden of proof and the burden
 18 of persuasion once the Second Amendment, the *Ezell/Chovan/Perurta* line of case
 19 are crystal clear that it is the government's burden of proof and the burden of
 20 persuasion when Second Amendment rights are at stake.

21 C. The 10-Day Waiting Period Law Is Not A Presumptively 22 Lawful Regulatory Measure

23 Defendants attempt to argue that California's Waiting-Period Law is a
 24 longstanding, presumptively lawful regulation. As examples of such laws,
 25 Defendants point to the *Heller* Court referencing laws banning possession of
 26 firearms by felons and the mentally ill and laws forbidding the carrying of firearms
 27 in sensitive places such as schools and government buildings. *District of Columbia*
 28 *v. Heller*, 554 U.S. 570, 635 (2008).

1 But in *Chovan*, the government attempted to argue that a federal statute
 2 banning people convicted of a misdemeanor of domestic violence was a longstanding
 3 presumptively lawful regulation. The court disagreed and found that the
 4 government failed to produce evidence that domestic violence misdemeanants have
 5 historically been restricted from bearing arms. *U.S. v. Chovan*, 735 F.3d 1127, 1137
 6 (9th Cir. 2013). The Court noted that the first federal firearm restrictions
 7 regarding violent offenders was not enacted until 1938 and that “Chovan, who was
 8 convicted of simple misdemeanor assault under California Penal Code § 273.5(a) -
 9 would not be restricted from possessing firearms under” that statute.

10 Here, the Defendants cannot produce any evidence that the Waiting-Period
 11 Law is a longstanding presumptively lawful regulation. In fact, the AG
 12 acknowledges that the first Waiting-Period Law was not enacted until 1923 and the
 13 Law was much narrower in impact until 1991.

14 The AG attempts to save her failing argument by bootstrapping it to a
 15 presumptively lawful regulation that is a "condition or qualification on the
 16 commercial sale of arms" mentioned- but not explained- in *Heller* and *McDonald*.
 17 (AG Trial Brief at pg 12, lns 26-27.) Other than stating that the Waiting-Period
 18 Law is a "condition or qualification on the commercial sale of arms", the AG offers
 19 no other discussion.

20 Imposing the 10-day waiting period on a California gun buyer who already:
 21 (1) own guns, and/or (2) has a license to carry a firearm, and/or (3) has obtained a
 22 Certificate of Eligibility, infringes the rights of the law-abiding, while doing nothing
 23 to address the policy objective (longstanding or otherwise) of keeping guns out of the
 24 hands of: (1) felons, (2) violent misdemeanants, (3) persons with mental-health
 25 disqualifications, (4) persons subject to restraining orders, and (5) probationers.

26 Said another way, the State of California has at least three procedures to
 27 address prohibited persons who may not lawfully acquire/own/possess firearms:

28 (1) The Courts: The criminal justice system, the civil justice system and

1 the civil mental health system must advise people who become
2 prohibited that they cannot acquire/own/possess firearms. For each of
3 the five categories that Defendants cite as persons who might become
4 prohibited, that individual gun owner must:

- 5 a.) be charged with a crime, adjudicated and sentenced to
- 6 become a felon, violent misdemeanor or probationer and given
- 7 notice of the firearm prohibition. Penal Code §§ 29810, 29815.
- 8 b.) be served with notice and given an opportunity to be heard if
- 9 they are to be subject to restraining orders. Penal Code § 29825.
- 10 c.) be provided with notice and an opportunity to be heard if the
- 11 their guns rights are revoked due to a mental health hold.

12 Welfare & Institutions Code §§ 5150, 8100, 8101, 8102, 8103.

13 (2) The \$24 Million “Armed and Prohibited Persons Program” (Penal Code §§
14 30000-30015), which is actively seeking out, confiscating weapons and
15 prosecuting gun owners whose firearms have been registered in a
16 computerized and networked database operated by California since 1991.

17 (3) The background check (not challenged in this case) and the 10-Day
18 Waiting Period. (subject of this lawsuit)

19 Requiring a 10-Day Waiting Period before a dealer can release a firearm to a
20 first time purchaser, who does not presently own/possess a firearm is not a
21 condition on the commercial sale of firearms. Its rationale lies in the fact that this
22 new gun purchaser is a stranger to the state’s database, and the additional
23 cautionary policy of a “cooling off period” to may actually prevent a first time gun
24 buyer from committing an impulsive, violent act.

25 None of these rationales apply to Plaintiffs (and those similarly situated) who
26 (1) already have guns in the state’s database, (2) have a license to carry a firearm
27 issued by their local police chief or sheriff, or (3) have obtained a Certificate of
28 Eligibility to own/acquire/possess guns issued by the Attorney Generals Office.

D. The History and Tradition of the Commerce in Arms at the Time of the Founding and the Ratification of Fourteenth Amendment Did Not Include Government Mandated Waiting Periods.

Notwithstanding that Plaintiffs do not bear the burden of proof on this issue, the historical record of firearms commerce at the time of the Founding (1791) and at the time of the Fourteenth Amendment's ratification (1868) indicates that not only were guns readily available during those time periods, but that the only legal restrictions on firearm sales were those aimed at keeping Free Blacks and Former Slaves disarmed (i.e., these were not mere regulatory conditions on the commercial sale of firearms):

1. From The Founder's Second Amendment – Origins of the Right to Bear Arms, by Stephen P. Halbrook:

- a. Page 31: "It was no secret that the people were arming themselves. That could be surmised in newspaper advertisements, such as an early 1774 notice in the *Boston Gazette* that a merchant 'has just imported for sale, a neat assortment of guns, complete with bayonets, steel rods and swivels, a few neat fowling pieces, pocket pistols.'" fn.8 - *Boston Gazette*, January 24, 1774 at 1, col. 3.
- b. Page 38: "The Crown forcibly purchased arms and ammunition held in the inventory of merchants, and an order went out that the inhabitants must turn in their arms." fn. 45 - Fischer, *Paul Revere's Ride*, 50. (Fischer, David Hackett. *Paul Revere's Ride*. New York: Oxford University Press, 1994: 331. ISBN 0-19-509831-5)
- c. Page 50: "Daniel Dulany of Maryland referred to 'democratical governments , where the power is in the hands of the people and were there is not the least difficulty or jealousy out putting arms into the hands of every man in the country.'" fn. 102 - Daniel Dulany Jr., *Considerations on the Measures carrying on with Respect to the British Colonies in North America* (London: R. Galdwin, 1774), 57.

- 1 d. Page 50: “The Americans ‘have several hundred thousands and perhaps
2 near a million men capable of bearing arms in their own defense....”
3 Ibid, 117.
- 4 e. Page 65: “There are, moreover, gunsmiths enough in this Province to
5 make one hundred thousand stands of arms in one year, at twenty-eight
6 shillings sterling apiece, if they should be wanted.” fn. 34 - Force ed.,
7 *American Archives*, 4th series, vol. 1, at 1066. See also Frank A. Mumby,
8 *George III and The American Revolution* [London: Constable & Co.,
9 1924), 365-66.
- 10 2. “Our citizens have always been free to make, vend and export arms. It is the
11 constant occupation and livelihood of some of them.” 3 THE WRITINGS OF
12 THOMAS JEFFERSON 230 (T.J. Randolph, ed., 1830).
- 13 3. The plethora of gun stores, gunsmiths and arms dealers from the founding era
14 and beyond are best portrayed by reference to these commercial ads for the
15 sale of firearms and gun smithing services, copies of which are attached as
16 Exhibits A & B to this memorandum.
- 17 a. Early American Gunsmiths 1650-1850, by Henry J. Kauffman.
- 18 b. The Pennsylvania - Kentucky Long Rifle, by Henry J. Kauffman.
- 19 4. The Defendants appear to concede that guns were readily available after the
20 Civil War (though the concession appears to be by omission) because they
21 wrongly argue that “From colonial times to the Civil War, guns were
22 expensive, cumbersome, and made from materials (mostly iron) that
23 deteriorated rapidly even with regular maintenance.” (Def. Trial Brief, pg 15,
24 lines 10-12.) The Supreme Court explored this thesis about the commonality
25 and cultural saturation of keeping and bearing arms by Americans at
26 different stages of our history. They came to a different conclusion:
27 a. From *District of Columbia v. Heller*, 554 U.S. 570 (2008):
28 i. “In the colonial and revolutionary war era, [small-arms] weapons

used by militiamen and weapons used in defense of person and home were one and the same." *State v. Kessler*, 289 Ore. 359, 368, 614 P.2d 94, 98 (1980) (citing G. Neumann, *Swords and Blades of the American Revolution* 6-15, 252-254 (1973))." *Heller* at 625.

ii. "But contemporary sources make clear that the phrase "bear arms" was often used to convey a military meaning without those additional words. See, e.g., *To the Printer*, *Providence Gazette* (May 27, 1775) ("By the common estimate of three millions of people in America, allowing one in five to bear arms, there will be found 600,000 fighting men"); Letter of Henry Laurens to the Mass. Council (Jan. 21, 1778), in *Letters of Delegates to Congress 1774-1789*, p 622 (P. Smith ed. 1981) ("Congress were yesterday informed . . . that those Canadians who returned from Saratoga . . . had been compelled by Sir Guy Carleton to bear Arms")" *Heller* at 648, fn. 9 (Stevens. J., Breyer J., dissenting)

b. From *McDonald v. City of Chicago*, 561 U.S. ___, 130 S. Ct. 3020 (2010):

i. "After the Civil War, many of the over 180,000 African Americans who served in the Union Army returned to the States of the old Confederacy, where systematic efforts were made to disarm them and other blacks. See *Heller*, 554 U.S., at ___, 128 S. Ct. 2783, 171 L. Ed. 2d 637; E. Foner, *Reconstruction: America's Unfinished Revolution 1863-1877*, p. 8 (1988)" *McDonald* at 3038.

ii. "In one town, the "marshal [took] all arms from returned colored soldiers, and [was] very prompt in shooting the blacks whenever an opportunity occur[red]." H. R. Exec. Doc. No. 70, at 238 (internal quotation marks omitted). As Senator Wilson put it during the debate on a failed proposal to disband Southern militias: "There is one unbroken chain of testimony from all people

1 that are loyal to this country, that the greatest outrages are
 2 perpetrated by armed men who go up and down the country
 3 searching houses, disarming people, committing outrages of every
 4 kind and description." 39th Cong. Globe 915 (1866)." *McDonald* at
 5 3039.

6 5. During Reconstruction the only laws regulating the sales of guns were those
 7 like the States of Mississippi and Georgia that prohibited the sale of firearms
 8 during this period prior to the ratification the Fourteenth Amendment:

9 a. Mississippi Statute of 1865

- 10 i. That it shall not be lawful for any freedman, mulatto, or free
 11 person of color in this State, to own fire-arms, or carry about his
 12 person a pistol or other deadly weapon.
 13 ii. That after the 20th day of January, 1866, any person thus
 14 offending may be arrested upon the warrant of any acting justice
 15 of the peace, and upon conviction fined any sum no exceeding \$100
 16 or imprisoned in the county jail, or put to labor on the public
 17 works of any county, incorporated town, city, or villiage, or any
 18 term not exceeding three months.
 19 iii. That if any gun, pistol or other deadly weapon be found in the
 20 possession of an freedman, mulatto or free person of color, the
 21 same may by any justice of the peace, sheriff, or constable be
 22 taken from such freedman, mulatto, or free person of color, and if
 23 such person is proved to be the owner thereof, the same shall,
 24 upon order of any justice of the peace, be sold and the proceeds
 25 thereof paid over to such freedman, mulatto, or persons of color
 26 owning the same.
 27 iv. That is shall not be lawful for any person to sell, give, or lend fire-
 28 arms or ammunition of any description whatever, to any
 freedman, free negro or mulatto; and any person so violating the
 provisions of this act shall be guilty of a misdemeanor, and upon
 conviction thereof, shall be fined the sum of not less than fifty nor
 more than one hundred dollars, at the discretion of the jury trying
 the case.

b. ACTS OF THE GENERAL ASSEMBLY OF THE STATE OF GEORGIA,
PASSED IN MILLEDGEVILLE, AT AN ANNUAL SESSION IN
NOVEMBER AND DECEMBER, 1860. PART I.--PUBLIC LAWS.

TITLE XIX. PENAL CODE. Full Title: *An Act to add an additional
Section to the 13th Division of the Penal Code, making it penal to sell to
or furnish slaves or free persons of color, with weapons of offence and
defence; and for other purposes therein mentioned.*

i. SECTION I. The General Assembly of the State of Georgia do
enact, That from and after the passage of this Act, any person
other than the owner, who shall sell or furnish to any slave or free
person of color, any gun, pistol, bowie knife, slung shot, sword
cane, or other weapon used for the purpose of offence or defence,
shall, on indictment and conviction, be fined by the Court in a sum
not exceeding five hundred dollars, and imprisoned in the common
Jail of the county not exceeding six months, at the discretion of
the Court; Provided, That this Act shall not be so construed as to
prevent owners or overseers from furnishing a slave with a gun for
the purpose of killing birds, &c., about the plantation of such
owner or overseer. [Sidenote: Selling or furnishing weapons to
slaves or free negroes, prohibited. Penalty.] [Sidenote: Proviso as
to owners and overseers, in certain cases.]

ii. SEC. II. And be it further enacted, That it shall be the duty of the
several Judges of the Superior Courts of this State, to give
specially in charge to the Grand Juries of the several Courts, the
provisions of this act. [Sidenote: Judges to give this Act in charge.]

iii. SEC. 3. Repeals conflicting laws.

Approval Date: Assented to 19th December, 1860.

Defendants are not merely mistaken on the law and history of the regulations
attending the commercial sale of firearms in 1791 and 1868. At best there is an
irrelevant dispute about the widespread availability of firearms. Critical to this
trial however, is that they have failed to address the principal point raised by this
Court's Order on Defendant's Motion for Summary Judgment (Doc #44). They
haven't identified a law from any jurisdiction from those periods that imposed a
waiting period of any length for exercising the right to acquire firearms.

E. Waiting Periods As Onerous as California's are
Not Common in Other Jurisdictions

Defendants contend that 10 U.S. States and the District of Columbia have waiting periods. [page 12, line 17-25]¹ This is done to make the argument that waiting periods are common and therefore are not an unreasonable burden on the Second Amendment.

Flaw #1 in that argument is that there is no showing that *Heller*, *McDonald*, and the growing body of Second Amendment case law, which is in its infancy, have been brought to bear on such laws.

Flaw #2 is that this assertion by the Defendants, which is apparently taken from a website run by a gun control advocacy group, is an overly simplistic analysis of the laws in those jurisdictions. In fact, it appears that only California and the District of Columbia generally impose a waiting period for all gun purchases. As for the other examples cited by the Defendants:

1. Hawaii - has a 12 day waiting period - currently under challenge. But Hawaii's waiting period does not apply to subsequent purchases of long guns during the year following an initial purchase.
http://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0134/HRS_0134-0002.htm
2. Illinois - has a 24 hour waiting period for long guns (rifles/shotguns) and only imposes a 72 hour period for handguns. 18.720 Ill. Comp. Stat. 5/24-3(A)(g).
3. Minnesota - has no waiting period for long guns that are not classified as Assault Weapons. Possession of a License to Carry a Concealed Firearm exempts a Minnesota gun-owner from the Assault Weapon and

¹ But note that the State of Washington has a five day waiting period and was not included in the list provided by Defendants. However a License to Carry a firearm exempts buyers from that waiting period. <http://apps.leg.wa.gov/rcw/default.aspx?cite=9.41.090>

Handgun waiting periods. A Minnesota handgun purchase permit requires an initial 7 day wait, and is then valid for a full year with no further waiting periods on subsequent purchases.

<https://www.revisor.mn.gov/statutes/?id=624.711>

<https://www.revisor.mn.gov/statutes/?id=624.7131>

4. Rhode Island - has a seven day waiting period for gun purchases, but exempts the waiting period if someone has a License to Carry a Concealed Firearm in that state. R.I. Gen. Laws §§ 11-47-35(a)(1), 11-47-35.1, 11-47-35.2.
5. Florida - has a 3 day waiting period that only applies to retail sale of handguns. Anyone with a License to Carry a Concealed Firearm is exempt. The waiting period does not apply to long arms. Fla. Stat. Ann. § 790.0655(1); Fla. Const. art. VIII, § 5(b).
6. Iowa - has a permit process to purchase firearms that is valid for one year and unlimited purchases. The permit is valid 3 days after immediate issuance. There is no waiting for long guns. Any person with a License to Carry a Concealed Firearm is exempt from the having to obtain the purchase permit.
<https://coolice.legis.iowa.gov/Cool-ICE/default.asp?Category=billinfo&Service=IowaCode&input=724#724.15>
7. Maryland - has a seven day waiting period that only applies to handguns and Assault Weapons. The purchase of long guns is exempt from the waiting period. Md. Code Ann., Pub. Safety §§ 5-123 – 5-125.
8. New Jersey - has a waiting period for handguns, but not for long guns. Alternatively, NJ has a permit process that takes 7 days but is valid for 90 days allowing additional purchases without waiting periods.
<https://www.atf.gov/files/publications/download/p/atf-p-5300-5-31st-edition/States/atf-p-5300-5-new-jersey-2010.pdf>

1 9. Wisconsin - has a handgun only waiting period that is only 48 hours and
 2 which does not apply to private party transactions. There is no waiting
 3 period for long guns. <http://docs.legis.wi.gov/statutes/statutes/175/35>

4 California's 10-Day Waiting Period, as applied to a California gun buyer who
 5 already: (1) own guns, and/or (2) has a license to carry a firearm, and/or (3) has
 6 obtained a Certificate of Eligibility, is not rational or necessary to achieve the
 7 interests asserted by the Defendants.

8

9 F. The Burdens of the Waiting Period are not Trivial

10 Defendants try to characterize the burden of the waiting period as trivial.
 11 But that is a necessarily subjective judgment. Furthermore it is irrelevant. The
 12 Second Amendment is not part of a Bill of Needs, it is part of a Bill of Rights. Try
 13 explaining to a woman who just secured a Domestic Violence Restraining Order
 14 against an abusive ex-boyfriend who beat her, that waiting 10 days to acquire the
 15 means of self-defense is trivial.

16 The waiting period effectively limits the size of the intrastate gun market to
 17 those places reachable by car – significantly increasing prices, expenses to ship and
 18 pay transfer fees and otherwise limiting choice and selection. Consumers enjoy
 19 value in the ability to acquire a product where they buy it and where it is offered for
 20 sale. As the Supreme Court explained, in striking down a New York law barring all
 21 but licensed pharmacists from selling contraceptives, the restriction of distribution
 22 channels to a small fraction of the total number of possible retail outlets renders
 23 contraceptive devices considerably less accessible to the public, reduces the
 24 opportunity for privacy of selection and purchase, and lessens the possibility of price
 25 competition. *Carey v. Pop. Servs. Int'l*, 431 U.S. 678, 689 (1977) (footnotes omitted);
 26 cf. *Doe v. Bolton*, 410 U.S. 179 (1973) (striking down requirement that
 27 abortions only be performed in hospitals).

28 ////

IV. PLAINTIFFS' FOURTEENTH AMENDMENT CLAIMS ARE VIABLE AND ACTUALLY SUGGEST THE REMEDY REQUIRED

Plaintiffs' Equal Protection claim is predicated on the allegation that a state actor is engaged in unequal treatment of similarly situated persons exercising a fundamental right (i.e., the Second Amendment) and that this requires the application of strict scrutiny to the government's policy. *Police Department of Chicago v. Mosley*, 408 U.S. 92 (1972) and *Carey v. Brown*, 447 U.S. 455 (1980).

That Equal Protection claim is based on the irrational and under-inclusive categories of (18) exceptions to the 10-Day Waiting Period that are not even tethered to the justifications advanced by the Defendants for applying this policy against Plaintiffs and those other gun owners who are similarly situated.

California's Supreme Court issued an opinion rejecting an Equal Protection claim challenging California's Assault Weapons Control Act by applying a mere rational basis test. That Court rejected the idea that the right of self-defense was a fundamental right. From *Kasler v. Lockyer* 23 Cal. 4th 472 (2000):

This fundamental right plaintiffs locate in article I, section 1 of the California Constitution, which provides: "All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy." If plaintiffs are implying that a right to bear arms is one of the rights recognized in the California Constitution's declaration of rights, they are simply wrong. No mention is made in it of a right to bear arms. (See *In re Rameriz* (1924) 193 Cal. 633, 651 [226 P. 914, 34 A.L.R. 51] ["The constitution of this state contains no provision on the subject"].

The opinion went on find that "[A]s the AWCA does not burden a fundamental right under either the federal or the state Constitutions, the rational basis test applies." *Id.*, at 481.

District of Columbia v. Heller, 554 U.S. 570 (2008) and *McDonald v. City of Chicago*, 130 S. Ct. 3020 (2010) rendered *Kasler* and the reasoning underlying that

1 opinion obsolete. The “right to keep and bear arms” is a fundamental right and
2 Equal Protection challenges to gun control laws that infringe that fundamental
3 right must be subject to heightened scrutiny.

4 While Plaintiffs aver that their Second Amendment claim is strong enough for
5 this Court to find for them without reaching the Fourteenth Amendment issues, in
6 the same manner the Ninth Circuit dealt with Plaintiff/Appellants’ additional
7 claims in *Peruta v. County of San Diego*, 2014 WL 555862 (9th Cir. Feb. 13, 2014) at
8 page 77 of the slip opinion, footnote 22. (“Because we reverse on the basis of the
9 Second Amendment issue, we do not reach any of Peruta’s other claims.”), the
10 Fourteenth Amendment claim does suggest the remedy this court may want to
11 consider.

12 From a practical point of view, this court can either:

- 13 A. Issue an injunction that Californians who: (1) already have guns, (2)
14 have a license to carry a firearm at all times issued by their local police
15 chief or sheriff, or (3) have obtained a Certificate of Eligibility to
16 own/acquire/possess guns issued by the Attorney Generals Office, are
17 not subject to the 10-Day Waiting Period, effectively expanding the
18 number of exceptions from 18 to 21; – or –
19 B. Issue an injunction that will invalidate the 10-Day Waiting Period for
20 all Californians, and then stay that decision for six months to give the
21 California Legislature time to fashion a legislatively based remedy.
22 *Moore v. Madigan*, 702 F.3d 933, 942 (7th Cir. 2012).

23 CONCLUSION

24 The 10-Day Waiting Period is not holy writ. Its purpose is to allow for
25 checking a database for persons disqualified from owning/possessing firearms and
26 to prevent impulsive violent acts with newly purchased firearms.

27 What all this means is that the State of California must either: (A) concede
28 that the current regime of requiring the registration of firearms and their owners

1 since 1991 is an abject failure and that registration schemes and computer
2 databases are unreliable (i.e., that's why they need 10 days); or (B) concede that the
3 Armed Prohibited Persons System makes the 10-Day Waiting Periods redundant for
4 current gun owners who are already in the system.

5 They can't have it both ways.

6 Respectfully Submitted on March 18, 2014 by:

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DECLARATION OF E-SERVICE

Case Name: Silvester v. Harris

Court Name: U.S. District Court, Eastern District of California (Fresno)

Case No.: 1:11-cv-02137-AWI-SKO

I, Donald Kilmer, declare:

I am employed in the at 1645 Willow Street, Suite 150, San Jose, CA . I am 18 years of age or older and not a party to this matter.

I understand that all parties to the above-entitled case are represented by at least one attorney who is registered for electronic filing and service in the above-entitled court.

On March 18, 2014, I electronically filed and, therefore, to the best of my understanding, caused to be electronically service through the Court's ECF system the attached PLAINTIFFS; RESPONSE TO DEFENDANTS' TRIAL BRIEF.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on March 18, 2014, at San Jose, California.

/s/ Donald Kilmer

Attorney for Plaintiffs.

Exhibit A

*Early
American
Gunsmiths*
1650-1850

By

Henry J. Kauffman

Illustrated and Documented

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HARRISBURG, PENNSYLVANIA

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Preface

The collecting of antique firearms is the vocational or avocational pursuit of many men in many different parts of the world. These men will tell you that next to actually acquiring guns their greatest difficulty is finding data about the makers.

The check list of *Early American Gunsmiths* has been prepared to help collectors learn more about the men who made the arms in their collections. But this volume will also be of much value to genealogists, to people interested in the history of our colonial period, and to those concerned with the evolution of our early trades and industries. No aspect of America's past has been more glorious than our gunsmithing, and it is hoped that this publication will re-emphasize our achievement in a manner that is fitting and unique.

The present study of gunsmithing in America begins with the year 1650, for that is the date of the earliest entry of a gunsmith working in America. By 1850 we arrive at what seems to be a proper terminal point for gunsmithing in America, for by that time the extensive use of interchangeable parts in gunsmithing made this craft one of the first victims of the industrial revolution. The transition from individual to belt line production did not lower the functional qualities of guns, but they were no longer the individual expression of one craftsman.

The establishing of the Colt factory at Hartford, Connecticut provides an excellent example of transition from craft to mass production methods. In the early 1840's there were practically no pistol makers listed in Hartford directories, but in 1850 just a few years after the start of the Colt enterprise the following names appear in a directory: Joseph Arbiter, Francis Bliss, T. J. Burke, James Call, Edwin Chapman, Charles Cooley, George Dunham, Elisha Gilbert, William Green, Peter Hegans, William Henry, Newman King, Robert Knox, Walter Nevers, Amos Peck, A. Pettibone, Benjamin Robbins, Edwin Rider, Albert Phillips, and Solomon Wordsworth. Although all these men were called "pistol makers," it is doubtful that they were producers of individual pistols, as was the case of the earliest makers.

The two centuries between 1650 and 1850 naturally sets certain geographical limitations on the contents of this list of gunsmiths. The eastern seaboard, being the earliest area settled, produces as would be expected, most of the gunsmiths. As one progresses westward their numbers thinned so rapidly that very few gunsmiths are known to have been working west of St. Louis at 1850.

But this volume does not rely for distinction upon the number of names it lists for often length has been achieved at the cost of accuracy and reliability. What this publication does achieve, however, is a considerable number of names proved by documentary evidence. None of the names is derived from loose hearsay or from unsubstantiated written sources. For every name there is at least one source in legal or historical documents. Documents thus cited include; for the most part, tax lists, church records, deeds, wills, newspaper advertisements, patent records, business directories, and the like. The small remaining list of names comes from local histories and publications of a historical nature.

Acknowledgements

This book is not the concept of just one mind, nor are its contents the work of only one person.

Many people, unseen by the author and unknown to him, have helped gather data from documents relating to gunsmithing in America. To them, whoever and wherever they are, I am grateful and offer my sincere thanks.

Of those contributors I know personally I am deeply indebted to Mr. Joe Kindig, Jr., because it was his long search for accurate information about gunsmiths that inspired this book. To it he has contributed throughout the period of planning and writing, generously. I am happy to acknowledge also the timely and inspiring assistance of Mrs. Alfred Cox Prime. Her early gift of a large number of newspaper advertisements dealing with arms encouraged me to look for more and thus make this a book of fact rather than fancy.

A number of other people have made thorough searches of pertinent documents. Miss Beatrice St. J. Ravenel extracted from a large number of deeds and other legal sources the impressive list of gunsmiths from South Carolina. Mr. Robbins H. Ritter examined not only many documents in Maine, New Hampshire and Vermont, but also the Patent Office records referring to the same area. Mr. George Waynick, Jr. sent data on gunsmithing activities in the old settlement at Salem, North Carolina. Mr. Charles Kauffman found much interesting material about gunsmiths in York County, Pennsylvania, and Mr. J. Luther Heisey did similar work in Lancaster County. Dr. Joseph H. Mayer generously lent pictures of the Medad Hills gun and documentary data about him which was abstracted from the Connecticut archives, and Mr. Herman Dean contributed a large number of photographs of arms in his fine collection.

Among organizations which have helped me greatly are the American Antiquarian Society, whose rich resources of information and courteous and obliging staff have added much to the worth of this book, and to the pleasure of compiling it, and Colonial Williamsburg, who at the cost of much time and effort have generously supplied the data about seventeenth and eighteenth century gunsmithing in Virginia.

In other and essential ways I have profited also from the assistance of the following organizations and people:

Buffalo Historical Society, Buffalo, New York; Carnegie Library, Pittsburgh, Pennsylvania; The Charleston Museum, Charleston, South Carolina; Connecticut State Library, Hartford, Connecticut; Essex Institute, Salem, Massachusetts; The Historical Society of Pennsylvania, Philadelphia, Pennsylvania; The Historical and Philosophical Society of Ohio, Cincinnati, Ohio; The Historical Society of York County, York, Pennsylvania; Hall of Records, Annapolis, Maryland.

Introduction

GUN COLLECTING

Long ago some unknown genius conceived the idea that if he could imprison the tremendous explosive power of gun-powder and then direct it through a metal tube, he could send speeding ahead of his explosion a deadly bullet, fatal to man and beast alike. The guns he and his successors made to kill and to compete with on the range have outlived their makers, their users, and their victims, and now are outliving a fourth group, their collectors.

The urge to collect—sometimes to collect objects that are bizarre indeed—is timeless and worldwide and often inexplicable. But the major motives of the gun collector lie deeply imbedded in man's psychological being, his sense of patriotism, his delight in mechanical devices, his love of beauty, and his fascination with death.

The basis and scope of collecting vary as much as men and places vary. Some collections include only European guns, others American; some are of early firearms and others of late ones. Some enthusiasts specialize in military weapons, others in sporting arms, and still others assemble examples from all the classifications.

There are collections of guns of many countries and collections of locally manufactured ones. To be more specific, residents of Ohio are apt to look with most favor upon the products of Ohio gunsmiths, Pennsylvanians upon the achievements of their own craftsmen, and New Englanders upon the objects made in their area. But specialization is often more refined, and a South Carolinian may collect guns made in old Salem or a Pennsylvania concentrate on items from his own York County.

To other collectors it is the mechanics of a gun which is intriguing, so their adventure really does not start until they put the gun on their workbenches. They are fascinated by the action of the mainspring, by the thrust angle of the hammer, by the condition of the rifling, or by the release of the patch-box. A few small screw drivers and a can of penetrating oil are often enough to put a rusted old gun into shooting condition. Other mechanics may go further and spend hours patching a cracked stock, replacing inlays, or reconvertng a percussion gun to its original flintlock. Work of this kind makes one not only sensitive to many of the unseen details of a gun and in turn a more competent buyer, but a veteran appraiser of the gun's quality as well. Such mechanics are important members of the firearms fraternity, for without them many good guns would be discarded and forgotten.

Here it might be parenthetically stated that some of these clever workmen do not follow the highest moral code. For, since good guns are rare and costly, unscrupulous mechanics sometimes try to pass off their manufactures and conversions as genuine old firearms. So the amateur collector must be wary of ex-

ANDREWS, JACOB "Barrel Smith" 1807
 Annville Township, Dauphin County, Pennsylvania
 Tax list 1807, Dauphin County Court House, Harrisburg, Pennsylvania.

ANDREWS, P. B. 1823
 Cleveland, Ohio
 P. B. Andrews, Gunsmith respectfully informs the public, that he continues his business in the Village of Cleveland, Ohio, where all orders in his line of either making or repairing will be punctually attended to. Rifles, Fowling pieces, and Pistols will be furnished on short notice. Trade in the best style, warranted good, or according to dimensions given.
Cleveland Herald, May 8, 1823.

ANNELY, EDWARD 1748
 New York, New York
 Gunsmith. To be sold cheap by Edward Annely, Gunsmith, at the Fly Market, A large assortment of guns and pistols all Tower Proof; also some birding Pieces with Bayonets fit for Military Use, or Fowling; long pieces for shooting Geese, Ducks, etc. The right sort of Indian guns, with barrels and locks of all Sorts; He likewise makes guns and pistols as any gentleman shall like, and does all things belonging to the Gun-smith's Trade and engraves Coats of Arms on Plate, etc.
The New York Gazette Revived in the Weekly Post-Boy, August 1, 1748.

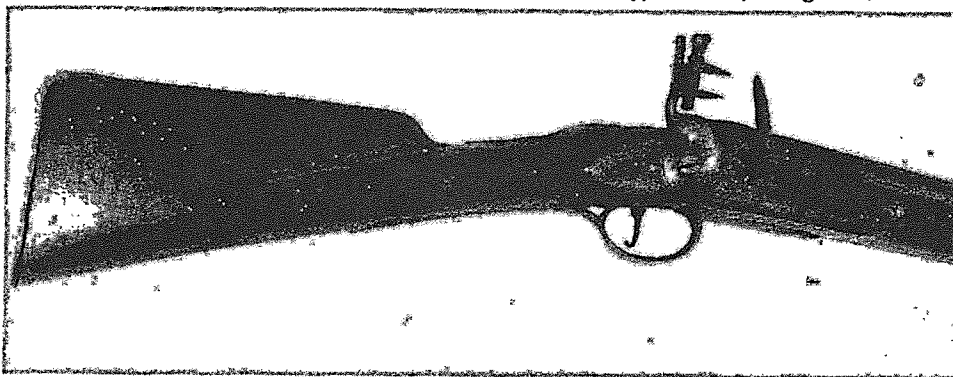


Plate 13. Flintlock musket, iron mounted, walnut stock. Annely on lock plate. [Joe Kindig, Jr.]

ANNELY, THOMAS 1798
 Philadelphia, Pennsylvania
 Notice of death of Mrs. Sarah Annely, wife of Thos. Annely of this city, Gunsmith.
Federal (Phila.) Gazette, September 12, 1798.

ANGELL, J. & J. "Lock & Gunsmiths and Bell Hangers"
 20 State Street, New Haven, Connecticut
 Patten's New Haven Directory, 1840.

ANGEL, JOSEPH
 30 State Street, New Haven, Connecticut
 Benham's City Directory and Annual Advertiser, 1847-48.

ANGSTADT, JOSEPH
 Berks County, Pennsylvania
 Pennsylvania septennial census 1800. Enumeration of Taxable Inhabitants, taken every seven years under the Constitutions of 1790 and 1838.
 Pennsylvania Historical and Museum Commission,
 Division of Public Records, Harrisburg, Pennsylvania.

ANTES, WILLIAM
Mahoning Township, Northumberland County, Pennsylvania 1782
Pennsylvania Archives, 3d series, Vol. 19, page 508.

AREIS, FRANCIS
60 South Street near Second, Philadelphia, Pennsylvania
Manufacturers and Repairer of all kinds of Fire Arms; Pistols, Guns, Swords, Gun-
Locks. American Advertising Directory, 1831.

ASHFIELD, JOHN
Carroll Street, Buffalo, New York
Buffalo Directory, 1836.

ATMAR, RALPH, JR.
Charleston, South Carolina 1800
Goldsmith and Engraver. No. 95, Broad-Street, nearly opposite the New Church,
has received by the Washington from Liverpool, An assortment of Gun Materials,
viz Main springs. Hammer and Scar. do Cocks, Hammers, Tumblers, Screws &c.
&c. He will undertake to fit them to match any pattern in the best manner. He
bushes guns with Gold, Silver, Copper or Iron. Any part of Gun-Work shall be
finished, that he undertakes. He has for sale. Double Gun Locks Double and Single
Shot Bolts, the most complete Washing Rods in the city, best oiled Flints at 7d per
dozen, Vices, Gun Worms, Pistol Locks and Smith's Files of all kinds, at reduced
prices. Wanted, A Goldsmith, to whom good wages will be paid. The subscriber
will also make him acquainted with the repairing of Guns. An Apprentice will be
taken to the business, that he may approve of, who will be taught the Goldsmith's
Business, and may gain an insight in the Mechanism of Guns.
City Gazette and Daily Advertiser, October 23, 1800.

AUSTIN, STEPHEN "Shot Tower"
Philadelphia, Pennsylvania 1794
Shot of all sizes, for sale at Stephen Austin Co's factory, below Walnut street wharf,
or at John Blanchard's, No. 4 North Third Street.
Federal (Phila.) Gazette, August 22, 1794.

BABBIT, L. H.
14 Bank Street, Cleveland, Ohio
Business Directory, 1837.

BACON, WILLIAM "Cutler and Gunsmith"
213 Water Street, New York, New York
Longworth's New York Directory, 1843.

BAILEY, GILBERT L.
Portland, Maine
Portland City Directory, 1850.

BAILEY, LEBBEUS
Portland, Maine
Patented with J. M. Ripley and W. B. Smith a percussion magazine rifle, February
20, 1839
Department of Commerce, United States Patent Office, Washington, D. C.

BAILEY, ROBERT
Yorktown, Pennsylvania 1777
Deed 2 B. 171, 1/7/1777, York County Court House, York, Pennsylvania.

BAILEY, NATHAN
New London, Connecticut 1775
Petition for pay for work the value of [?] 50. July 1775.
Connecticut Archives, Revolutionary War, 1763-1789. Vol. 1, page 256.

BROOKS, FRANCIS

Philadelphia, Pennsylvania

1791

Francis Brooks, Gunsmith, magazine, Backwork, and machine Pistol Maker. Returns his most sincere thanks to his friends, and the public, for their past favours, and now informs them that he carries on the business as usual, in all its branches, at his manufactory. No. 87 bank side South, Front street between Chestnut and Walnut streets, Philadelphia, and also at his Shop No. 86, Water Street where he has ready for sale a most fashionable assortment of Jewellery, Cutlery and hardware received from the last vessels from Europe, which will be disposed of on the most equitable terms, and he flatters himself that his abilities as a workman are well known to his employers, to whom he looks up for a continuance of the encouragement he has already so amply experienced, to secure the same will be his utmost ambition. The highest price for old Gold and Silver &c. A Youth of reputable Parents is wanted as an Apprentice.

Federal Gazette, September 21, 1791.

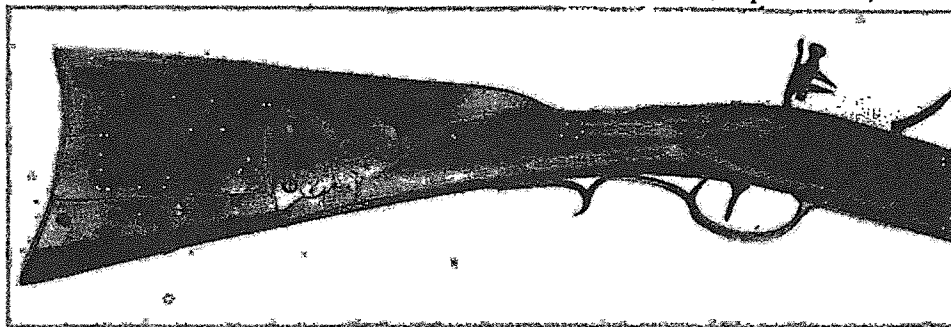


Plate 19. Flintlock rifle, curly maple full stock, brass mounted. Marked J. Brooks on top of barrel. [Joe Kindig, Jr.]

BROOKS, JNO

Lancaster Borough, Pennsylvania

Tax list 1803, Lancaster County Court House,
Lancaster, Pennsylvania.

JOHN BROOKE,
LOCK AND GUNSMITH
IN THE ALLEY BACK OF THE CATHEDRAL,
(First door east of Third Street.)
ST. LOUIS, MO.
N. B. Particular attention paid to Bell Hanging.

Plate 20. Advertisement of John Brooké. [Missouri Historical Society]

BROWN, H. M.

26½ Olive Street, St. Louis, Missouri

St. Louis Directory, 1838-39.

Oak Street between Second and Third
28 Olive Street

St. Louis Directory, 1842.

26 Olive Street

St. Louis Directory, 1840-41.

BROWN, GEORGE A.

43 Main Street, Rochester, New York

Rochester Directory, 1849-50.

BROWN, JONAS With Haberstro

Buffalo, New York

Buffalo Directory, 1836.

BROWN, S. C.

29 Potter Street, Hartford, Connecticut

Well's City Directory of Hartford, 1850.

BROWN, W. H.

126 Wood Street, Pittsburgh, Pennsylvania

Harris Business Directory of
Pittsburgh and Allegheny, 1837.

BRUNNER, JOSEPH "Gunsmith & Truss-maker"

62 Second Street, St. Louis, Missouri

St. Louis Directory, 1848.

Cor. Maple & Second

St. Louis Directory, 1847.

BRYAN, JAMES

Lampeter Township, Lancaster County, Pennsylvania

Tax list 1801, Lancaster County Court House,
Lancaster, Pennsylvania.

BUCHANAN, JACOB "Gunsmith and Cutler"

Charleston, South Carolina

1794

Gunsmith and Cutler from New York Begs leave to acquaint the public he hath commenced in Queen-Street, No. 9, at the Sign of the Cross Guns, between Bay and Union-Street. As a regular bred workman he hopes to give general satisfaction to those who may favor him with their orders. If application is made for plantation guns, they will be supplied upon the most reasonable terms, and with quickest expedition. Cutlery also will be done with neatness and dispatch; and guns kept for twenty shillings per annum, the one half to be deposited at the time of contracting.

Charleston City Gazette, January 16, 1794.

BURGER, DAVID

South Carolina

1788

Gunsmith

The Subscriber informs the public that he carries on the above named branch of business, and will thankfully receive any favors in that line. David Burger, No. 106 Queen-Street.

Columbian Herald, July 24, 1788.

BURGER & SMITH

South Carolina

1774

Burger & Smith, Gunsmiths from New York. Beg leave to inform the Publick, that they have taken a Shop in Meeting-street; near the White Meeting, where they propose carrying on the Gunsmith's business in all its branches. Such gentlemen as shall be pleased to favor them with their custom may depend on having their work done in the neatest manner, with care and dispatch at the most reasonable rates.

South Carolina & American General Gazette; April 15, 1774.

COOK, JACOB

Caernarvon Township, Lancaster County, Pennsylvania

Tax list 1813, Lancaster County Court House, Lancaster, Pennsylvania.

COOK, WILLIAM

11 Stone Street, Rochester, New York

Rochester Directory, 1838.

COOKSON, JOHN

Boston, Massachusetts

1756

Made by John Cookson, and to be sold by him at his house in Boston, a handy gun of 9 pounds and a half in weight, having a place convenient to hold nine bullets, etc. Note, there is nothing put into the Muzzle of the Gun as we charge other Guns.

Boston Gazette, April 13, 1756.

CONNER, WILLIAM

34 Wentworth Street, Charleston, South Carolina

Charleston Directory, 1852.

COOPER, HENRY T. "Gun and Pistol Maker"

178 Broadway, New York, New York

New York Business Directory, 1844-45.

COOPER, JEREMIAH

67 Vesey Street, New York, New York

Longworth's New York Directory, 1820.

COOPER, JOSEPH

19 Partition Street, New York, New York

Longworth's New York Directory, 1812.

COOPER, JOSEPH

202 Broadway, New York, New York

American Advertising Directory, 1831.

COOPER, JOSEPH "Gun and Pistol Maker"

233 Broadway, New York, New York

New York Business Directory, 1844-45.

COOPER, THOMAS "Gun lock maker"

19 Partition Street, New York, New York

Longworth's New York Directory, 1803.

CORLEY, CHRISTOPHER

352 Water Street, New York, New York

Longworth's New York Directory, 1818-1820.

COUTTY, SAMUEL

Philadelphia, Pennsylvania

1783

Pennsylvania Archives, 3d series, Vol. 16, page 747.

COWELL, EBENEZER

Philadelphia, Pennsylvania

1780

Pennsylvania Archives, 3d series, Vol. 15, page 338.

CRAIG, JOSEPH

Hand near Liberty Street, Pittsburgh, Pennsylvania

Pittsburgh and Allegheny Directory, 1857-58.

CRAIG, WILLIAM

6th Street, Pittsburgh, Pennsylvania

Harris' Business Directory of Pittsburgh and Allegheny, 1847.

CRAIG, W. & J.

St. Clair Street, Pittsburgh, Pennsylvania

Harris' Business Directory of Pittsburgh and Allegheny, 1847.

CRAWFORD, HUGH

South Carolina

1776

Taken out of the Subscriber's House in Broad Street, as supposed, in order to secure them from fire on Sunday the 10th ult. Two Queen Anne's flat Muskets with Bayonets and Iron Rods belonging to the Publick of this Colony, which are not yet returned . . . Ten Pounds reward.—April 18, 1776. Hugh Crawford, Gunsmith.

South Carolina and American General Gazette, April 17-May 1, 1776.

CRISWELL, SAMUEL

Carlisle, Pennsylvania

1794

Guns. Made and mended by Samuel Criswell in Carlisle.

Kline's Carlisle Weekly Gazette, August 20, 1794.

CROLL, DANIEL "Gun Stocker"

Providence Township, Montgomery County, Pennsylvania

Pennsylvania septennial census 1800. Enumeration of Taxable Inhabitants, taken every seven years under the Constitutions of 1790 and 1838.

Pennsylvania Historical and Museum Commission,
Division of Public Records, Harrisburg, Pennsylvania.

CROMWELL, SIMON

Edgecomb, Maine

Patented a gun lock, February 2, 1827.

Department of Commerce, United States Patent Office, Washington, D. C.

CUMMINGS, JOHN

18 Kingsley Street, Hartford, Connecticut

New Directory and Guide Book of Hartford, 1843.

(K) CUNKLE, GEORGE

North Ward, Harrisburg, Pennsylvania

Tax list 1840, Dauphin County Court House, Harrisburg, Pennsylvania.

CURTAIN, JOSEPH

St. George's Street, St. Louis, Missouri

St. Louis Directory, 1842

CUSHING, ALVIN

Troy, New York

Directory of Troy, New York, 1829.

25 N. 2nd Street, Troy, New York

Directory of Troy, New York, 1842-43.

Patented, Percussion lock walking canes, rifles and Pistols, July 20, 1831.

Department of Commerce, United States Patent Office, Washington, D. C.

CUTCHINS & CROSBY

Concord, New Hampshire

Listed in 1844 City Directory as proprietors of the Concord Gun Manufactory, mfgs. of rifles and guns.

Concord City Directory, 1844.

CUTLER, JOHN

Boston, Massachusetts

1757

All sorts of Bayonets for Muskets, made and sold by John Cutler, at the Lion and Bell in Marlborough street Boston: where may be also had silk Umbrellas for Ladies made in the Neatest Manner.

"Black and Gunsmith"

Boston Gazette, June 27, 1757.

FRONTFIELD, JOHN

Providence Township, Montgomery County, Pennsylvania

Pennsylvania septennial census 1800. Enumeration of Taxable Inhabitants, taken every seven years under the Constitutions of 1790 and 1838.

Pennsylvania Historical and Museum Commission,
Division of Public Documents, Harrisburg, Pennsylvania.

GARDNER, CHARLES

14 N. St. Paul Street, Rochester, New York

Rochester Directory, 1844 & 1855.

GARRET, HERMON

Boston, Massachusetts

Suffolk Deeds, Liber X, page 231, 1677.

Massachusetts Historical Society, Boston, Massachusetts.

GEARY, WILLIAM

Washington above 2nd, Philadelphia, Pennsylvania

Whitley's Philadelphia Directory, 1833.

GEDDY, JAMES

Williamsburg, Virginia

1737

Lost out of Mr. James Geddy's shop, in Williamsburg, about a week ago, a Steel Cross Bow, the Spring of it broke. Whosoever will bring it to Mr. Getty aforesaid, or give any Intelligence of it . . . shall have a Pistole Reward. The said James Geddy has a great Choice of Guns and Fowling-pieces, of several Sorts and Sizes, true bored, which he will warrant to be good; and will sell them as cheap as they are usually sold in England.

Virginia Gazette, July 8, 1737.

Gentlemen and Others, may be supply'd by the Subscriber in Williamsburg, with neat Fowling Pieces, and large Guns fit for killing Wild Fowl in Rivers at a reasonable Rate. He also makes several sorts of wrought Brasswork and casts small bells. James Geddy.

Virginia Gazette, September 29-October 6, 1738.

Will of James Getty made September 23, 1743. Proved and Recorded August 20, 1744. York County Records, Wills, Inventories Book XIX, pp. 306-07.

GEDDY, DAVID and WILLIAM

Williamsburg, Virginia

1751

David and William Geddy Smiths in Williamsburg near the Church, having all Manner of Utensils requisite, carry one the Gun-smith's, Cutler's and Founder's Trade, at whose Shop may be had the following Work, viz, Gun Work, such as Guns and Pistols Stocks, plain or neatly varnished, Locks and Mountings, Barrels blued, bored and rifled; Founder's Work, and Harness Buckles, Coach Knobs, Hinges, Squares Nails, and Bullion, curious Brass Fenders and Fire Dogs, House Bells of all Sizes, Dials, calculated to any latitude; Cutler's Work as Razors, Lancets, Shears, and Surgeon's Instruments ground, cleaned, and glazed, as well as when first made, Sword blades polished, blued, and gilt in the neatest manner, Scabbards for Swords, Needles and Sights for Surveyors Compasses, Rupture Bands of different Sorts, particularly a Sort which gives admirable ease in all kinds of Ruptures; Likewise at the said Shop may be had a Vermifuge . . . which safely and effectively destroys all Kinds of Worms in Horses. . . .

Virginia Gazette, Wm. Hunter, ed., August 8, 1751.

GENNER, ELIJAH

Hill Street, Rochester, New York

Rochester Directory, 1838.

NEAL, WILLIAM
Bangor, Maine

Bangor Directory, 1848.

NEIHARD, PETER
Whitehall Township, Lehigh County, Pennsylvania
Tax list 1786, Pennsylvania Archives, 3d series, Vol. 21.

NEWBECKER, PHILIP
Halifax, Dauphin County, Pennsylvania
Tax list 1817, Dauphin County Court House, Harrisburg, Pennsylvania.

NEWCOMER, JOHN
Hempfield Township, Lancaster County, Pennsylvania
Tax list 1771-1772, Pennsylvania Archives, 3d series, Vol. 17, page 118.

NEWHART, PETER
N. Whitehall Township, Lehigh County, Pennsylvania
Tax list 1821, Lehigh County Court House, Allentown, Pennsylvania.

NEWTON, PHILO
72 State Street, Hartford, Connecticut

Hartford Directory, 1842.

NEWTON, P. S. "Gunmaker & Dealer in Rifles"
Hartford, Connecticut 1850
Newton, P. S. Gun maker and Dealer in Rifles: Pistols, Double and Single Fowling guns, Sporting apparatus. The subscriber has invented and patented the Attached Muzzle Rifle, which is a decided Improvement upon the usual style of Rifles. The muzzle is made of hardened material, so that long use will not impair its correctness, and by its peculiar construction gives added force to the ball. These Rifles have been proved, by actual trial to be superior shots. Near the City Hall Market, Kingsley St., Hartford.

Well's City Directory of Hartford, 1850.

NICHOLSON, JAMES
177 Meeting Street, Charleston, South Carolina

Charleston Directory, 1809.

NICHOLSON, JOHN
Pennsylvania
To be sold by John Nicholson, Gunsmith near the Drawbridge, a few long Duck Guns, Suitable for Men etc.
Pennsylvania Journal, October 17, 1781.
For Sale, at John Nicholson's, Gunsmith, in Front Street, near the Draw-Bridge. A Number of Small arms for Shipping, such as Muskets, short ditto for tops or close quarters, Blunderbusses with or without swivels, Pistols with ribs or without, Cutlasses &c. upon the most reasonable terms.

Pennsylvania Journal, November 24, 1781.

NIPES, ABRAM
Longswamp Township, Berks County, Pennsylvania
Pennsylvania Septennial Census 1800. Enumeration of Taxable Inhabitants, taken every seven years under the Constitutions of 1790 and 1838.

Penna. Historical and Museum Commission,
Division of Public Records, Harrisburg, Penna.

NOE, BARTHOLOMEW "Gun and Pistol Maker"
172½ Bowery, New York, New York

New York Directory, 1844-45.

PHELPS, SILAS

Lebanon, Connecticut

1776

Silas Phelps, Lebanon, Connecticut, showing he made 55 gun locks for the Army but cannot collect premium on account of design. Evidence that the locks were good. Allowed 3 s on each November, 1776.

Connecticut Archives, Revolutionary War Series, 1763-1789, V-117-121.

PHILIPPE, JACOB

Heidelberg Township, Lebanon County, Pennsylvania

Tax list 1842, Lebanon County Court House, Lebanon, Pennsylvania.

PHILLIPS, JAMES

79 Westminster Street, Providence, Rhode Island

The Providence Directory, 1832.

PHRAHL, LEWIS

Pennsylvania

1775

and as to points if inquiry directed to be made, Mr. Fox informed the Committee that the Commissioner of Phila. County had contracted with a certain Lewis Phrahl, Gunsmith,

Minutes of the Provincial Council of Pennsylvania, 1852, Vol. X, Page 380.

PICKEL, HENRY

Yorktown, Pennsylvania

Deed u-426, April 18, 1811, York County Court House, York, Pennsylvania.

PIERSON, SILAS

23 Oak Street, New York, New York

Longworth's Directory of New York, 1820.

PIKE, SAMUEL

Brattleboro, Vermont

New England Mercantile Directory, 1849.

PIM, JOHN

Boston, Massachusetts

1720

To be sold by John Pim of Boston, Gunsmith, at the sign of the Cross Guns, in Anne-Street near the Draw Bridge, at very reasonable rates, sundry sorts of the choice arms lately arrived from London, viz, Hand Muskets, Buccaneer-Guns, Fowling Pieces, Hunting Guns, Carbines, several sorts of Pistols, Brass and Iron and fashionable Swords, etc.

Boston, New Letter, July 4/11, 1720.

PLANK, WILLIAM

Greenwood Township, Columbia County, Pennsylvania

Tax list 1821, Pennsylvania Historical and Museum Commission,
Division of Public Records, Harrisburg, Pennsylvania.

POLE, EDWARD

Philadelphia, Pennsylvania

1775

Musket stocked in the best and neatest manner, by Edward Pole, in Market Street, near the Court-House, Philadelphia; where may be had the best kind of wires and brushes for firelocks, priming flasks and oil bottles to fit in the cartouch boxes, musket and pistol balls; musket and pistol cartridges of all sizes, and cartridge formers. Also cartridges made up, on moderate terms by the hundred or larger quantity.

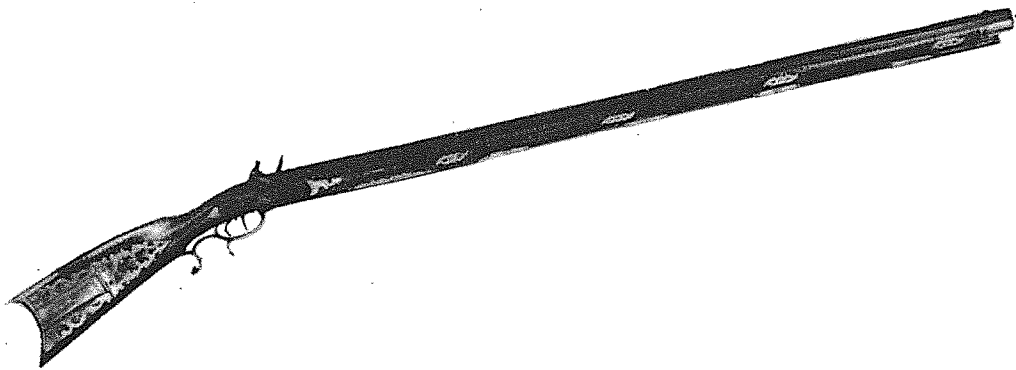
N. B. A very neat cutteau de chase, and a small sword to be sold at the above place.

Pennsylvania Evening Post, December 2, 1775.

Exhibit B

THE
PENNSYLVANIA
- KENTUCKY
RIFLE

by HENRY J. KAUFFMAN



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B C D E F G H

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the son of Andrew. It is known that sons were frequently apprenticed to, or at least followed, the trade of their father; so it would seem reasonable to assume that there was a father-son relationship between these two men. It is also known that it was a Moravian custom for people to drop their first name and use their second name in social and civil transactions. This substitution could easily have occurred in the Albright family, for, in addition to it being a common custom, there were two Johns in the family; some form of differentiation must have been made between them. There is also the possibility that the first John had died before the second was born; nevertheless, some distinction between the two sons had to be made.

The following data about Henry Albright is copied from the *Cemetery Records of the Moravian Church*.

Henry Albright was born August 5, 1772 in Lititz. Lived in Nazareth since 1816 after having resided in Lititz, Gnadenhutten, Ohio, Shippensburg, and other places. Married Barbara Hubley March 27, 1794 with whom he had ten children. February 25, 1830 he married Catherine Louisa Beck with whom he had four children.

This short biography focuses attention on the fact that Henry Albright was one of the famous gunsmiths of Lancaster County who moved to greener fields in the West. The first documentary evidence establishing him as a gunsmith is his appearance as a contributor to an account known as "Continental Rifles, Account of when Received and Forwarded, by Order of General Hand, Lancaster, February 7, 1794." The neophyte gunsmith of twenty-two years was associated in the venture with men like Dickert, Gonter, Greaff, Fainot, Brong, and Messersmith in producing arms for the Army of the United States or the Militia of Pennsylvania.

By 1796 he had moved to Chambersburg, as indicated in the following advertisement in the *Pittsburgh Gazette*, August 27, 1796.

HENRY ALBRIGHT, GUNSMITH, RESPECTFULLY informs his friends and the public in general, that he has removed from Lancaster to Chambersburg, to the house lately occupied by Peter Snider, near the paper mill, where he intends to carry on the Gunsmith Business in all its various branches. He also has a large quantity of guns on hand, which he will sell on reasonable terms for cash or country produce.

Also, said Albright and William McCall carries on the barrel making in all its branches—They have a large quantity on hand, which they will sell on moderate terms. Chambersburg, June 2, 1796.

It is obvious from this advertisement that Albright hoped to do business with gunsmiths from the Pittsburgh area who might be passing through Chambersburg, or who might come to Chambersburg to buy barrels. At that time there were about a half-dozen gunsmiths working in the Pittsburgh region and there was some prospect of doing business with them, unless one of them made barrels for the gunsmiths who lived over the mountains. It has been established that Jacob and Joel Ferree were in the Pittsburgh area at that time; and, because of their earlier training in Lancaster County, it is likely that they were skilled in the art of barrel making.

At any rate, the gun business apparently did not prove to be as good as Albright had hoped, for in 1800 he was living in Shippensburg. His next move was to Gnadenhutten, Ohio.

with a great variety of articles in his line, from Philadelphia, of the choicest quality, selected by himself, and comprised in part as follows;—Double barrel Guns, of patent breech of Damascus wire, and stub and twist barrels and of Electrum and Steel Mountings—an apartment of Single barreled Fowling Pieces, from the finest to the common kind—every description of Holster, Dueling, Belt, and Pocket Pistols—all kinds of Bowie and Pocket Knives—DuPont's best F.F.F. Powder in papers and Cannisters—Percussion Caps, Shot, and Lead—Powder Flasks and Horns, Game Bags and pouches, Cleaning apparatus complete, and implements of every sort in his line. He has also Fishing Rods and Canes, Lines, Hooks, and Tackles of all kinds; in short he invites the choicest Sportsmen to call and examine his present stock.

He has made arrangements to be kept supplied with RIFLE BARRELS, and gun mountings, which he will furnish to Gunsmiths, on better terms than they can procure them in this city.

Guns to be let out on reasonable terms.

The Daily Advocate & Advertiser, October 19, 1838:

TO GUN SMITHS. For sale 50 doz. Rifle Barrels, at the reduced price of \$30.00 per doz., also materials, gun mountings, gun locks and all articles used by gun manufacturers, of all qualities and at lower prices than they can be had at any other establishment in the city. Constantly on hand an assortment of Pennybacker's superior Rifle barrels, powder and shot, &c. W. H. BROWN, Gun Smith, 5th St., one door from Market St.

The Pittsburgh Daily Advocate & Advertiser, Oct. 18, 1839:

A CARD. THE undersigned would respectfully call the attention of his friends and the public generally, to his superior assortment of Rifles, double and single barrel Shot Guns, Powder Flasks, Shot Belts, Game Bags, Fishing tackle, and all articles necessary for sportsmen. His rifles are of his own manufacture, and warranted equal if not superior in material, workmanship, style of finish, &c, to any brought from the eastern cities: In addition to the above named articles, he keeps constantly on hand a good assortment of warranted Roger's cutlery of the best quality, and the most extensive assortment of pistols to be found in the city.

W. H. BROWN, No. 7 Fifth St. Oct. 19.

The Pittsburgh Daily Advocate & Advertiser, Oct. 29, 1839:

W. H. BROWN, Manufacturer of Guns and Pistols, and DEALER IN SPORTING TACKLES, NO. 7, Fifth Street, Pittsburgh.

The Pittsburgh Daily Advocate & Advertiser, Oct. 5, 1840:

1200 RIFLE BARRELS, just received and for sale cheap by WM. H. BROWN, Corner of Diamond and Market Sts. Oct. 3.

The American Manufacturer, April 10, 1841:

GUNSMITHS. 5 JOURNEYMEN GUNSMITHS wanted immediately. None but good workmen need apply. WM. H. BROWN, Corner Diamond & Market St. Dec. 5, 1840.

The American Manufacturer, Aug. 28, 1841:

W. H. BROWN'S NEW HARDWARE STORE AND GUNSMITHING ESTABLISHMENT. Corner of the Diamond and Market Street. Pittsburgh, July 24, 1841.

Biographies

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ELTON, A.

Next 43 Zane, Philadelphia, Pennsylvania. 1814.

ELTON, THOMAS

Philadelphia, Pennsylvania. Tax list 1780. *Pennsylvania Archives*, 3 series, Vol. 15, page 303.

ENGLE, BARNEY (BARNET)

Monongahela Township, Greene County, Pennsylvania. Tax lists 1833, 1834, 1835, 1836, 1838, 1848, 1860, 1869, 1875, 1876, 1878.

ENGLE, EZRA

Greene Township, Greene County, Pennsylvania. Tax lists 1817, 1820, 1821, 1835, 1838.

Monongahela Township, Greene County, Pennsylvania. Tax lists 1824, 1829, 1835, 1838.

ENGLE, PETER

Greene Township, Greene County, Pennsylvania. Tax lists 1803, 1809, 1817, 1823.

ENGLES, CHRISTIAN

Monongahela Township, Greene County, Pennsylvania. Tax lists 1824, 1829, 1833.

Morris Township, Washington County, Pennsylvania. Tax list 1845.

ENTERPRISE GUN WORKS

The Enterprise Gun Works was established in 1848 by Bown and Tetley at 136-138 Wood Street, Pittsburgh, Pennsylvania. The company seems to have produced good guns over a long period of time despite the fact that ownership of the business frequently changed hands. The following excerpt from the catalogue of James Bown & Sons is very interesting, for it is the earliest record known to the author of a manufacturer calling his products "Kentucky rifles."

We wish to notify the public that James Bown and Sons of 121 Wood Street, Pittsburgh, Pa., are the only manufacturers of the CELEBRATED KENTUCKY RIFLES, which name was adopted by the senior member of this firm in 1848;—

The early location of this manufacturer in the busy city of Pittsburgh probably accounts for some of their success. An advertisement in *The (Pittsburgh) Morning Post*, March 13, 1855, suggests that many of their customers were people traveling to the newly opened West, who bought their arms in Pittsburgh enroute:

Bown and Tetley's rifles are cheap and well made. Emigrants would do well to give us a call. We keep a large stock of our manufacture always on hand. All guns are warranted.

By 1862 the business was owned entirely by James Bown; his newspaper advertisement on March 6, 1865 indicates that he was agent for Colt's pistols and rifles, that he sold gunsmiths, materials, and that he imported arms to sell at retail in his

FLECK, VALENTINE

Huntington County, Pennsylvania. Federal Census of 1850.
 Memmo, Mifflin County, Pennsylvania. 1861.

FLEEGER, CHRISTIAN

McCandless, Butler County, Pennsylvania. 1861.

FLEEGER, JOHN

Harris' Business Directory of Pittsburgh and Allegheny, 1837, 1841, 1847, 1856-57.

Allegheny Gun Works—John Fleege, 49 Ohio Street. Mr. Fleege, proprietor of the Allegheny Gun Works, has carried on the gunsmithing business in Allegheny City since 1831. He occupied a stand on Diamond Street for over thirty years and has been in this present location about two years, where he occupies a building 18 x 27 feet and carries a stock valued at about \$5,000.00. He manufactures to order sporting and target rifles, and carries a stock of fine English breech and muzzle loading shotguns, revolvers, cartridges, and ammunition. Manufacturing and repairing is a specialty. Mr. John Fleege and his son William A. Fleege are both practical gunsmiths. Fine specimens of this work is on exhibition. *Industries of Pittsburgh, Trade, Commerce & Manufactures, etc.*, for 1879-80.

FLEEGER, PETER

NS of Robinson, between Godrich & Hope, Allegheny, Pennsylvania. *Directory for 1856-57 of Pittsburgh & Allegheny Cities*.

FLEEGER, WILLIAM

Directory of Pittsburgh & Allegheny Cities for 1861-62, 1870-71.

Was associated with his father, John Fleege, in the Allegheny Gun Works in 1879, 1880, and 1886.

FLEGE, GEORGE (Armourer)

U. S. Arsenal, Philadelphia, Pennsylvania. 1814.

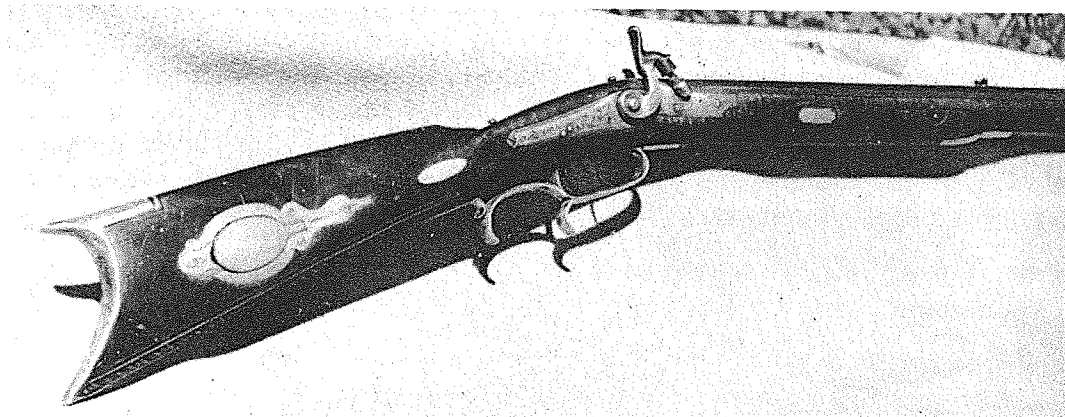


PLATE 187

Nixon Collection

Rifle with percussion lock, half stock made of curly maple, set triggers, brass mountings, silver inlays, octagonal barrel marked C. Flowers on the top facet of the barrel.
 This gun is dated 1875 and is a fine example of the style used by gunsmiths in western Pennsylvania at that time.

Company, asking about their need for rifles and explained that, if an order was not imminent, "in common with most manufacturers I am about to discharge my hands for several months."

This lay-off was doubtless to permit the men to harvest their crops or assist farmers who needed help. Harvesting was really a manual operation at that time and many hands were needed to cut the grain and get it into the barns. The Henry correspondence shows that they invariably became busy in the autumn and at times produced as many as two hundred guns in a period of two months.

Later, James Henry took his son, Granville, into the business and the company name was changed to J. Henry & Son. James Henry died in 1895 and the works at Boulton made its last guns about that time.

The third part of the enterprise was located on the side of the Bushkill Creek opposite the factory. Along the hillside a number of residences were built for the men who owned and operated the rifle factory. From their homes they could look down upon the factory, as the old iron masters used to watch their furnaces to see that all activity was supervised and regulated. Although the homes have been renovated to keep pace with the changes of architectural fashion, they continue to stand in groves of trees, suggesting the private living quarters of people of substance.

Beyond the dwellings of the owners, the employees lived in modest houses, of which only a few have survived. The residence of the blacksmith and one or two others can be pointed out. The most interesting area is what is known as "Filetown." When they were not employed at the factory, the people who lived there took lock parts, triggerguards, etc., to their homes and filed and polished them in the old traditions of the craft. There is evidence that similar activity occurred in Birmingham, England, where many locks for Pennsylvania rifles were made.

There is no place called Boulton today. Most of the factory dam has been washed away, the furnace and barrel mill are gone, and only the residences stand on the hill above the creek and the underbrush. The thriving village and the humming gun factory are legends to the natives who live in Belfast or Nazareth, the nearest towns to Boulton and Jacobsburg.

It is well-known by all collectors that guns made by any of the Henry gunsmiths are very scarce. The numerous activities of William Henry I easily explain why he did not make many guns, although there is a musket in the museum of the Lancaster County Historical Society which bears his name on the lock plate. A pair of pistols in the Museum of the Historical Society of Pennsylvania was made by William Henry II, who put his name on the lock plates and "Nazareth" on the top facet of the barrels. A few Pennsylvania rifles are extant that were made by Abraham Henry, although they are not outstanding in design or quality of workmanship. At least one of his pistols has survived. The military products of John Joseph are scarce, but possibly the easiest to acquire of any of the Henry products.

The greatest mystery about their products is concerned with the thousands of rifles that were made at Boulton which seem to have disappeared completely. A letter from John Joseph to the American Fur Company, October 5, 1836, discusses the making of two hundred rifles to be delivered in New York by December 15 of the same year. Such a rate of production suggests that thousands of rifles were made

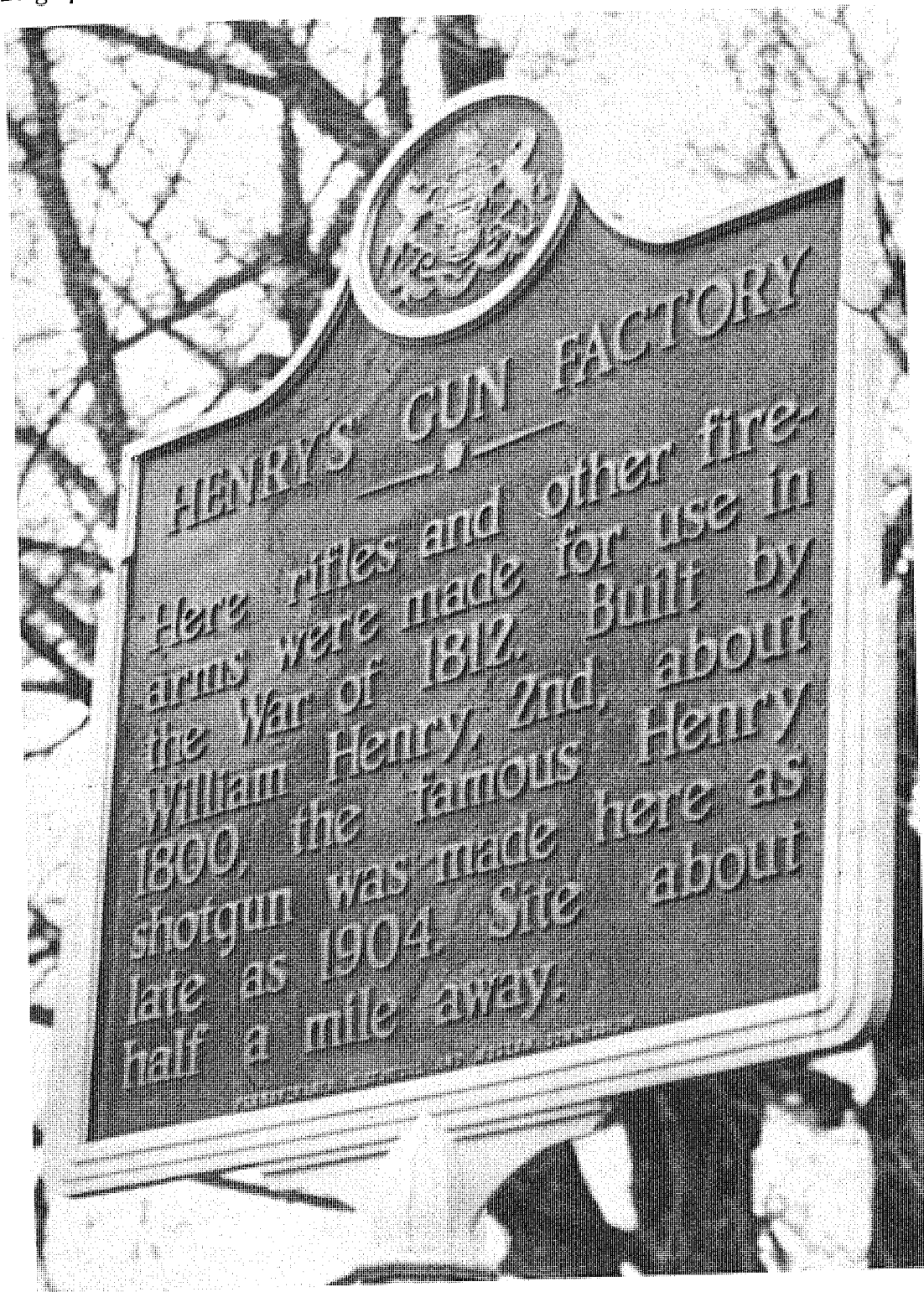
Biographies

PLATE 212

Pennsylvania Historical and Museum Commission marker telling about the Henry Gun Factory at Boulton.

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HOLEMAN, JOHN

Lancaster, Pennsylvania. Tax lists 1814, 1816.

HOLMES, R.

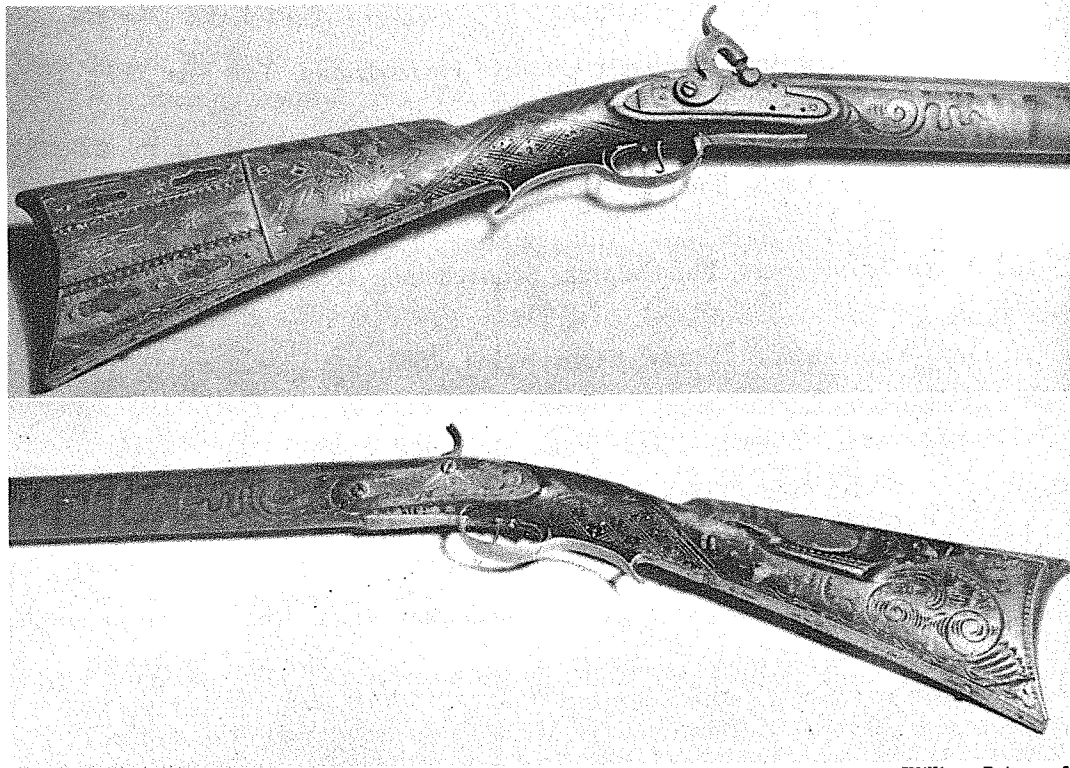
GUNSMITHING. The subscriber, having resumed the above business in Main Street, near J. Boyd's drug store, in the borough of Bridgewater, respectfully informs the public that he is prepared to execute all orders in this line with neatness and dispatch. RIFLES AND FOWLING pieces of the best quality made and kept for sale, at all times—also, repairing done in the best manner. Persons are requested to call and examine his workmanship. Bridgewater, May 30, 1837. *The Western Argus*, Beaver, Pennsylvania. May 31, 1837.

HOLSAPPLE, PHILIP

Center ab High, Pottsville, Pennsylvania. 1860.

HOLTZWORTH, WILLIAM

Lancaster, Pennsylvania. Tax lists 1816, 1820, 1830.



William Reisner, Jr.

PLATE 216

Rifle with flint lock (now percussion), full stock of maple with artificial grain, brass mountings, octagonal barrel with Holtzworth engraved in script letters on the top facet. The finial of the patch box in the shape of a game bird is quite unusual. The piercing in the side plates of the patch box and in the large toe-plate are also unusual features, but occasionally found on other Lancaster rifles.

HOOPER, ROBERT LETTIS, JR. (Musquets)

To be sold by Robert Lettis Hooper, Jr., at his store in Water Street, three doors above Chestnut Street, wholesale or retail.

A Parcel of small, handy musquets, well mounted, and neatly fitted with iron rods, and small bayonets, the locks are large and well made, 3d, 4d, 6d, 8d, 10d, 12d, and 20d nails, pork, common and salt, gammons, a quality of butter in firkins and mackerel by the barrel. *Pennsylvania Journal*, August 18, 1763. No. 1080.

HORN, CONR.

Hazleton, Luzerne County, Pennsylvania. 1861.

HORNER, FREDERICK

Quemahoning Township, Somerset County, Pennsylvania. Tax lists 1805, 1808, 1811.

Jenner Township, Somerset County, Pennsylvania. Tax lists 1815, 1817, 1821, 1834.

HORNER, JACOB

Quemahoning Township, Somerset County, Pennsylvania. Tax lists 1832, 1837, 1849, 1853.

Jenner's Cross Roads, Somerset County, Pennsylvania. 1861.

HORNER, JOHN, JR.

Conemaugh Township, Somerset County, Pennsylvania. Tax lists 1802, 1803, 1806.

HORNER, LEWIS

Jenner's Cross Roads, Somerset County, Pennsylvania. 1861.

HORSTMANN, WILLIAM H. & SONS (Military Store)

51 North Third Street, Philadelphia, Pennsylvania. 1855.

HOWARTER, J.

Lisburn, Cumberland County, Pennsylvania. 1861.

HOWELL, WILLIAM T. (Merchant)

The Commercial Herald, Philadelphia, July 3, 1834:

GUNS AND PISTOLS. The Subscribers have just received late arrival from Liverpool, a further supply of Guns and Pistols, consisting of

Double Barrel Flint and Percussion Guns

Superior double barrel stub or twist do

A few very superior guns, in mahogany cases, with all the apparatus complete.

Also, two double barrel Guns. of the manufacture of the celebrated Wesley Richards, of very superior finish.

Single barrel Flint and Percussion Guns.

Stub and twist single barrel do

Long Squirrel Guns, with very small calibers.

Also, one twisted single barrel gun, sent as a sample, combining the flint and Percussion principle, so that the flint and the percussion lock may be used separately or together.

THE PENNSYLVANIA-KENTUCKY RIFLE

JOHNSON, JOHN

Huntington County, Pennsylvania. Federal Census of 1850.

JOHNSTON, JOHN

Washington Township, Franklin County, Pennsylvania. Tax assessment list 1842.

JOHNSON, JOSEPH

59 Budd Street, Philadelphia, Pennsylvania. 1814.

JOHNSTON, SAMUEL

56 Wayne, Pittsburgh, Pennsylvania. *Fahnstocks Pittsburgh Directory* for 1850.

JOHNSON, WILLIAM

2 Rose Alley, Philadelphia, Pennsylvania. 1847.

JOHNS, ISAAC

Philadelphia, Pennsylvania. Tax list 1780. *Pennsylvania Archives*, 3 series, Vol. 15, page 303.

JONES, ALBERT

Gilmore Township, Greene County, Pennsylvania. 1876.

JORG, JACOB

Berks County, Pennsylvania. *Reading Adler*, January 12, 1818.

Listed as a gunsmith in 1805 in Greenwich Township, Berks County, Pennsylvania tax list. Also listed in 1801, 1802, 1803, but not as a gunsmith.

JOST, CASPAR

Lebanon Township, Dauphin County, Pennsylvania. Tax list 1785.

JOY, ANDREW S.

It is evident from the following newspaper advertisement that A. S. Joy was engaged in gunsmithing in Pittsburgh prior to the date of the advertisement. Since Pittsburgh business directories were published between 1827 and 1839, it is impossible to determine when he opened his gun shop. The following advertisement appeared in the February 2, 1838, issue of the *Pittsburgh Democrat and Workman's Advocate*.

GUN MANUFACTORY, ST CLAIR STREET, PITTSBURGH, THE subscriber respectfully informs the citizens of Pittsburgh and its vicinity, that he continues the manufacturing, and keeps constantly on hand and for sale, Rifles, Smooth-Bore Shot Guns, Single and Double barreled Rifles, Belt and Pocket Pistols, Powder Flasks and Horns, & c. & C. All kinds of Gun repairing done in the most substantial, and durable manner, on shortest notice. Persons wishing to purchase any of the above articles are requested to call and examine his stock. ANDREW S. JOY.

He also advertised in the same issue for an apprentice from the country about fifteen years of age.

In 1845 his equipment was lost in the great Pittsburgh fire of that year; his losses were estimated to total \$150.00. He remained in business, however, and advertised that he would make rifles and smooth-bores on short notice for emigrants

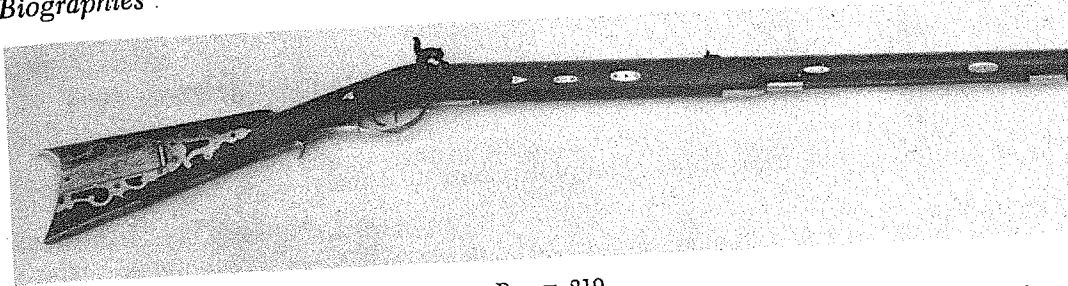


PLATE 219

Rifle with percussion lock, full stock of curly maple, brass mountings, silver inlays, set triggers, octagonal barrel marked A. Joy on the top facet. The fine design and expert engraving of the patch box of this rifle indicate that Joy was a fine craftsman.

to Texas and Oregon. He left Pittsburgh in 1847 but probably continued to make guns in a near-by community. His wife is listed in the Pittsburgh Directory for 1858.

JUDSON, W. H.

W. H. JUDSON, DEALER IN GUNS, RIFLES, PISTOLS, All kinds of Ammunition and Sporting apparatus. Also—Gunsmithing in all its branches done with neatness and dispatch. Sewing machine repairing, Locksmithing, and Bell Hanging promptly attended to. Sign of the NOVELTY IRON WORKS, UNION CITY, PENNSYLVANIA. *Gazeteer & Business Directory of Erie County, Pennsylvania*, 1873-74.

KAMPT, SOLOMON

Hempfield Township, Westmoreland County, Pennsylvania. Tax list 1810, 1811, 1812, 1813, 1814, 1815, 1816, 1817, 1818, 1821, 1823, 1825.

KAPPAL, J.

257 Poplar Street, Philadelphia, Pennsylvania. 1855.

KAUP, LEROY

West Buffalo Township, Union County, Pennsylvania. Federal Census 1850.

KAUPERT, JOHN F.

500 Brook, Philadelphia, Pennsylvania. 1861.

KEARNEY AND GILBERT (Imported)

In Water Street a few doors below Walnut Street. Choice old High Proof'd Barbadoes Rum, x x x Best English whale bone, a large parcel of Musquets with or without bayonets, curious fowling pieces, pistoles, musquetoons or blunderbusses, camp copper kettles and stew pans, several hogsheads of mens strong shoes, English and French sail cloth, x x x some hogsheads of felt hatts, long tavern and short pipes, x x x x guns, 6 and 4 lb. cannon swivel and musquet ball. *Pennsylvania Journal and Weekly Advertiser*, March 8, 1759. No. 848.

KEEFER, ISAIAH

Sylvan, Franklin County, Pennsylvania. 1861.

Biographies

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KING, GEORGE

Sugar Creek Township, Armstrong County, Pennsylvania. Tax lists 1850, 1851, 1857.

Washington Township, Armstrong County, Pennsylvania. Tax lists 1863, 1866.

KING, ISAAC (Whitesmith Business)

The Somerset Whig, Somerset, Pa., January 8, 1818:

WHITE-SMITH BUSINESS, ISAAC KING, Lately from New Jersey, and learned his trade in Philadelphia, RESPECTFULLY Informs the publick in general, that he has commenced the above business, in the borough of Somerset, next door to Mr. John Fleming's and immediately opposite Mr. Jacob Ankeny's inn, in the diamond square, where he will receive and execute all orders in his line of business, with promptitude and on reasonable terms. He has and expects to have on hand, for sale, Guns of all descriptions, Pistols, Swords, Dirks, Carving knives, Powder, Flints, & c. all of the first quality. He hopes from his knowledge of the business and strict attention to merit a share of the patronage of the publick.

January 8.

KING, WILLIAM

Washington Township, Armstrong County, Pennsylvania. Tax lists 1867, 1870, 1872.

KIRLIN, THOMAS

Augusta Township, Northumberland County, Pennsylvania. Tax list 1805.

KISTLER, GEORGE

Maxatawny Township, Berks County, Pennsylvania. 1799.

Berks County, Pennsylvania. Census Report, 1800.

KLEIN, CHRISTIAN

EIGHT DOLLARS REWARD. Ran-away on the 15th instant, from the subscriber living in Lancaster, an indebted servent lad named John McCan.—is about 19 years of age, 5 feet 6 or 7 inches tall, of a dark complexion, lad has a long nose. He speaks both English and German, but English best, and is by trade a gunsmith. He had on when he went away a good hat, a light coloured cassimer coatie, and a nankin waistcoat and breeches.

Whoever apprehends the said Runaway so that his Master may get him again, shall receive the above reward and reasonable charges if brought home, from

Christian Klein, Gunsmith

Lancaster Journal, September 16, 1795.

KLINE, CHRIS

Lancaster, Pennsylvania. 1794.

KLINE, CHRISTIAN

Harrisburg, Pennsylvania. Tax lists 1811, 1817.

THE PENNSYLVANIA-KENTUCKY RIFLE

depend on having their orders executed with care and dispatch, by their very humble servant,
 John Langeay

N.B. Would be glad to attend any country Battallion who say need his assistance. Enquire of the Printer. *Pennsylvania Journal*, no. 1707. August 23, 1775.

LAMA, MICHAEL

Millheim, Centre County, Pennsylvania. 1861.

LAPKEEHLER, HENRY

Mifflinburg, Union County, Pennsylvania. Federal Census 1850.

LAPPINGTON, WILLIAM

Lawrenceville, Pennsylvania. 1839.

LAUDENSLAGER, HENRY

Fair Oaks, Penn Township, Snyder County, Pennsylvania. Born 1839, died 1912.

LAUFFMAN, P. H. (Hardware Merchant)

28 Wood Street, Pittsburgh, Pennsylvania. 1852.

LAWRENCE, JOHN

Antrim Township, Franklin County, Pennsylvania. Tax list 1786.

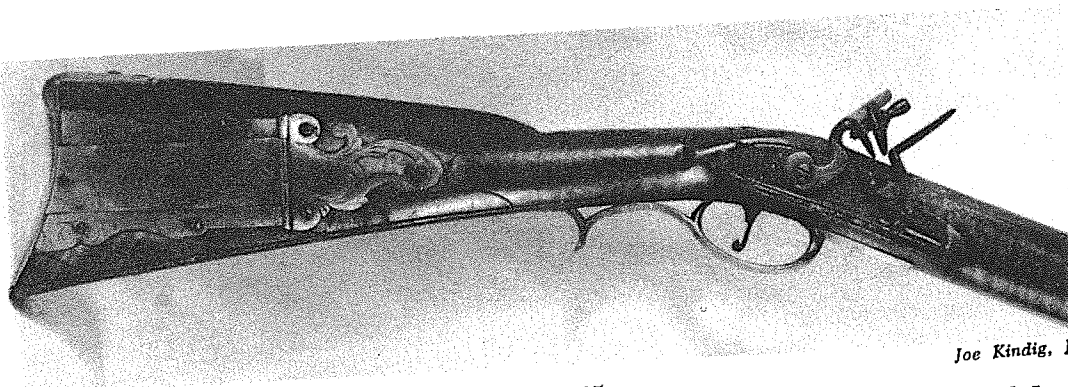
LEATHER, JACOB

The last name of this gunsmith was spelled a number of different ways, although it is most frequently spelled Leather. Lether was probably the spelling of an indifferent tax assessor and Ledder is the way a German would spell it who had a minimum knowledge of English.

He was one of the gunsmiths who had contracts for muskets, although the writer has never heard of one bearing his name. The following letter tells that he was associated with some famous gunsmiths of Lancaster County in producing such arms:

To Clement Biddle:

Of the arms manufactured by John Graeff and Abraham Henry at Lancaster, there are stored and ready for delivery seven hundred and forty-two stand. In a short time, they expect to have two hundred more ready for delivery.



Joe Kindig, Jr.

PLATE 225

Rifle with flint lock, full stock of curly maple, brass mountings, and octagonal barrel marked Jacob Lether on the top facet of the barrel. Rifles by Lether are very rare.

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THE PENNSYLVANIA-KENTUCKY RIFLE

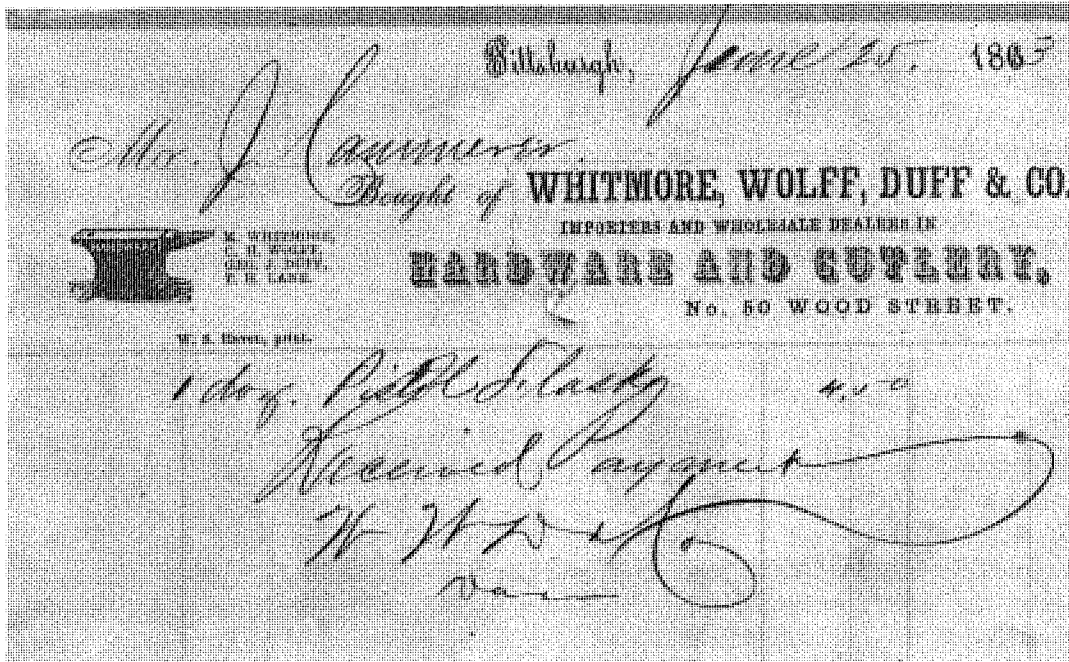


PLATE 290

Whitmore, Wolff, Duff & Co.

WHITMORE, WOLFF, DUFF & Co., (Importers and Retail Dealers in Hardware)
No. 50 Wood Street, Pittsburgh, Pennsylvania. 1871-72.

WICKHAM & Co.

No. 94, Market Street, three doors above Third Street, have just received from the manufacturers in England, an assortment of Hardware, Military and Sportsmen's Articles, all selected by M. T. Wickham, among which are extensive assortment of Lancashire and Sheffield files, consisting of 230 kinds.

Steel of the following descriptions, viz.-Cast, Hunstmans, Shear, German, Blister, Crowley, Sword, Coach, and Small Spring, &c &c. 15 kinds, assorted from one-quarter inch to the largest size.

A great variety of Fowling pieces, Pistols, Locks, and component parts of each, with every article necessary to equip either the Fowler or Angler. *The Independent Balance* (Philadelphia), March 4, 1818.

WICKHAM, WILLIAM W. (Chief Armourer)

United States Arsenal, Philadelphia, Pennsylvania. 1814.

WIGLE, JACOB

South Huntingdon Township, Westmoreland County, Pennsylvania. Tax lists 1812, 1813.

Rostraver Township, Westmoreland County, Pennsylvania. Tax lists 1814, 1816.

Franklin Township, Fayette County, Pennsylvania. Tax lists 1819, 1820, 1821, 1822.