

STATEMENT BY THE GSLP/LIBERAL OPPOSITION 41/2007

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All the indications from Spain are that the issue over the exploration to identify the wreck of HMS Sussex and recover its contents in waters off Gibraltar is not about whether the ship in question is British or Spanish.

It has been clear from the very outset that the point at stake is the status of the waters in which the wreck lies and the consequent issues of sovereignty, jurisdiction and control over those waters.

This is why at the beginning of last year the Spanish civil guard approached the Odyssey Explorer and ordered it to stop the works and why the master of the vessel was summoned to appear in a court in La Linea. The Spanish authorities have contended that the works must be done in accordance with the laws of Andalucia, whose regional Government has competence over these issues.

Indeed, it must be obvious that if it were a Spanish ship that has been mistaken for HMS Sussex, the American exploration company would not be willing to go to the vast expense involved in recovering a vessel that might have some historical interest, but which is likely to contain olives rather than gold bullion.

The position of the Spanish administration at all levels is that they do not accept that Gibraltar has any territorial waters at all, other than those inside the Port which were ceded by the Treaty of Utrecht in 1713. Even though the United Kingdom is entitled to claim twelve miles of territorial sea for Gibraltar off our east side, at present they claim only three.

The UN Convention on the Law of the Sea of 1982 came into force in 1995 and this spells out international law on territorial waters. It set a new standard of twelve nautical miles which UN Member States could claim as their own territorial waters and it also applied to the waters of dependent territories. When ratifying the Convention, Spain put on record that this ratification could not be construed as recognition of any rights or status regarding the maritime space of Gibraltar that are not included in article X of the Treaty of Utrecht.

This means that Spain does not recognise the jurisdiction of British waters off the east coast up to a three-mile limit and neither do they accept that the remaining nine miles of the twelve miles that could be claimed are international waters. They consider all the twelve miles from our shores on the east side to be Spanish waters.

The only reason why the Spaniards have been able to adopt this stand has been because the wreck is outside the existing three mile limit and the UK has been unwilling in the past to establish a twelve mile limit to the territorial waters of Gibraltar, as it has done in virtually every other colony.

The UK has not extended the territorial waters of Gibraltar in order not to upset Spain.

What we have here, as has happened on so many occasions, is a situation where decisions made in the past in order to placate Spain and not upset its sensibilities over Gibraltar come back to haunt us. This strategy is clearly mistaken and in the long run it carries a political and sometimes an economic price.

Spain, of course, does not and cannot claim the content of the sunken vessel which is a British wreck. Spain would not be able to claim the vessel even it was wrecked outside the ports of Cadiz or Malaga. This is simply a red herring.

The insistence of Spain in not permitting further exploration to go ahead without their involvement and participation is simply a way of asserting their illegitimate claim and attempting to establish a precedent of rights over waters that they do not and should not have.

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