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In the year one thousand nine hundred and eighty-four, the twenty-sixth day of September.

Before the Judicial Greffier

BETWEEN	Broad Street Investments (Jersey) Limited & ors	PLAINTIFFS
AND	National Westminster Bank PLC & ors	DEFENDANTS

This was an application on the part of the plaintiffs that I should make an order under Rule 6/19 of the Royal Court Rules, 1982, referring to the Royal Court for its determination before the action is set down for hearing the following questions raised in the pleadings in the action, that is to say -

- (1) Whether the investigation works proposed by the plaintiffs are unnecessarily extensive and expensive and whether a thorough investigation of the structure of the premises should be undertaken prior to the trial herein; and
- (2) If the Court deems that such an investigation will be necessary, whether the occupiers of 21 Broad Street need to vacate the premises and move their business to other premises to facilitate such an investigation.

I have carefully considered the submissions put to me by Mr. Mourant for the plaintiffs and by Mr. Birt on behalf of the principal defendants.

I was almost persuaded by Mr. Mourant's argument that if the Court were to give a ruling on the above matters a negotiated settlement would be likely to be reached without a trial. However, Mr. Birt did not encourage me in that view and I finally concluded that a settlement in all areas of dispute between the principal parties was not sufficiently likely as to justify a decision to refer on that ground.

I was persuaded by Mr. Birt's argument that to make the reference sought would in effect be asking the Court to act as advisers to the plaintiff - in Mr. Birt's words, "what is being sought is the Court's comfort". It seems to me that the plaintiffs must make up their own minds whether or not to accept the advice of their own experts, expensive though it will undoubtedly be for them should they err in their judgment.

Mr. Mourant was not able to cite an instance, either in Jersey or in England, where such a matter had been referred to the Court as a preliminary issue, and although this is in itself would be no ground for my refusing to make the order sought, taking all the above matters into consideration, I have decided not to use my discretionary power under Rule 6/19 in the present case.