

Indifferently Null is not a sufficient title for that Effect 10 Feb. 1718 inter Eodem. Because it could not in Case the Wadset were satisfied, produce Action of Wades and Duties, nor be a ground to force the Wad Letter to yield up the possession. A Wad Letter is not bound to quit his possession or restrict to his Annual rent in favor of a singular Successor not producing his right to the Reversion. 20 Feb. 1679 Bruce contra Bogie. But an offer of Security by such a one after producing his title is legally the not the case. The Wad Letter, if he desire not to have it the ad. Again, the Colonial Instrument bearing that Security was offered, Refused, and mentioning the tenor of the security, hence with the Wad Letter's retaining possession of the Wadset can instruct the same sufficiently without producing the bond offered 21 Decemb. 1716 E. Levin contra Morrison or Bogie. In regard the bond was not to be kept as a security for his Annual rent, who had chosen rather to possess for his security: and Instruments of promission or Intimation are probative of the solemnities of fact therein contained.

An Improper Wadset, is where the Grantor of it pays all public burdens, and upholds the Rents, and the Wad Letter runs no hazard but hath his annual rent secure to him in all events. This kind of Wadset answers to Vivum vadium in the law of England or a Mortgage Improperly so called, when a Man borrows a sum of Money of another and makes over an estate of Land unto him, until he had received the full sum out of the Issues and profits of the lands: Because in this Case, neither Money nor Land dieth or is lost, an Improper Wadset is subject to account for his Intromission for the Rents in so far as they exceed the legal Interest of his Money for that, as he runs no hazard of loss, he ought to have no chance for gain. What frees a Wad Letter from account is not his running some small or trifling risk of loss, but principally his taking the hazard of the fruits or Rents

Rents of the subject pledged to him, and of all chances that may hinder these fruits from being Effectual and coming to his hand. Therefore a Reversion of Land Wadset for the sum of 24500 Marks being obliged to uphold them to be worth 12 yearly twelve Chalders of sufficient bear free of Cops and other public burdens, and to pay any Annual Includes that should not be received from the tenants or the ordinary price for each kind of Coper, and having not with standing of the Wad Letter's possession and holding the Rents, a power to out put and input tenants: that right was found to be an Improper Wadset. Albeit the Reversion did not undertake to make the Rents of the lands answer to the Annual sum of 24500 Marks, but only to twelve Chalders of wheat yearly, and twelve Chalders of malt by the Custom lowering the prices of grain, and raising the Interest of money, happened to be less than the Interest of that sum. Which was not thought of any Influence to exempt the Wad Letter from accounting for his Intromissions. Now got to be rich his accounting to what more he received than twelve Chalders, the Reversion could be liable to make forth coming to him, only what he wanted of these 12 Chalders; but he behaved to hold himself content with payment of the yearly Interest of his Money, and to answer for the overplus 18 July 1718 John Doul Writer contra Creditors of Young of Winter field. Some times an Improper Wad Letter not Defers to Enter to the Natural possession of the Wadset lands, sets the same in task to the Grantor of the Wadset, or to his Trustee for payment of the Annual rent of his Money, as the last duty, which is called a back task.

It is usury, to take a proper Wadset of Land exceeding in rent the Annual rent of the Money lent, with the provision that the Creditor shall not be liable for the hazard of the fruits and Rents but by Part. 1. Sec. 1. or for any Wad Letter to set a task to the