

**Jersey & Guernsey Law Review – June 2011**  
**LETTER TO THE EDITOR**

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Dear Sir,

Footnote 3 to ‘The demise of *remise* in Jersey: Greatly exaggerated?’ by Paul Omar (*The Jersey and Guernsey Law Review*, February 2011, p. 83) runs as follows—

“The procedure, which developed in Jersey customary law, is said to be based on the *lettres de répit* issued by Royal fiat first introduced in a French ordinance promulgated in 1673 during the reign of Louis XIV.”

Is this right? Le Geyt devoted a chapter of his *La Constitution, Les Lois et les Usages* to the subject (Tome I, p. 386, *Des Repys, autrement respits, ou remises de biens entre les mains de la justice*). In it he cites (p. 389) a number of *lettres de repys* issued by ‘les Rois d’Angleterre’ (not France) dated 23 May 1593, 12 May 1594, 6 August 1596, 15 August 1597, 20 November 1601, and 30 November 1601, respectively. He then goes on to explain that the Royal Court began in due course, especially since 1660, to do on its own authority what it had previously done on the order and recommendation of the Sovereign.

Even the latest of the dates given for the letters from the Sovereign predates the French ordinance of 1673 referred to in the footnote by many decades. Indeed by 1673 the Royal Court was, if Le Geyt is to be believed, granting *remises* on direct application without Royal intervention. It is true that he refers to some French ordinances (1540 and 1560), but he does not suggest that they had any influence in Jersey. Indeed they regulate which courts could grant *lettres de repys*, and the tenor of Le Geyt’s comments on French practice is in any case that it would be inappropriate for Jersey to follow them (principally, it seems, because of the extensive range of property exempt from the procedure).

In one of the letters referred to by Le Geyt, the petitioner sought to rely on what he claimed to be the custom of Normandy, but this is a very different thing from an ordinance issued by the French sovereign. Le Geyt’s citation of the *lettre* runs—

“1597, August 15<sup>th</sup>. A letter to the Governor of Jersey, requiring him, if the Custome and Law of Normandy admitt such a toleration of time as is alleged by Hilary Paine decayed by losses, That he would take order that he might enjoy the benefitt of the said Custome.”

Le Geyt seems himself to have thought that practice of invoking the custom of Normandy was of doubtful validity, given that the Island no longer formed part of the Duchy, and there was no earlier mention of *lettres de repys*, even in the *Ancienne Coutume*: having stated that *lettres de repys* were not practised in England, he adds (p. 391)—

“ ... *c'est pourquoi dans les Lettres d'en haut dont j'ai parlé ci-dessus, on s'en rapporte nommément à la Coutume de Normandie, dont le suppliant alléguoit l'autorité, comme si l'Isle en eust encore dépendu, ou qu'auparavent il y en eust aucune trace, non même dans le Vieux Coutumier.*” [Emphasis added.]

No source beyond the 'it is said' is given for the suggestion in footnote 3 that *remise de biens* originated in a French ordinance of 1673, and as we are not told by whom it was said it has been impossible to pursue the matter further. Perhaps some light could be shed on the assertion in a later edition of the *Review*.

Yours faithfully,

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