

Sums due to be paid. Bonds <sup>Making</sup> Reversions of Country Land Rights were appointed to be registered within the like time after being taken by the Makers thereof Act 16. Reversions of tenements within Burgh not Incorporated, assignments and Discharges thereof or Eights thereto or Bonds for Making such Reversions, need not to have been registered before the 6<sup>th</sup> Septemb. 1681 when they were appointed to be recorded in Manner aforesaid in the town Clerks Books Act 11 Par. 3 Ch. 2. If those Reversions assignments Discharges or Eights be not duly recorded within the time aforesaid limited by Law they are not Effectual against singular Successors, but only against the Grantor and his heirs Act 16 Par. 27. 6. Title Act 11 Par. 3 Ch. 2. but an Incorporated Reversion though registered, stands good even against singular Successors: because a singular Successor cannot be ignorant of a quality contained in the bottom of his own Right. Mackenzie observe on Act 16 Par. 5 J. 3.

Under Redeemable Dispositions I comprehend Wadsetts and Dispositions containing a Reserved faculty is others.

Section 1. of Wadsetts.

A Wadset is a Disposition whereby any Real Right in Lands, or others passing by Infeftment, is transmitted from one to another in security of a special Sum, and Redeemable upon Payment of the Money in the way and Manner therein expressed. A Wadset (the Latin *Wadium*) is so called from *Wad* or *wadid* a pledge, which in England is expressed by the General word Mortgage from the French *Mort* death and *gage* a pawn, *Caution* a pawn of lands. The Clause Declaring the lands Redeemable is called a Reversion. Which conventional Reversion is either in *Gremio Juris* Incorporated in the body of the Wadset Right, or granted in a paper apart. The Disposition is perfected by Infeftment to be held either of the Disposer or grantor of the Wadset, who is termed the *Reverter*, and in England goes under the Name of the Mortgagor or of the Disposer Superior. The person to whom a Wadset Right is granted, is called the Wadsetter, whom the English term the Mortgagor, or tenant in Mortgage. Where

Where a Wadset is to be held of the Disposer Superior, the Disposer takes letters of Regress from the Superior obliging him without any gratuity or good Deed to receive back his Capital when he shall Redeem his lands: which the Superior would not be obliged other wise to do, except he pleased, if the Reversion be not incorporated in the Wadset Right: because the Infeftment of the Wadset did constitute the Wadsetter his *Reverter*, in respect he is not obliged to accept any other person without his own consent *Spots wood* *Tral* *Titl*. Regress. Craig and. lib. 2. titl. 6. 59. *Blair* lib. 2. titl. 10. 813 *Mackenzie* *Just* lib. 2. titl. 8. 8. 1 Letter of Regress is so called from the Latin *Regressio*: because the Superior thereby suffers the Grantor to be *Reverter* to himself as owner of a Wadset as before. Regress assignments and Discharges thereof, must be registered as Justice within 60 days of the Date, and be not in Writing Regress in the like Space, after Infeftment by the Wadsetter Act 16 Par. 27. 6. Title Act 11 Par. 3 Ch. 2. By the Usage in France Covenants conclude to establish a right of Mortgage, altho' it should be here in Englishly mentioned, unless the said Covenants are made in the presence of public Notaries *Les Loix Civiles* &c. Tom. 1. part. 1. lib. 3. titl. 1. Sect. 2. par. And so it is in Holland *Greenwoy*. de Leg. *Noroy*. ad 17 *Titl*. de act. But according to the Usage in England the presence of a public Notary is not necessary for the Establishing of Mortgage. But all Covenants, by which any Interest in lands passes, should be executed in Writing in the presence of Witnesses 29 *Febr*. 11 *Cap*. 2. 1. And with us in Scotland a Wadset requires only the former solemnities essential to other Wadsets.

If a house be built upon Ground Mortgaged, the Wadset will extend likewise to the Building as an Accessory, which follows the Nature of the Ground and belongs to the proprietor of the Ground. But the Creditor will sacrifice his Right of Mortgage on the Ground that is built upon, ought to reimburse him who raised the Building, of the Expenses he has laid out upon it; provided that the Expenses do not exceed the value of the Building. *Gov*. If in