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Dear Sir,

A meeting on Land Reform was held on 12 October 2010 in the Island Hall, chaired by Adrian Guille. Adrian kindly explain that the meeting had been called because it was felt right to include the public in the debate from the start and that he had been chosen to chair it because he is non-political and it had been felt that it should be chaired by someone non-political.

The subject matter of the meeting was hardly frivolous: land reform would be the most seismic change to Sark's legal system since Sark's constitutional settlement in 1565. The meeting had an official appearance: it was attended by HM Comptroller and an assistant (to whom I both express my own private welcome to Sark) who walked all around the Island looking at all the properties and then spent the whole evening explaining land reform and answering questions from the public. One thing definitively to the meeting's credit is that it was well attended and well organized: this was not a meeting that had been dreamed up in a pub over a pint a week before and called in a rush; it had been carefully planned and premeditated.

I was disappointed that we were not told who had called the meeting and initiated the debate on land reform. Anyone is entitled to call a public meeting on anything they want. But I think it is only proper to tell us who they are. This was not done. I asked but got no clear answer.

The meeting looked official, yet was this an official meeting? The Chief Pleas had not debated the subject matter at all and there had been no Chief Pleas resolution to debate land reform or to call a public meeting on it. So I believe it is fair to conclude that the Chief Pleas had not called this meeting. Does this matter? Yes, if the Sark taxpayer will be footing HM Comptroller's bill. It also matters because we were told that the meeting had been called because "it was felt appropriate the public was involved in the debate of land reform from the beginning". This implies generosity on the organizer's part and a moral obligation to take part on the public's part. If it had been the Chief Pleas calling the meeting then clearly involving the public from the start would have been commendable, and generosity sincere; but coming from another party, this seems more questionable. And the feeling of obligation to participate seems to be misleading, considering the meeting appears to have occurred on private initiative.

Was the meeting called by the GP&A? If so, I think it was an omission not to tell us so. Does their mandate include this, and spending money on HM Comptroller to come over?

I also believe it would have been fair to know who had appointed Adrian to chair the meeting. I do not mean to say anything to disparage the way he did his job. On the contrary, I believe he chaired the meeting splendidly. But a meeting which has the aura of officiality about it deserves, I believe, a better explanation of the manner and reasons for the chairman's appointment. There are other non-political persons on the Island, so the explanation given was lacking. The chairmanship of such official meetings is potentially a springboard for the future chairmanship of Chief Pleas, making it that much more important for candidates being given the advantage of such an appointment in a fashion which is transparent.

Gripes about the less important niceties aside, what about the substance of the meeting?

The mood at the meeting seemed pretty unequivocal. Many people spoke, and I believe it is fair to say that the response was almost unanimously hostile. At times, the atmosphere was tense and briefly, between two speakers, reached a point which one might fairly describe as combative. We were told that this was "only the first" meeting at which we merely scratched the surface of the subject matter. But am I the only one who got the message that this was a subject matter that was unwelcome for debate by a large proportion of the public, including the vast majority of those - a significant sample - who spoke at the meeting?

Since we were also clearly told that there was no requirement - on human rights grounds, for

example - to have land reform, one has to question, given the subject's reception, the wisdom of carrying on with what is likely to be a hugely divisive subject.

The constitutional reform process started with - what I can only presume to have been, as it was before my time - the first friendly meeting. Seven years later, it led to a hugely divided island and people not speaking to each other. Land reform is likely to be an even more contentious matter. If this was the first friendly meeting, when we have not yet had the chance to be frustrated and get on each others' nerves for 7 years, what will future meetings be like? Even at this first meeting the tension was obvious. What will it get like if the debate continues? A few years ago, a Tenant who has since died, reputedly said he would shoot anyone who tried to take his land. Can anyone blame him? Do we really want to open this can of worms? Merely continuing the discussion of land reform will lead to bad blood, division and hostilities on the Island - probably worse even than in the case of the constitutional reform. I believe this much most of us can agree on. It is only worth going through with this if there is such a great benefit at the end that it justifies the suffering. And is there?

Every system of land tenure has its problems. I certainly understand the difficulty of those who live in short leases and in rented premises - I am one of them. My occupation of my previous property ended at about half an hour's notice, and my current landlord is unwell. But any legal system has its problems and any reform has unintended consequences - in most cases, problems much worse than we face at present.

For example, while today youngsters may find it hard to buy a house - purportedly because they cannot get a mortgage - consider this: say it costs £100,000 to have a house built today on a small plot. Youngsters can often get a plot on the cheap from a relative, then scrimp and save for years, gradually building a house, perhaps with their own hands, and with the help of family and friends. It is no doubt difficult, but it is possible - people have managed, with difficulty, for generations. It is a fact of life that prices of first time buyer properties always adjust to the level which first time buyers can just about afford. If mortgages were to be introduced, house prices would go up to the point at which first time buyers were still only just able to afford them - only instead of just about being able to build the house and able to live in it free of debt - they will then be able to just about save up for a deposit. The equivalent of a local market house costing £100,000 on Sark may well cost £1 million in an expensive area where mortgages are available. A 10% deposit on that is £100,000. Instead of working for many years gradually acquiring the house worth £100,000, now first time buyers would have to save the same length of time to save for a £100,000 deposit on a mortgage, which they would then have to pay off for the rest of their lives. And they would not be able to get the plot on the cheap, and save up brick by brick and gradually build the house - they would have to save up the £100,000 outright first.

So there is no panacea. Legislative fiat cannot offer comfort from the realities of life. No doubt the gripes of those people who have gripes about the current system differ between different individuals. If the debate continues and a reform is passed, it is bound to be a compromise - likely to be agreed amid heated debate, trying to bring a bitter process to an end - which will please some to some extent but will not fully please anybody - and which is at least as likely to please you personally as not to. Is this the great improvement for which it is worth risking dividing the Island over bitterly?

There is a moral dimension as well. A number of speakers at the meeting expressed the feeling that land reform was theft and was being pursued by people with a vested interest of making a quick buck. While I do believe there are people on the Island who do want land reform for less cynical reasons, I also believe there is a considerable element of truth in these concerns.

Every man and woman born on Earth wishes to better themselves and to protect their life, limb, liberty and private property. Do they not have the right to do so? While some do this through their own hard work, unfortunately, there have also always been some who want to find shortcuts and to take from others for their own benefit without the latter's consent. At some point in history, people found it to be inefficient to spend time stealing from each other and catching thieves themselves. In everyone's mutual interest they voluntarily got together and agreed a code of conduct and created agencies to enforce it. Such agencies became the government and their purpose was for people to mutually help each other protect their life, limb, liberty and private property.

In much of the world, the government's original purpose has since been turned on its head: it

is often used to formalize and legitimize the taking from some to give to others. As HM Comptroller said, Chief Pleas is supreme and if Chief Pleas were to decide to grant renters their landlord's land, they are at liberty to do so. In a pure democracy, the majority's decision binds everyone: if 51% of the people decide to slaughter the other 49%, they can. I think hardly anybody believes in democracy this pure and unrestrained. Yet how about lesser issues such as forced redistribution of land? I think many of us will find this as a perversion of the original intent of the government, and may even see it as a form of robbery given a thin veneer of respectability. It is something I believe, while common in the rest of the world, is alien to the people of Sark as I do not believe any of this has happened on this Island, and indeed may be less likely to happen in the sort of system of government Sark had before 2008 than it is in a pure democracy.

I believe none of us believes in pure democracy, but a democracy checked by checks and balances - constitutional principles which cannot be overturned by a simple majority vote of the Chief Pleas - which limit the power of how far the majority is permitted to go. I do not think any of us believes it right that 51% of the people should be allowed to slaughter the other 49%. Yet, Chief Pleas did not include any such checks and balances in the Reform Law 2008, so we are bound only by those checks and balances others claim to have imposed on us by international treaties such as the European Convention of Human Rights. As can be seen from what was said by the HM Comptroller, these are less than some of us might consider satisfactory. Would it not be reasonable for us to have a constitutional guarantee that Chief Pleas will not interfere with our life, limb, liberty and private property? If we do not have such checks and balances, and our government were not to voluntarily choose to follow them (which in the long run is not something to rely on) are we really better off having a government, or were our ancestors, who were on their own, better off? Yet it will be difficult to enact any checks and balances now, post 2008 reform, as governments are loath to voluntarily impose limits to their own power.

A member of the public asked HM Comptroller if he was prepared to drop the subject of land reform if Chief Pleas were to resolve that they did not wish Sark to pursue it. Regrettably, he appeared to evade having to commit to this, so I fear his answer was no.

I would go further and would urge and invite Chief Pleas members and HM Comptroller to take on board the feeling and the message expressed at the public meeting and not to continue with the contentious subject of land reform and not to call any further meetings on the subject - not because of a resolution of Chief Pleas but because of the mood expressed by the island's residents.

In 2008, I proposed a "voluntary option" of land reform, which was not so much land reform as it required no legislation but merely invited the landowners to voluntarily grant leases long enough to reassure their leaseholders in exchange for a constitutional guarantee protecting private property which would give them an assurance that such leases would never later lead to their land being "enfranchised" (see <http://www.thesarkeetimes.com/archive/Issue2-3rded.pdf> for a full analysis). This may be a better, lightweight way to address the concerns of leaseholders regarding their security of tenure without any bitter division or seismic changes, while also reassuring the landowners, none of whom at present appears willing to grant long leases for fear of enfranchisement - to the detriment of precisely the leaseholders. The late Dr Stephen Henry at the time expressed much interest in my proposal. Can you be persuaded of the same?

Yours faithfully,

Tomaž Slivnik

To: Conseillers  
Seneschal  
Seigneur

Cc: HM Comptroller  
Bob Parsons, Editor, The Sark Scribe  
Kevin Delaney, Editor, Sark Newsletter  
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