

PROTESTS, INSURRECTION, AND THE SECOND AMENDMENT

On the Origins of Republican Violence

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The U.S. Capitol Siege and the Second Amendment Imaginary

The January 6, 2021, attack on the U.S. Capitol was an armed insurrection in the most literal sense possible. Participants carried arms ranging from handguns, assault rifles, homemade napalm, and spears to a “lacrosse type stick.”¹ Five people were killed. It was also an insurgency soaked with images that situated gun possession as a historical tenet — and perhaps the most important tenet — of American citizenship. And while it was not explicitly mentioned in these flags and insignias, the role of the Second Amendment as an individual right to bear arms outside of any state-organized militia was readily apparent. It worked on the day as a diffuse, ambient background norm valorizing the protesters and their specific choice of protest instruments. Further into the background but no less important was a decades-old National Rifle Association (NRA) campaign warning against federal and state gun regulation by conjuring the specter of a repressive federal government and feeding a “far right worldview of grievance and siege.”² The events of January 6 allowed that narrative of distrust to operate as a backdrop for the performance of citizenship in and through arms.

The pageantry of the day, indeed, went beyond the NRA to link armed political action to the nation’s founding and its Constitution. Among the banners flown by the mob that day, for example, was a Confederate flag with an assault rifle and the words “Come and Take It” superimposed. Other iconography, while less plainspoken, harked back even earlier to stake a claim to the legacy of the American Revolution. The “three percenter” flag — a Roman numeral three wreathed in stars — is a (factually challenged) call back to the Revolutionary War and the fiction that only 3 percent of the public took up weapons against British tyranny.³ It is flown today by militias who are violently opposed to firearm regulation in the name of the Second Amendment.⁴ Rosanne Boyland, the woman who was trampled to death by her fellow rioters, carried what is called the “Gadsden” flag;⁵ she was one of many who did so. Designed by the South Carolina “Sons of Liberty” leader Christopher Gadsden (1724–1805), the flag is a field of striking yellow with a coiled rattlesnake emblazoned on it. Under the snake are the words “DONT TREAD ON ME.”⁶

Among the sea of flags surrounding the U.S. Capitol that day, the Gadsden flag leapt out as an expressionistic smudge of kindergarten color — as it must have done when flown in the 1770s. Then, John Jay briefly considered it as the ensign for the new Continental navy.⁷ Its basic elements were reassembled, with some modifications and additions, into the Alabama secession flag of 1861, which also featured a snake along with the logo “Noli me tangere.”⁸ Subsequently, the same congeries of images and words were picked up by the Tea Party movement that rallied against President Barack Obama.⁹ And then in 2014, a married couple named Jerald and Amanda Miller who shot two police officers at a Las Vegas pizza restaurant left behind a version of the Gadsden flag along with a swastika.¹⁰

No one should imagine that the symbols elected by a violent, insurrectionary movement have a simple causal link to its conduct or its aims; the past, instead, is a *Wunderkammer*, wherein all sorts of strange and marvelous connections can be wrought afresh and as events of the day demand. For one thing, the 18th century provides many instances of “mobs gathering to conserve existing power arrangements,” including customary understandings of the Constitution.¹¹ The January 6 mob was thus reaching for a durable — and historically storied — kind of political agency.

Further, the mob’s choices of symbols and slogans are not without sense. Their choices reflect at minimum a distinct sense of historical belonging. They pick out not some abstract nation but the specifically American one in bold, simple, and slashing strokes. By loudly declaiming fidelity to a past many recognize as theirs, they lodge

an appeal to “exigencies which are national in character” and thus offer themselves as a potential vehicle for wider alliances to be “knotted together.”¹² Without a kernel of historical truth, that is, they would not and could not serve their aspirational and organizational ends. The hard instruction of the January 6 insurrection (one of many) is that our constitutional tradition can well supply the inspiration for insurrectionary violence against a fair and legitimate election result at the behest of a manifestly illiberal demagogue with a demonstrated penchant for mistruths. Just as we must look for weaknesses within our extant institutions, so too must we reexamine our inherited trove of ideas for their unanticipated implications.¹³

What, then, is the original moment in which the ideas of citizenship and arms are tied fatefully together in our constitutional tradition? And can the idea of arms being deployed against a congregation of the elected be extracted from the historical moment at which the Second Amendment was ratified? These questions may not have an obvious, immediate payoff in terms of present debates about the Second Amendment. But there is some use, I think, in reflecting on the ideas of liberties, the nation’s violent origins, and its citizens’ obligations that stock our overbrimming cupboard of ready-to-wear political and constitutional rhetoric. To be sure, they are too loose-fitting and too flexible at the joints to determine the course of history. Nevertheless, they hang upon us and drag us down, sometimes without our full and proper comprehension.

This essay reflects on the tangled relationship between a historical stock of political ideas, the public consciousness into which some bubble up, and legal doctrine that works not just as a vehicle of but also a receptacle for the process of intellectual filtration, selection, and transmutation. To excavate the history of ideas here is not to pursue an exercise in ideological diagnosis or philosophical philology. It is an exercise, more modestly, in ironizing the constitutional present.

Arms Against Tyranny

The obvious political ambition of the right to bear arms is aptly described as an embarrassment to the Supreme Court. It is mentioned as an aside within Justice Antonin Scalia’s 2008 opinion in *District of Columbia v. Heller*, creating for the first time in American law an individual constitutional right to bear arms. There, Justice Scalia wrote that “when the able-bodied men of a nation are trained in arms and organized, they are better able to resist tyranny.”¹⁴ Without a blink or swerve, Justice Scalia would go on to say just pages later that “weapons that are most useful in military service — M-16 rifles and the like — may be banned,” even when they are the only meaningful instruments for the armed repudiation of a “tyranny” worth its salt.¹⁵ Two years later, Justice Samuel Alito, writing in *McDonald v. City of Chicago*, quoted Justice Joseph Story to the effect that the Second Amendment right was “a strong moral check against the usurpation and arbitrary power of rulers; and will generally, even if these are successful in the first instance, enable the people to resist and triumph over them.”¹⁶ Yet having acknowledged that this fear had “largely faded as a popular concern,” he pivoted to the firearm’s value as a modality of self-defense as an intellectual justification for an extension of the Second Amendment against the several states.¹⁷ In these passages, a political account of the Second Amendment’s origin is briefly glimpsed, but then relegated to the attic of constitutional curiosities.

The standard historical accounts of the Second Amendment, however, recover that political account and recapitulate it in terms of what has come to be known as the “republican” tradition of political thought. In his justifiably famous article “The Embarrassing Second Amendment,” Sanford Levinson invokes the English commonwealth’s-man James Harrington for the idea that “armed” and “independent yeomen” are the best protection against “aggressive foreign monarchs or scheming demagogues within the nation itself.”¹⁸ Writing in

the same pages two years later, David C. Williams similarly locates the political origins of the Second Amendment in the context of 17th-century England and the migration of its republican ideals across the Atlantic.¹⁹ More diffusely, Mark Tushnet would describe the “prevailing political theory” of the founding as encompassing a “right of armed resistance.”²⁰ Other writers, reaching deeper, have homed in more precisely on the English experience around the Civil War and the Glorious Revolution as pivotal to the formulation of the Second Amendment.²¹

Yet this genealogy is incomplete. The commonwealth’s-men derived their idea of the armed yeoman stoutly strutting around his manor and vigorously declaiming his prerogatives from a yet older intellectual tradition. In perhaps the most well-respected history of the republican tradition, John Pocock comments that the Second Amendment “affirms the relationship between a popular militia and popular freedom in language directly descended from that of [Niccolò] Machiavelli,”²² the 16th-century Florentine diplomat, bureaucrat, playwright, and scholar. One of the early historical treatments of the Second Amendment by Robert Shalhope relies on Pocock to reach the same conclusion. Tushnet, Don Kates, and Wendy Brown also mention the Florentine scholar and diplomat in passing.²³

Perhaps the most sensitive and extensive excavation of that earlier history has been supplied, unsurprisingly, by a philosopher. In a closely argued reading of Machiavelli — one to which I am appropriately indebted — Fermin DeBrabander has argued that his work is best understood as embodying a militia-centered understanding of the right to bear arms oriented toward the external defense, or imperial expansion, of the state.²⁴ That is, he does not find in Machiavelli any trace of the anti-tyranny thinking that finds its way into *Heller* or *McDonald* — let alone any warning of the flags of January 6th.

The Armed Machiavel as Citizen

I think that there is more to the Machiavellian roots of the Second Amendment than the idea of a citizen militia that DeBrabander incisively excavates. Given the nature of Machiavelli’s oeuvre, this is perhaps not surprising. In a recent brilliant reconstruction, Patrick Boucheron observes that Machiavelli’s complexion as a writer can be “as changeable as a storm-tossed sky . . . because its owner hardly had the time to choose among his different talents.”²⁵ A bit like Nietzsche, Boucheron’s Machiavelli contains multitudes. He “does the police in different voices,”²⁶ hectoring at different moments the princely tyrant, the jobbing proletariat, and the aspiring democrat. Seeking different things, DeBrabander and I therefore locate different possibilities in a fractured and fluid set of texts.²⁷ Let what follows be deemed another corner of Boucheron’s tempestuous horizon.

Across his various works, Pocock has argued, Machiavelli was concerned with the “social means, whereby men’s natures might be transformed to the point where they become capable of citizenship.”²⁸ Machiavelli, after all, had been a diligent servant of the Florentine republic until it was overthrown and then an ardent supporter of independence — one might even say of democratic rule — if with a heavily parochial and even xenophobic accent. A profitable way to read the main texts left by Machiavelli (two of which were not published in his lifetime), therefore, is to ask what they have to say about the “social means” whereby republican citizenship is realized. There are a handful of clues linking the concept of effectual citizenship to the fact of armed citizenship scattered across various texts. To understand these, it is useful to proceed through the three main texts now associated with Machiavelli, gathering together these hints and molding them into a singular and cohesive claim. I start with the brief and infamous handbook for the new prince, then turn to Machiavelli’s reflections on ancient Roman history, and finally consider his guide to the conduct of warfare.

Perhaps the starkest statement is to be found in *The Prince*, a book that is expressly not concerned with republics but that repeatedly dallies with the possibility of a people who gingerly hold their prince at arm's length. By chapter 12 of that book, Machiavelli had already worked his way through a taxonomy of the different ways in which princes can come to have power in the first instance and was speaking of the stability of states more generally. Here, he made the linkage between citizens' arms and the quality of a polity (including a republic) explicit:

And the principal foundations that all states have, new ones like old or mixed ones, are good laws and good arms. And because there cannot be good laws where there are not good arms, and where there are good arms there are good laws, I will leave aside reasoning of laws and speak of arms.²⁹

It is from this premise that Machiavelli's denunciation of mercenary armies as "useless and dangerous" proceeds.³⁰ But at this point in his text, the argument for linking arms and citizenship is not an instrumental one (that comes later and separately in the text). This is rather a claim that a necessary reciprocal connection is obtained between "good laws" and "good arms."

The book does not here spell out what counts as "good law," let alone a praiseworthy polity. But there are some suggestive threads in the text that follows. A state with "good laws" is characterized by a measure of cohesion across social classes, fiscal temperance, and military preparedness. Consistent with this understanding of the armed citizen as necessary to the existence of "good laws" is Machiavelli's subsequent embrace of the prince's efforts to arm his subjects and keep them armed, "because by arming them, those arms become yours, those whom you suspect become faithful, and those who were faithful keep themselves so."³¹ A successful prince who follows his precepts will "bring honor to him[self] and good to the community of men."³² German city-states are offered as a positive example.³³

Perceptive commentators have glossed Machiavelli as connecting citizenship and arms-bearing. As Boucheron notes, a citizen army creates a "political cohesion" that succors the republic.³⁴ And as John McCormick notes, the presence of a militia would also undermine the need for the republic to turn to wealthy families for loans at exorbitant interest rates, financial measures that would increase interclass tensions within the polity.³⁵ Yet at the same time, Machiavelli recognized the constraint that an armed citizenry places on the prince. The latter will not be able to suppress popular rancor against him, as "a prince can never secure himself against a hostile people."³⁶

Next in the oeuvre comes *The Discourses*. This work is a commentary on Livy's famed history of Rome, *Ab Urbe Condita*. It too takes up the connection between the martial character of a people and the quality of its government. Indeed, on Pocock's reading, among its central contentions is the "militarization of citizenship."³⁷ Speaking not only of Rome but more generally, the Florentine thus declaimed that "where military organization is good there must needs be good order, and that rarely does it happen that good fortune does not accompany it."³⁸ Yet here, even as it echoes his earlier text, Machiavelli further introduced a tension between the goals of good rule and princely survival that did not feature in *The Prince*:

If, then, you want to have a large population and to provide it with arms so as to establish a great empire, you will have made your population such that you cannot handle it as you please. While, if you keep it either small or unarmed so as to be able to manage it, and then acquire dominions, either you will lose your hold on it or it will be at the mercy of anyone who attacks you.³⁹

As in *The Prince*, an unarmed populace is a royal road to dissipation and defeat. But an armed population, albeit necessary, imposes constraints on what a ruler can do. For "without a large population, and this well

armed, such a republic will never be able to grow.”⁴⁰ As Pocock puts it, “where there is good military organization, there must also be good laws; and where there are *buoni ordini* and *buona milizia*, there will almost certainly be *buona fortuna* also.”⁴¹ Again, these arguments are presented separately from any consideration of a citizen army’s military value.⁴² They are complements to that pragmatic vector of thought. Yet they also sit uneasily beside another set of crosscutting concerns that Machiavelli expressed about the people at large: the public, he explained, is easily misled “by the false appearance of good,” and so “often seeks its own ruin.”⁴³ Hence, a “republic which could avoid all contact with her neighbors might limit her arms and live in aristocratic stability,” but this is practically not possible.⁴⁴

Similar themes are to be found in his treatise on warfare, aptly called *Art of War*. There, the connection between an armed citizenry and external defense that DeBrabander underscores is more evident. Yet at the same time, Machiavelli instructed that a “wise republic” will eschew mercenaries, but ought to “use its citizens as heads in war, and in times of peace it ought to want them to return to their art [i.e., previous trades].”⁴⁵ And again, he returned to the same theme of the armed citizenry: “[A]rms in . . . citizens hands could not make them tyrants. . . . Since they had a good government, they did not have to fear their own arms.”⁴⁶ In that volume, Pocock argues, Machiavelli made “less explicitly” the argument that “only the soldier can be a good citizen.”⁴⁷ Discussing the book’s preface, Pocock thus explains that Machiavelli was “employing the concept of armed *virtù* to transform the participation of the many in citizenship.”⁴⁸ The “political conditions which permit the arming of all citizens” are distinct from, albeit also related to, “the moral conditions in which they are willing to fight for the republic.”⁴⁹

Machiavelli at the Ramparts

In these textual tracteries, therefore, can be found an account of a republic that is successful — and virtuous — because (and only if) its citizens are armed. If Machiavelli’s thought shaped Harrington’s, and Harrington’s ideas infused the generation of the framers, then this is one possible origin story for the individual right to bear arms.

Just as Machiavelli predicted, the prince (read now: the establishment portion of the federal government) could not be secure in his footings with an armed and restive populace alert for betrayal. The latter would hold princely feet to the fire, foreclosing tyranny. So one can imagine a January 6 insurrectionist scribbling on a flag with Machiavelli’s dictum that “it is difficult, or rather impossible, . . . to maintain a republican form of government in states which have become corrupt.”⁵⁰ And indeed, they might have added to that dictum a further piece of Machiavellian advice: that upon the occasion of that corruption, “it would be necessary to introduce into it a form of government akin rather to a monarchy than to a democracy.”⁵¹ All the pieces of a full-blown theory of insurrection, in other words, are present if scattered through the Machiavellian corpus to provide an intellectual foundation for the January 6 attack on the U.S. Capitol, as well as *Heller*’s individual rights version of the Second Amendment.

Yet — as I have said — Machiavelli contains multitudes. He cannot be conscripted simply into the mobs of January 6. His texts instead buzz with irony and contradiction. Look then a few pages further in *The Discourses* from where we have already lingered, and you will find a redolent warning: that “the populace, misled by the false appearance of good, often seeks its ruin, and, unless it be brought to realize what is bad and what is good for it by someone in whom it has confidence, brings on republics endless dangers and disasters.”⁵² Or read *The Prince* on men⁵³ as “ungrateful, fickle, dissimulators, apt to flee peril, covetous for gain” so that “the prince who

bases himself entirely on their words . . . falls to ruin.”⁵⁴ Far better then to “turn men’s brains with guile,” and “to be a fox to recognize traps and a lion to dismay the wolves.”⁵⁵

It may therefore be ironic, albeit not surprising, that the most explicit heirs of Machiavelli are not to be found on the political right but on the political left. They underscore passages in *The Discourses* in which Machiavelli described a conflict internal to the republic between the people and the *grandi*, or well-off, as a precursor to contemporary concerns about economic inequality and the concentrated power of wealthy elites.⁵⁶ Their emphasis is a reconfiguration — albeit a legible one — of the populist dichotomy between the people and the establishment around which the January 6 insurrection was organized. They come armed with citations, not assault rifles.

Rather than picking up the threads of Machiavelli’s argument in respect to an armed citizenry — a piece of his work that, so far as I can tell, the political left tends to sideline — scholars instead squeeze him for his insights into institutional reform. Camila Vergara, for example, focuses on a complex series of reforms in the little-known text *A Discourse on Remodeling the Government of Florence*.⁵⁷ The more general lesson she draws from this work is a need for periodic “constitutionalization of plebian ordinary and extraordinary powers . . . for keeping a republic from domination.”⁵⁸ McCormick, in an earlier influential work, frames the Machiavellian choice as lying between “arm the people militarily with weapons and training” or “arm them constitutionally with tribunes and assemblies.”⁵⁹ McCormick proposes a revised version of a Roman institution called the tribunal of plebs, which would have “elements of randomization, wealth-exclusion, and direct plebian judgment.”⁶⁰ Where the January 6 protestors implicitly fought for the deinstitutionalization of political life and its transmutation into the personality and humors of a single man, Machiavellian critics from the left hence seek to deepen and renew an institutional space for democratic life that has been calcified by the strictures of the Constitution’s amendment rule in Article V.⁶¹ In lieu of the charismatic savior-savant, they seek the transforming fix.

At the same time, one might question whether the choice is really either/or, as Vergara and McCormick postulate, as opposed to a matter of both/and. In previous eras, the possibility of radical democratic change *was* closely associated with the possession and use of arms. Such radical politics have withered in our lifetime, but there is no reason to think that they cannot or will not return. The last decade has seen an increasing scrambling of left and right positions. It is far too premature to assume that right- and left-Machiavellianism will not arc together in the future, intersecting in unforeseen and disruptive ways.

At the very least, we are well served by keeping in view the complex fonts from which our present anxieties flow. The seemingly singular intellectual foundation on which both the Second Amendment and the January 6 insurrection rest is less stable and more tumultuously febrile than might have been believed. The notion that our past is what we make of it applies here, no less than in other spheres of American public life.

Endnotes

- ¹ Andrew Beaujon, *Guns, Brass Knuckles, Homemade Napalm: Read Some of the Documents from Arrests After the Capitol Riot*, WASHINGTONIAN (Jan. 11, 2021), <https://www.washingtonian.com/2021/01/11/guns-brass-knuckles-homemade-napalm-read-some-of-the-documents-from-arrests-after-the-capitol-riot>.
- ² *The Role of Guns & Armed Extremism in the Attack on the U.S. Capitol*, EVERYTOWN RSCH. & POL. (Jan. 28, 2021), <https://everytownresearch.org/report/armed-extremism-us-capitol>.
- ³ *Three Percenters*, ANTI-DEFAMATION LEAGUE, <https://www.adl.org/resources/backgrounders/three-percenters> (last visited Mar. 27, 2021).
- ⁴ *Id.*
- ⁵ Evan Hill et al., *Videos Show How Rioter Was Trampled in Stampede at Capitol*, N.Y. TIMES (Jan. 15, 2021), <https://www.nytimes.com/2021/01/15/us/rosanne-boyland-capitol-riot-death.html>.
- ⁶ E. STANLY GODBOLD JR. & ROBERT HENLEY WOODY, CHRISTOPHER GADSDEN AND THE AMERICAN REVOLUTION 142 (1982). Apparently, the omission of the apostrophe is on purpose.
- ⁷ Hugh F. Rankin, *The Naval Flag of the American Revolution*, 11 WM. & MARY Q. 340, 342–43 (1954).
- ⁸ Rather strikingly, this phrase is first found in John 20:17 (“Μή μου ἄππου”); it conveys the idea of “stop clinging on to me.” Illustrating one of the themes of this essay, notice here the way in which the slogan’s meanings drift and morph with time.
- ⁹ KATE ZERNIKE, *BOILING MAD: INSIDE TEA PARTY AMERICA*, *passim* (2010).
- ¹⁰ *Las Vegas Shooting Suspects Left Swastika, “Don’t Tread on Me” Flag on Dead Officers*, CBS NEWS (June 9, 2014), <https://www.cbsnews.com/news/las-vegas-shooting-suspects-left-swastika-dont-tread-on-me-flag-on-dead-officers>.
- ¹¹ Farah Peterson, *Constitutionalism in Unexpected Places*, 106 VA. L. REV. 559, 569 (2020).
- ¹² ANTONIO GRAMSCI, *SELECTIONS FROM THE PRISON NOTEBOOKS* 241 (Quintin Hoare & Geoffrey Nowell Smith trans., 1971).
- ¹³ On institutional reforms, see generally TOM GINSBURG & AZIZ Z. HUQ, *HOW TO SAVE A CONSTITUTIONAL DEMOCRACY* (2018).
- ¹⁴ *Dist. of Columbia v. Heller*, 554 U.S. 570, 598 (2008).
- ¹⁵ *Id.* at 627.
- ¹⁶ *McDonald v. City of Chicago*, 561 U.S. 742, 770 (2010).
- ¹⁷ *Id.*
- ¹⁸ Sanford Levinson, *The Embarrassing Second Amendment*, 99 YALE L.J. 637, 647 (1989).
- ¹⁹ David C. Williams, *Civic Republicanism and the Citizen Militia: The Terrifying Second Amendment*, 101 YALE L.J. 551, 572–73 (1991). Williams, indeed, rejects almost out of hand the relevance of Machiavelli; see *id.* at 560, which this essay explores.
- ²⁰ MARK V. TUSHNET, *OUT OF RANGE: WHY THE CONSTITUTION CAN’T END THE BATTLE OVER GUNS* 12 (2007).
- ²¹ See, e.g., David T. Hardy, *The Rise and Demise of the “Collective Right” Interpretation of the Second Amendment*, 59 CLEV. ST. L. REV. 315, 319 (2011).
- ²² J.G.A. POCOCK, *THE MACHIAVELLIAN MOMENT: FLORENTINE POLITICAL THOUGHT AND THE ATLANTIC REPUBLICAN TRADITION* 528 (rev. ed. 2016).
- ²³ Wendy Brown, *Guns, Cowboys, Philadelphia Mayors, and Civic Republicanism: On Sanford Levinson’s The Embarrassing Second Amendment*, 99 YALE L.J. 661, 662–63 (1989); Don B. Kates Jr., *Handgun Prohibition and the Original Meaning of the Second Amendment*, 82 MICH. L. REV. 204, 232 (1983); TUSHNET, *supra* note 20, at 11.
- ²⁴ FIRMIN DEBRABANDER, *DO GUNS MAKE US FREE? DEMOCRACY AND THE ARMED SOCIETY* 101–14 (2015).
- ²⁵ PATRICK BOUCHERON, *MACHIAVELLI: THE ART OF TEACHING PEOPLE WHAT TO FEAR* 10 (Willard Wood trans., 2018).

²⁶ The working title of T.S. Eliot's *The Wasteland*.

²⁷ ERICA BENNER, *BE LIKE A FOX: MACHIAVELLI IN HIS WORLD* xvii (2017).

²⁸ POCOCK, *supra* note 22, at 193.

²⁹ NICCOLÒ MACHIAVELLI, *THE PRINCE* 45 (Angelo M. Codevilla trans. & ed., 1997) [hereinafter *THE PRINCE*].

³⁰ *Id.*

³¹ *Id.* at 77.

³² *Id.* at 94.

³³ *Id.* at 40–41.

³⁴ BOUCHERON, *supra* note 25, at 115.

³⁵ JOHN P. MCCORMICK, *READING MACHIAVELLI: SCANDALOUS BOOKS, SUSPECT ENGAGEMENTS & THE VIRTUE OF POPULIST POLITICS* 52 (2018).

³⁶ *THE PRINCE*, *supra* note 29, at 36.

³⁷ POCOCK, *supra* note 22, at 212.

³⁸ NICCOLÒ MACHIAVELLI, *THE DISCOURSES* 113 (Bernard Crick ed., Leslie J. Walker trans., rev. ed. 2003) [hereinafter *THE DISCOURSES*].

³⁹ *Id.* at 121.

⁴⁰ *Id.* at 122.

⁴¹ POCOCK, *supra* note 22, at 195.

⁴² *THE DISCOURSES*, *supra* note 38, at 218.

⁴³ *Id.* at 238–39.

⁴⁴ POCOCK, *supra* note 22, at 198.

⁴⁵ NICCOLÒ MACHIAVELLI, *ART OF WAR* (Christopher Lynch ed. & trans., 2003).

⁴⁶ *Id.* at 25.

⁴⁷ POCOCK, *supra* note 22, at 201.

⁴⁸ *Id.* at 202. Pocock's gloss is not obviously focused on one passage.

⁴⁹ *Id.* at 210.

⁵⁰ *THE DISCOURSES*, *supra* note 38, at 164.

⁵¹ *Id.*

⁵² *Id.* at 238.

⁵³ Women get no role in Machiavelli's corpus, and we would err by trying to make him into an egalitarian.

⁵⁴ *THE PRINCE*, *supra* note 29, at 62.

⁵⁵ *Id.* at 65.

⁵⁶ *THE DISCOURSES*, *supra* note 38, at 115–18.

⁵⁷ CAMILA VERGARA, *SYSTEMIC CORRUPTION: CONSTITUTIONAL IDEAS FOR AN ANTI-OLIGARCHIC REPUBLIC* 132–35 (2020). Vergara briefly mentions and rejects the idea of an armed citizenry. *Id.* at 127.

⁵⁸ *Id.* at 140.

⁵⁹ JOHN P. MCCORMICK, *MACHIAVELLIAN DEMOCRACY* 26 (2011).

⁶⁰ *Id.* at 171.

⁶¹ Aziz Z. Huq, *The Function of Article V*, 162 U. PA. L. REV. 1165 (2014).