



THE FORTNIGHTLY DELIGHTFULLY BRIEF, PITHY AND WHOLLY IDIOSYNCRATIC NEWSLETTER.



Delightfully Brief

The suppression of piracy is now becoming a topic of more frequent conversation both within shipping and in the governments of states. The focus has intensified as reports of private armed guards shooting and killing imputed pirates are becoming more obvious and frequent. The shootings off the west coast of India created a furore undampened by the apparent sovereign immunity of the Italian government who seemed to employ the shooters. This is not the case with some more recent shootings which bring up concerns. The rule of law at sea is imperilled by these shootings many governments think. There is no true *a priori* liability shield available under any flag derailing the prosecution of owners, agents, guards, the master and all their abettors. Some laws, which apparently protect those involved in a shooting, are mere technical changes in regulations or more complex policy statements without the force of law. All this means that one can be charged for various things ranging from murder downward after a shooting because no immunity is in place. Those who suggest that self-defense is always applicable ignore that as an *a posteriori* defense which does not stop the wheels of a state's criminal system from turning and grinding away interminably in a mix of politics, strict liability laws, long delays in charging and other misapplications of policy in a legal territory largely unknown to guards, owners and prosecutors.

Pithy

In This Issue

- The Law in Danger
- IMO: Time for Action
- The Renaissance
- Urgings

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It is a proper government function to suppress piracy. The pittance of money given the coalition of EUNAVFOR does little which can be causally linked to any decline in piracy off Somalia. Indeed, it may be that mixed missions of terrorism suppression and piracy suppression are confusing to all parties involved. My good friend Clay Maitland and I discussed piracy on a Maritime TV presentation recently. It can be seen at [Maritime TV](#). The upshot was this: Clay and I agreed while appearing to disagree. Our differences are of approach and procedure and not substance. We must have armed guards. We must control them. The guard companies must be utterly transparent and vetted by a third party. The turning over of our oceans to unvetted thugs and buckaroos is intolerable and is simply the creation of a first cousin to piracy. The guarding of our ships properly with private armed persons under clear rules agreed to by the flag states is currently an absolute necessity. Clay proposes a Convention to Suppress Piracy. I have proposed tinkering with SOLAS to meet the same need. Either way, the IMO must act and act now. The situation grows more intolerable with each passing day. In the current economic cycle, states are gradually awakening to the fact expressed by a recent IMO general secretary: without shipping and trade half the world would starve to death and the other half would freeze to death. Piracy affects trade. It affects lives. It is time for the IMO to act and to act swiftly.

Wholly Idiosyncratic

Piracy is spreading in the general lawlessness of the world. We are going through a time of great creativity and change and of great violence. These have gone hand in hand historically. Rome, in the time just before the peak of the Empire and just after it, was in much the same situation. The Italian Renaissance as well as the northern European Renaissance and the first Industrial Revolution showed similar characteristics as those today. We can deplore the violence while we applaud the creativity. However creativity cannot be fully realized for the common good without suppressing the violence. A legitimate function of government is to keep the peace to allow creativity to flourish. Governments are now failing us with older models of governance which do not work. We will survive the current situation, but there must be a better way to do things.

Urgings

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