No. 25-1076

In the
Supreme Court of the United States

GEORGE PETERSON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

BRIEF OF AMICI CURIAE SECOND AMENDMENT FOUNDATION, NATIONAL RIFLE ASSOCIATION OF AMERICA, AMERICAN SUPPRESSOR ASSOCIATION, CALIFORNIA RIFLE & PISTOL ASSOCIATION, INCORPORATED, SECOND AMENDMENT LAW CENTER, INC., MINNESOTA GUN OWNERS CAUCUS, AND THE CITIZENS COMMITTEE FOR THE RIGHT TO KEEP AND BEAR ARMS IN SUPPORT OF PETITIONER

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AMICUS CURIAE STATEMENT OF INTEREST

Second Amendment Foundation ("SAF") is a non-profit membership organization founded in 1974 with over 720,000 members and supporters in every state of the union. Its purposes include education, research, publishing, and legal action focusing on the constitutional right to keep and bear arms. Currently, SAF is involved in several Second Amendment-related lawsuits and thus has great interest in the outcome of this case.[1]

The National Rifle Association of America (NRA) is America's oldest civil rights organization and foremost defender of Second Amendment rights. It was founded in 1871 by Union veterans—a general and a colonel—who, based on their Civil War experiences, sought to promote firearms marksmanship and expertise amongst the citizenry. Today, the NRA is America's leading provider of firearms marksmanship and safety training for both civilians and law enforcement. The NRA has approximately four million members, and its programs reach millions more.

The American Suppressor Association (ASA) is a 501(c)(6) nonprofit dedicated to the advancement of

[1] No counsel for a party authored this brief in whole or in part, nor did such counsel or any party make a monetary contribution to fund this brief. No person other than the amicus parties, its members or counsel, made a monetary contribution intended to fund the preparation or submission of this brief. The Parties were notified that this brief would be filed on March 17, 2026, in compliance with Rule 37.2.

pro-suppressor reform nationwide. Founded in 2011, ASA has lobbied for suppressor rights in dozens of states, was instrumental in the legalization of suppressors in Iowa, Minnesota, Vermont, and Guam, and helped legalize the use of suppressors for hunting in 19 states. It also played a pivotal role in the elimination of the transfer tax on suppressors, short-barreled firearms, and NFA-defined "any other weapons" as part of the One Big Beautiful Bill Act.

Founded in 1875, California Rifle & Pistol Association, Incorporated, is a nonprofit organization that seeks to defend the Second Amendment and advance laws that protect the rights of individual citizens. In service of its mission to preserve the constitutional and statutory rights of gun ownership, California Rifle & Pistol Association regularly participates as a party or amicus in Second Amendment litigation.

Second Amendment Law Center, Inc. is a nonprofit corporation headquartered in Henderson, Nevada. Second Amendment Law Center is dedicated to promoting and defending the individual rights to keep and bear arms as envisioned by the Founding Fathers. Its purpose is to defend these rights in state and federal courts across the United States. It also seeks to educate the public about the social utility of firearm ownership and to provide accurate historical, criminological, and technical information about firearms to policymakers, judges, and the public.

Minnesota Gun Owners Caucus ("MGOC") is a 501(c)(4) non-profit organization incorporated under the laws of Minnesota with its principal place of

business in Shoreview, Minnesota. MGOC seeks to protect and promote the right of citizens to keep and bear arms for all lawful purposes. MGOC serves its members and the public through advocacy, education, elections, legislation, and legal action. MGOC's members reside both within and outside Minnesota.

The Citizens Committee for the Right to Keep and Bear Arms is a non-profit corporation organized under Section 501(c)(4) of the Internal Revenue Code, dedicated to promoting the benefits of the right to bear arms. The Court's interpretation of the Second Amendment directly impacts the Committee's organizational interests, as well as the Committee's members and supporters, who enjoy exercising their Second Amendment rights. The Committee's substantial expertise in the field of Second Amendment rights would aid the Court in this case.

SUMMARY OF ARGUMENT

At around 2 a.m. on May 31, 2023, 65-year-old Charles Foehner was walking home in New York City's Queens borough when a criminal attempted to rob him. Security camera footage showed the assailant charge at Mr. Foehner, who pulled a gun from his jacket pocket and shot the attacker, killing him. The Queens District Attorney's Office chose not to prosecute Mr. Foehner for the shooting but did go after him because the gun he used in self-defense was not registered in New York City. It did not matter that Mr. Foehner had registered several other guns he owned, thus proving he was not a prohibited person. In New York City, *every* gun must be separately registered.

For his "crime," Mr. Foehner accepted a plea deal and is now spending four of his golden years in prison.[2] New York City's harsh treatment of Mr. Foehner is in stark contrast to the assailant he shot, who was free to terrorize Mr. Foehner "despite at least 15 arrests dating back to 2004 and a record of mental illness." Kevin Sheehan & Ben Kochman, *Senior Citizen Who Saved Himself from Would-Be Mugger Is Heading to Prison Because of NYC's 'Draconian' Laws*,

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[2] "He used his last weeks of freedom visiting friends and family and spending time with his devoted wife, Jenny Foehner-Speed, and his 8-year-old dog, Biscuit, who was recently diagnosed with cancer." Nicholas McEntyre, *Charles Foehner, Who Fatally Shot Would-Be NYC Mugger, Begins Prison Sentence*, N.Y. Post (Jan. 16, 2026, 1:43 a.m. ET), https://nypost.com/2026/01/16/us-news/charles-foehner-who-fatally-shot-would-be-nyc-mugger-begins-prison-sentence/.

N.Y. Post (Nov. 20, 2025, 5:16 PM), https://nypost.com/2025/11/20/us-news/queens-senior-citizen-who-fatally-shot-would-be-mugger-headed-to-prison-for-four-years/.

Does Mr. Foehner's ordeal sound like the treatment befitting a constitutional right? Does a requirement that every individual firearm must be registered give the Second Amendment the same scope it was "understood to have when the people adopted" it? *District of Columbia v. Heller*, 554 U.S. 570, 634 (2008). No serious person can answer that affirmatively in good faith. And yet, the unconstitutional laws that imprisoned him persist, and they will ruin many more innocent lives. This Court must actively enforce its precedent if the historical test it announced in *Heller* and reaffirmed in *Bruen* is ever going to be meaningfully respected.

While the petition at bar does not concern Mr. Foehner directly, it presents the same question: Whether a per-arm registration regime, like the one imposed in the National Firearms Act (NFA), can withstand constitutional scrutiny. It is historically baseless, and it is inconsistent with the understanding of the Second Amendment at the Founding. The NFA's taxation scheme suffers from the same defect, imposing a tax on each individual arm it regulates, much like New York City's costly per-firearm registration requirement.

Granting this petition would not only allow this Court to resolve both issues, but also to confirm that suppressors are indeed arms covered by the plain text of the Second Amendment, as are all firearm parts. As

such, any restrictions on them, including taxation and registration schemes, must be consistent with this Nation's historical tradition. The Petitioner thus presents this Court with an excellent chance to decide as many as three critical issues. It should seize that opportunity.

ARGUMENT

I. Suppressors Are "Arms" Under the Plain Text of the Second Amendment.

The Fifth Circuit "assumed without deciding" that suppressors are arms. *United States v. Peterson*, 161 F.4th 331, 339 (5th Cir. 2025). It did not need to make that assumption, however, because it could (and should) have conclusively ruled that suppressors are indeed arms based on this Court's existing precedent. By granting certiorari in this case, this Court can clear up the persistent "confusion" on this point in the lower courts.

Here, it is not even a close question whether suppressors are "arms" that meet the plain text of the Second Amendment. They are no doubt components of "weapon[s] of offence" that a person "takes into his hands, or useth in wrath to cast at or strike another." *Heller*, 554 U.S. at 581 (citing founding-era dictionaries). They also are "modern instruments that facilitate armed self-defense," *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 28 (2022), particularly in the home where an unsuppressed firearm has a significant concussive effect and impairs hearing. "What is more, the Second Amendment as a matter of

plain text covers '*all* instruments that constitute bearable arms, even those that were not in existence at the time of the founding.' " *Id*. at 28 (quoting *Heller*, 554 U.S. at 582). That includes a firearm equipped with a suppressor.

Of course, a suppressor is just one component[3] of a suppressed firearm and is harmless on its own. But that doesn't make it not an arm. If it did, the government could prohibit virtually any firearm component without constitutional consequence. The sights, the grips, the trigger guard, and so forth, all of which are also harmless standing alone. Such reasoning "inevitably means that only the most dumbed-down or basic version of any component part of a gun is protected—and many parts of a gun are entirely unprotected if they aren't strictly necessary to make a gun go bang." *Duncan v. Bonta*, 133 F.4th 852, 918 (9th Cir. 2025) (VanDyke, J., dissenting); *see also Morse v. Raoul*, 804 F. Supp. 3d 808 (S.D. Ill. 2025) ("Thus, in the view of the Ninth Circuit in *Duncan*, no attachment, accessory, or accoutrement, regardless of its increased efficiency, its safety enhancements, or historical availability is protected.")

The D.C. Court of Appeals recently rejected the very same argument applied to firearm magazines, saying it "is not a defensible approach to identifying what constitutes an arm—a gun is also practically

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[3] Sometimes, suppressors are not just component parts of a firearm, but integral to them. For example, the SilencerCo Maxim 9 has a permanently affixed suppressor built into it. Obviously, the Maxim 9 is an "arm." *See Maxim 9 Instruction Manual*, SILENCERCO, https://perma.cc/3VKZ-6CXN.

harmless and of no use without ammunition, but it is still obviously an arm." *Benson v. United States*, No. 23-CF-0514, 2026 D.C. App. LEXIS 80, at *18 (Mar. 5, 2026).[4]

To think of suppressed firearms a different way using a founding-era example, imagine a musket affixed with a bayonet. True enough, the musket could fire with the bayonet removed. But even so, it would be unserious to assert that a bayonet, even an unsharpened bayonet, is itself not an arm.[5] In fact, in the Militia Act of 1792, Congress required the male citizens of the Nation to provide themselves with bayonets upon turning 18. Act of May 8, 1792, ch. 33, 1 Stat. 271, § 1. So clear was bayonets' status as an arm that even when the Texas Supreme Court took a narrow view of the Second Amendment in *English v. State*, 35 Tex. 473 (1871), it still held that "the musket and bayonet," unlike weapons such as "dirks, daggers, slungshots, sword-canes, brass-knuckles, and bowie knives," were protected arms, *see id.* at 476 (emphasis

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[4] *Benson* may yet be overruled en banc. But even if that happens, it will not take away the panel decision's persuasive merit and faithfulness to this Court's precedent. Such a move would instead be further proof of the ongoing hostility of several courts towards the Second Amendment, and another reason this Court should grant certiorari in a case like this one immediately.

[5] To be sure, a bayonet could be used as a weapon on its own, so the analogy to a suppressor is not perfect. However, the purpose of the bayonet is not to be an unwieldy dagger; it is meant to be attached to a firearm, just like a suppressor. In one sense, bayonets go even further than suppressors in that they are an attachment that allows a firearm to be used lethally in total silence. Yet not one state banned using muskets equipped with bayonets (whether by banning such muskets or the bayonets made to be attached to them).

added). There thus can be no doubt that muskets equipped with bayonets were protected arms at the founding, even though bayonets were not necessary for muskets to function.

Yet even if suppressors are somehow not "arms," that would not change the result. As the Tenth Circuit recently explained, "[t]he Second Amendment's text is not limited to direct prohibitions on possessing or using firearms. It states that the 'right of the people to keep and bear Arms, shall not be infringed.'" *Ortega v. Grisham*, 148 F.4th 1134, 1143 n.3 (10th Cir. 2025); *see also United States v. Rahimi*, 602 U.S. 680, 691 (2024) ("when the Government regulates arms-bearing conduct, as when the Government regulates other constitutional rights, it bears the burden to 'justify its regulation.' ").

Given all of that, for suppressors to be restricted, they must be shown to fall within the historical tradition of regulating "dangerous and unusual" weapons. This seems a simple and obvious conclusion for anyone who has read this Court's precedent in good faith. Unfortunately, a number of lower courts are getting it wrong, and Amici urge this Court to finally correct them.

II. There Is No Relevant History of Requiring Registration of Each Individual Arm as the NFA Does.

In *Bruen*'s dicta, this Court indicated its approval of objective licensing regimes that "are designed to ensure only that those bearing arms in the jurisdiction are, in fact, 'law-abiding, responsible citizens.'" 597 U.S. at 38 n.9. But such licensing of *individuals* is very

different than requiring the registration of *every single firearm*. As the Petitioner also notes, Pet. 2, then-Judge Kavanaugh concisely explained the difference between licensing and registration schemes in a dissent written when he sat on the D.C. Circuit Court of Appeals: "Registration of all lawfully possessed guns — as distinct from licensing of gun owners or mandatory record-keeping by gun sellers — has not traditionally been required in the United States and even today remains highly unusual. Under *Heller's* history and tradition-based test, D.C.'s registration requirement is therefore unconstitutional." *Heller v. District of Columbia*, 399 U.S. App. D.C. 314, 340 (2011) (Kavanaugh, J., dissenting).

While Amici would contend that even licensing is historically suspect and prone to abuse,[6] they can agree with Justice Kavanaugh that it is at least far less abusive than requiring the registration of every individual firearm:

> Licensing requirements mandate that gun owners meet certain standards or pass certain tests before owning guns or using them in particular ways . . . Registration requirements, by contrast, require registration of individual guns and do not meaningfully serve the purpose of ensuring that owners know how to operate guns safely in the way certain licensing requirements can. For

[6] As an example, see the discussion of Santa Clara County's exorbitant concealed handgun license fees in section III, *infra*.

> that reason, registration requirements are often seen as half-a-loaf measures aimed at deterring gun ownership.

Id. at 361.

This is not just some academic exercise in constitutional theory. A number of otherwise law-abiding people have gotten themselves into deep legal trouble because they registered some, but not all, of their firearms. Such was the case in the sad story of Mr. Foehner that Amici opened this brief with. No public safety interest is served by locking citizens like him up in prison; they had already proven they are qualified to own firearms when their local government licensed them to do so.

It is also clear that the Founding generation would have never tolerated such a requirement. Remember, the Second Amendment was created by people who had just revolted against a tyrannical government. The Founders sought to guarantee the People had a final recourse should the new government they were forming also turn tyrannical. Tench Coxe, a delegate to the Annapolis Convention in 1786 and the Continental Congress in 1788, wrote of Madison's draft of the Second Amendment that "[w]hereas civil rulers, not having their duty to the people duly before them, may attempt to tyrannize, … the people are confirmed by the article in their right to keep and bear their private arms." *Remarks on the First Part of the Amendments to the Federal Constitution*, under the pseudonym "A Pennsylvanian" in the *Philadelphia Federal Gazette*, June 18, 1789, p. 2 col. 1 (as quoted in the Federal Gazette, June 18, 1789).

Coxe's view dominated the Founding era and Nineteenth Century. And the Second Amendment's original meaning was not understood to have changed thereafter. In a speech in the House of Representatives, Abolitionist Representative Edward Wade said the "right to 'keep and bear arms,' is thus guarantied, in order that if the liberties of the people should be assailed, the means for their defence shall be in their own hands." *Slavery Question: Speech of Hon. Edward Wade of Ohio in the House of Representatives*, August 2, 1856 (Buell & Blanchard Publishers, 1856).

Senator Charles Sumner's "The Crime Against Kansas" speech likewise bristled at the notion that slavery opponents in Kansas should be disarmed of their Sharps rifles by the proslavery government: "Never was this efficient weapon more needed in just self defence, than now in Kansas, and at least one article in our National Constitution must be blotted out, before the complete right to it can in any way be impeached." Charles Sumner, *The Kansas Question, Senator Sumner's Speech, Reviewing the Action of the Federal Administration Upon the Subject of Slavery in Kansas* 22–23 (Cincinnati, G.S. Blanchard, 1856).

Thomas Cooley, a longtime Michigan Supreme Court Justice, similarly wrote that "[t]he right declared was meant to be a strong moral check against the usurpation and arbitrary powers of rulers, and as necessary and efficient means of regaining rights when temporarily overturned by usurpation." Thomas M. Cooley, *The General Principles of Constitutional Law in the United States of America* 298 (1898).

Additional examples abound, and Amici's counsel collected dozens of them in a law review article. *See* C.D. Michel & Konstadinos Moros, *Restrictions "Our Ancestors Would Never Have Accepted": The Historical Case Against Assault Weapon Bans*, 24 Wyo. L. Rev. 89, 90 (2024). But there is no need to belabor the point: in addition to enabling personal self-defense, the Second Amendment exists as a last-resort check on government power, a failsafe to enable collective defense in the event a tyrant or foreign invader ever usurps our constitutional order. There can be no historical tradition of the government requiring the registration of each individual arm, when one of the Second Amendment's main purposes was to be a "doomsday provision" for the People to protect themselves from that very government if it became tyrannical. *Silveira v. Lockyer*, 328 F.3d 567, 570 (9th Cir. 2003) (Kozinski, J., dissenting); *see also Barnett v. Raoul*, 671 F. Supp. 3d 928, 940 (S.D. Ill. 2023) ("[A]lthough 'most undoubtedly thought [the Second Amendment] even more important for self-defense and hunting' the additional purpose of securing the ability of the citizenry to oppose an oppressive military, should the need arise, cannot be overlooked."). In short, registration of every firearm, let alone registration of individual firearm components, is antithetical to the Second Amendment's origins as an anti-tyranny provision.

If "shall not be infringed" means anything at all, it must mean that the People do not need individualized government documentation for each gun they own. There is no serious historical tradition that supports

arguing otherwise, and this Court should grant the Petition so it can confirm as much.

III. Special Taxes on Protected Arms Lack Historical Support.

A recent tactic that some states and localities that are hostile to the Second Amendment are engaging in to undermine *Bruen* is raising the financial burden of exercising the right to keep and bear arms. For example, getting a concealed handgun license in Santa Clara County, California, now costs approximately $2,000 in total expense. Brandon Pho, *State Gun Group May Sue Santa Clara County Over License Fees*, San José Spotlight (Feb. 27, 2025), https://sanjosespotlight.com/state-california-gun-group-may-sue-santa-clara-county-over-concealed-carry-weapons-permit-license-fees/.[7]

Also in California, in 2023, the legislature adopted a law that places an additional 11% tax on all gun and ammunition sales, calling it a "sin tax." *Bills of 2023: Newsom Signs 'Sin Tax' on Guns and Ammo*, Signal SCV (Dec. 31, 2023), https://signalscv.com/2023/12/bills-of-2023-newsom-signs-sin-tax-on-guns-and-ammo/. This is on top of a federal 11% excise tax, an approximately $37 background check fee in California, and regular sales tax.

None of this is permissible, as it has long been established that constitutional rights may not be taxed. *See, e.g.*, *Minneapolis Star & Trib. Co. v.*

[7] Some of the Amici here are now suing the County of Santa Clara due to those exorbitant fees. *See* First Amended Complaint, *Blank v. Santa Clara County*, No. 5:25-cv-08027-EJD (N.D. Cal. Nov. 14, 2025).

Minnesota Comm'r of Revenue, 460 U.S. 575 (1983). That should apply to the Second Amendment as well, as it is not a "second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees that we have held to be incorporated into the Due Process Clause." *McDonald v. City of Chicago*, 561 U.S. 742, 780 (2010).

This case presents an excellent opportunity for this Court to begin to address the growing problem of the government financially burdening Second Amendment conduct. It can make clear that special taxes on protected arms (as opposed to generally applicable sales taxes) are unconstitutional, and it should do so because our historical tradition is clear on this point.

The earliest possible historical analogues of taxes on firearms were not taxes at all, but fines for various violations. For instance, a 1762 New York colonial law barred storing more than 28 pounds of gunpowder for those who lived in New York City, and if violated, a fine of Ten Pounds was assessed. *Laws, Statutes, Ordinances and Constitutions, Ordained, Made and Established, by the Mayor, Aldermen, and Commonalty, of the City of New York, Convened in Common-Council, for the Good Rule and Government of the Inhabitants and Residents of the Said City* 39–40 (John Holt, New York 1763) (Number 21—A Law for the Better Securing of the City of New York From the Danger of Gun-Powder, §§ 1–6).

If someone chose to have more than 28 pounds of gunpowder, they had to store it at a designated "Powder-House," which required a fee of three

shillings per barrel of powder. But that was less of a "tax" and more of a fee for using the powder-house, and in any case, would only apply to those who wanted to have more than 28 pounds of gunpowder. Powder-storage laws in general were not motivated by a desire for taxation or even gun control, but fire-prevention; black powder was extremely combustible, and thus a major safety hazard to the densely packed and mostly wooden cities of the time. *See Heller*, 554 U.S. at 632 (characterizing colonial powder storage laws as pertaining to fire-safety and not gun control).

Other early examples demonstrate the limits of relying on colonial history. A 1759 New Hampshire law required foreign ships coming into port to pay a tax of two shillings per pound of gun powder, in order to financially support "his Majesty's fort and fortifications within this province." *Acts and Laws of His Majesty's Province of New Hampshire in New England: With Sundry Acts of Parliament; by Order of the Governor, Council and Assembly, Pass'd October 16th, 1759* 63 (Daniel Fowle, Portsmouth, NH 1761) (An Act About Powder Money, passed Oct. 16, 1759).

While superficially similar in that this was a tax on gunpowder, a necessary component to firearms, it is not the same as the NFA's far higher tax on each suppressor sold, and it only applied to foreign ships. Moreover, with similar laws being sparse or nonexistent, this seems to be an outlier, and "in using pre-ratification history, courts must exercise care to rely only on the history that the Constitution actually incorporated and not on the history that the

Constitution left behind." *Rahimi,* 602 U.S. at 723 (Kavanaugh, J., concurring).

In the Nineteenth Century, some laws began to appear that were slightly more similar to the NFA's taxes. For example, an 1844 Mississippi law taxed Bowie knives at one dollar, and dueling or pocket pistols at two dollars. *Laws of the State of Mississippi* 57–58 (C.M. Price & S. Rohrer 1844) (An Act to Amend and Reduce into One the Several Acts in Relation to the Revenue of This State, and for Other Purposes, ch. 1, § 1, approved Feb. 24, 1844). But to understand the critical distinction, it is important to note what was *not* taxed: the prevailing civilian-owned combat weapons of the time. Bowie knives and pocket pistols were seen as a criminal threat when carried concealed in that era, when those who carried lawfully did so openly. *See Nunn v. State*, 1 Ga. 243, 251 (1846) (contrasting constitutionally protected open carry from concealed carry). The tax did not apply to other arms which were typically openly carried. *See also Bruen,* 597 U.S. at 47–49 (1686 colonial law was not analogous to modern New York carry laws because it only restricted the concealed carry of pocket pistols, which were not in common use for lawful purposes at the time).

Other similar taxes existed around this late-antebellum period, like an 1838 law from territorial Florida that taxed dealers (but not buyers) of dirks, pocket pistols, and bowie knives $200 per year. *Acts of the Legislative Council, of the Territory of Florida, Passed at its Sixteenth Session, Commencing Monday January 1st, and Ending Sunday February 11th,*

1838. With also the Resolutions of a Public or General Character Adopted by the Legislative Council 36 (S.S. Sibley, Printer, Tallahassee, FL 1838) (No. 24, § 1). That law also taxed those who publicly carried those specific weapons ten dollars per year. But again, these were not the civilian-owned combat arms of their time, but rather weapons seen as "dangerous and unusual" that were used in petty crimes and personal disputes. Moreover, these taxes existed almost exclusively in Southern states and territories, and we have to be careful about relying too heavily on laws from the South given that *Bruen* looks for a *national* tradition.

Still, even if these laws were representative of the nation as a whole, there remains the problem that the taxes they enacted did not apply to the sorts of arms in common use for lawful purposes. A North Carolina law from 1856 makes this especially clear, specifically exempting pistols used for mustering from a $1.25 tax that otherwise applied on all pistols and bowie knives (though the tax applied only if the weapons in question were carried publicly, mere possession was untaxed). *An Act Entitled Revenue*, ch. 34, § 23, pt. 4, 1856-1857 N.C. Pub. Laws.

After the Civil War, many southern territories under reconstruction adopted "Black Codes," which aimed to keep newly freed former slaves repressed, often with the assistance of the Ku Klux Klan. Strategic disarmament of Black Americans was part of this nefarious project, as even President Grant complained to Congress. *See* H. Journal, 42nd Cong., 2d Sess. 716 (1872). It's thus no surprise that the Jim

Crow era also saw a much more rapid adoption of taxes on certain weapons in the South.

Some of these were barely veiled at all. An 1867 Mississippi law assessed a tax of between five dollars and fifteen dollars on "every gun and pistol," and if the tax was not paid, the Sheriff was obligated to seize that gun. This seems to be a very close NFA analogue, given it applied to all guns, and the tax was considerable, ranging from $108 to $325 per gun in today's dollars. 1867 Miss. Laws 327–28, *An Act To Tax Guns And Pistols in The County Of Washington*, ch. 249, § 1. But the law *only* applied in Washington County, Mississippi, and not the whole state. According to the 1860 census, Washington County was made up of 92% enslaved people, and even to this day is still over 70% African American. *See* U.S. Dep't of the Interior, Census Office*, Population of the United States in 1860,* 270 (Washington, Gov't Printing Office 1864). This law was therefore not some general tax on guns; it was a racist effort to price freedmen out of firearm ownership.

The last large category of taxes related to weapons and arms in the latter parts of the Nineteenth Century are occupational taxes on dealers. These were not assessed on a per-gun basis and are not similar to the NFA's scheme. For example, an 1885 Kentucky law imposed a tax of fifty dollars on dealers of pistols and bowie knives. *Acts of the General Assembly of the Commonwealth of Kentucky* 154 (J. Bradford, Frankfort 1857).

While the above is not a comprehensive listing of every historical tax on weapons and arms, it does

provide a representative sample of the sorts of pre-1900 laws that existed imposing such taxes. There is simply no historical tradition of taxing the possession of arms used for lawful purposes. This Court should confirm the same by granting certiorari in this case.

CONCLUSION

As Chief Justice Roberts put it just recently, "it's a new world. It's the same Constitution." Registration and taxation of individual arms are requirements that make a mockery of the Second Amendment's historical tradition and are exactly the sort of abuses the founders would never have tolerated. For the reasons discussed above and in Petitioner's brief, this Court's intervention is appropriate here, as it would provide an opportunity to address numerous critical questions.

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