

ROYAL COURT

31st May, 1995.

97A.

Before: The Deputy Bailiff and Jurats
Le Ruez and Potter.

<u>Between:</u>	David Eves	<u>First Plaintiff</u>
<u>And:</u>	Helga Maria Eves (née Buchel)	<u>Second Plaintiff</u>
<u>And:</u>	Hambros Bank (Jersey) Limited	<u>First Defendant</u>
<u>And:</u>	The Autorisés de Justice, appointed to report on the First Defendant's Application for a Remise des Biens.	<u>Second Defendants</u>

Judgment refusing permission for a *Remise des Biens*.

The First Plaintiff on his own behalf.
Advocate A.P. Roscouet for the First Defendant.
Advocate J.G.P. Wheeler for the Second Defendants.

JUDGMENT

DEPUTY BAILIFF: In the report of the two Jurats appointed by the
Court in conformity with Article 2 of the "Loi (1839) sur les
remises de biens" the conclusion that is reached is in these
5 words:

"We have the honour to report the above matters
to the Court and after careful consideration to
express our opinion to the Court in accordance
10 with Article 2 of the Loi (1839) sur les
remises de biens that "il n'est pas utile
d'accorder ladite remise".

15 It seems to us that our duty under the law is very clear. The
second paragraph of Article 2 reads as follows:- "La Cour, après
la présentation dudit rapport et avoir entendu ceux qui opposeront
ladite remise, accordera ou refusera ladite permission. Cette
décision sera finale et sans appel."

Now the interesting point about that paragraph of the Article is that it appears to us to be contemplating a case where the Jurats have recommended that there should be a remise and in that case the Court will then listen to those who oppose the remise and then has an ability to either grant or refuse. But this is a very clear cut case in which the Jurats have declined to recommend that a *remise* be granted.

We have heard at some length from Advocate Roscouet for Hambros, supporting the conclusion of the Jurats, then in detail from Mr. Eves and, of course, very helpfully, from Advocate Wheeler for the Jurats. Mr. Eves asks us for a stay of the *dégrèvement* proceedings. There cannot possibly be a stay of those proceedings because our duty under the law is perfectly clear: either to grant or refuse the permission. The *dégrèvement* proceedings have been suspended pending the outcome of these present proceedings, and while we have every sympathy with Mr & Mrs Eves nothing that we have heard today in our view allows us in law to do anything other than to grant or refuse permission. We would be flying in the face of justice and common sense if we did anything other than follow the report of the Jurats so carefully prepared and in those circumstances we refuse the request for permission under Article 1 of the Loi (1839) sur les remises de biens. There can in our view be no question of a stay.

We now direct that the *Dégrèvement* and *Réalisation* proceed and that the Greffier fix a new date for the finalizing them.

No Authorities.