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Op-Ed Contributor

Pirates of the Mediterranean

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IN the autumn of 68 B.C. the world's only military superpower was dealt a profound psychological blow by a daring terrorist attack on its very heart. Rome's port at Ostia was set on fire, the consular war fleet destroyed, and two prominent senators, together with their bodyguards and staff, kidnapped.

The incident, dramatic though it was, has not attracted much attention from modern historians. But history is mutable. An event that was merely a footnote five years ago has now, in our post-9/11 world, assumed a fresh and ominous significance. For in the panicky aftermath of the attack, the Roman people made decisions that set them on the path to the destruction of their Constitution, their democracy and their liberty. One cannot help wondering if history is repeating itself.

Consider the parallels. The perpetrators of this spectacular assault were not in the pay of any foreign power: no nation would have dared to attack Rome so provocatively. They were, rather, the disaffected of the earth: "The ruined men of all nations," in the words of the great 19th-century German historian Theodor Mommsen, "a piratical state with a peculiar esprit de corps."

Like Al Qaeda, these pirates were loosely organized, but able to spread a disproportionate amount of fear among citizens who had believed themselves immune from attack. To quote

Mommsen again: "The Latin husbandman, the traveler on the Appian highway, the genteel bathing visitor at the terrestrial paradise of Baiae were no longer secure of their property or their life for a single moment."

What was to be done? Over the preceding centuries, the Constitution of ancient Rome had developed an intricate series of checks and balances intended to prevent the concentration of power in the hands of a single individual. The consulship, elected annually, was jointly held by two men. Military commands were of limited duration and subject to regular renewal. Ordinary citizens were accustomed to a remarkable degree of liberty: the cry of "Civis Romanus sum" - "I am a Roman citizen" - was a guarantee of safety throughout the world.

But such was the panic that ensued after Ostia that the people were willing to compromise these rights. The greatest soldier in Rome, the 38-year-old Gnaeus Pompeius Magnus (better known to posterity as Pompey the Great) arranged for a lieutenant of his, the tribune Aulus Gabinius, to rise in the Roman Forum and propose an astonishing new law.

"Pompey was to be given not only the supreme naval command but what amounted in fact to an absolute authority and uncontrolled power over everyone," the Greek historian Plutarch wrote. "There were not many places in the Roman world that were not included within these limits."

Pompey eventually received almost the entire contents of the Roman Treasury - 144 million sesterces - to pay for his "war on terror," which included building a fleet of 500 ships and raising an army of 120,000 infantry and 5,000 cavalry. Such an accumulation of power was unprecedented, and there was literally a riot in the Senate when the bill was debated.

Nevertheless, at a tumultuous mass meeting in the center of Rome, Pompey's opponents were cowed into submission, the Lex Gabinia passed (illegally), and he was given his power. In the end, once he put to sea, it took less than three months

to sweep the pirates from the entire Mediterranean. Even allowing for Pompey's genius as a military strategist, the suspicion arises that if the pirates could be defeated so swiftly, they could hardly have been such a grievous threat in the first place.

But it was too late to raise such questions. By the oldest trick in the political book - the whipping up of a panic, in which any dissenting voice could be dismissed as "soft" or even "traitorous" - powers had been ceded by the people that would never be returned. Pompey stayed in the Middle East for six years, establishing puppet regimes throughout the region, and turning himself into the richest man in the empire.

Those of us who are not Americans can only look on in wonder at the similar ease with which the ancient rights and liberties of the individual are being surrendered in the United States in the wake of 9/11. The vote by the Senate on Thursday to suspend the right of habeas corpus for terrorism detainees, denying them their right to challenge their detention in court; the careful wording about torture, which forbids only the inducement of "serious" physical and mental suffering to obtain information; the admissibility of evidence obtained in the United States without a search warrant; the licensing of the president to declare a legal resident of the United States an enemy combatant - all this represents an historic shift in the balance of power between the citizen and the executive.

An intelligent, skeptical American would no doubt scoff at the thought that what has happened since 9/11 could presage the destruction of a centuries-old constitution; but then, I suppose, an intelligent, skeptical Roman in 68 B.C. might well have done the same.

In truth, however, the Lex Gabinia was the beginning of the end of the Roman republic. It set a precedent. Less than a decade later, Julius Caesar - the only man, according to Plutarch, who spoke out in favor of Pompey's special command

during the Senate debate - was awarded similar, extended military sovereignty in Gaul. Previously, the state, through the Senate, largely had direction of its armed forces; now the armed forces began to assume direction of the state.

It also brought a flood of money into an electoral system that had been designed for a simpler, non-imperial era. Caesar, like Pompey, with all the resources of Gaul at his disposal, became immensely wealthy, and used his treasure to fund his own political faction. Henceforth, the result of elections was determined largely by which candidate had the most money to bribe the electorate. In 49 B.C., the system collapsed completely, Caesar crossed the Rubicon - and the rest, as they say, is ancient history.

It may be that the Roman republic was doomed in any case. But the disproportionate reaction to the raid on Ostia unquestionably hastened the process, weakening the restraints on military adventurism and corrupting the political process. It was to be more than 1,800 years before anything remotely comparable to Rome's democracy - imperfect though it was - rose again.

The Lex Gabinia was a classic illustration of the law of unintended consequences: it fatally subverted the institution it was supposed to protect. Let us hope that vote in the United States Senate does not have the same result.

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