

in the country and dead, part as reserved of him to the decedent
 12 Feb. 1662 Bell contra Wilkie 25 Novemb. 1678 Her contra
 For. There seems to be no good reason for the necessity of confirma-
 = mation to establish the right to a legacy in the legatee's person
 in order to transmit it to his heirs or assigns, but the necessity of
 quereis for by the Civil Law, a legatee requires right to a pure
 and simple legacy at the moment of the death of the testator,
 whether he knew or was ignorant of the testament and the
 said death; and that there be a term fixed for the **Term**
 of it and the legatee die before the term; if he survives
 the testator, and has right to a Conditional legacy upon
 the condition comes to pass, if he be thereafter, he is
 quando dies leg. Fed. mnt. c. 21 pr. § Cod. l. 9 Jul leg. v.
 Necom. caus. Bar. & l. 213 pr. § Do vob. sig. so that a
 legatee having this right to such legacies, he tran-
 smits them to his Executor. And if a legatee who had right
 having made a choice, he transmits to his heir or Executor
 both his right to the legacy, and the right of Election
 l. 19 § Do vob. vcl. Et ad. legal. Because the right
 of the legatee was vested in him independently of his
 bequeathes, and not to determine which was the heir
 again for Robert Spotswood (vral. J. Legatee says, he
 if a legatee survive the testator, he he decease without
 knowing the legacy, his Executors have right to it. And
 the Lord Hailes (l. 3 tit. 8 § 50) is of opinion, that legatee
 dying after the testator's transmit their legacies to
 their heirs of kin, tho' not Justified for or Recovered
 in their own lifetime, but perhaps these dangers are
 to be understood of the case when the legatee dies w^o
 Confirmation of the Testament before it be executed

Nominatum substitutes in Rights to Moveables or persons
 bonds, need no Confirmation to establish such rights in the
 persons 7 Feb. 1680 Robertson contra Preston 18 January
 1625 Wal. contra Dobie 15 January 1630 Thomson contra
 Merdland 26 January 1634 Keith contra James Birlestone
 J. l. Heirs of Provis. & l. 11. A special assignation not
 Intimated in the Cedent's life is a good title of Actions
 Defense without Confirming the subject, where no more
 Complete right stands in Competition Feb 26 Sept. 2
 W. & M. And the subject assigned is in Bond Defunctly and
 the Cedent not Directed till the assignation be Intimate

Intimated: An assignation without Intimation being like a Dis-
 position without Assignment, and both being, in effect, equally
 personal Action against the Author pro Fulore J. But nei-
 ther of them a Means of Conveyance, so that the Cedent may
 not will standing such Assignation till it be Intimated, unless
 or assign against as if he had not done so before or his creditors
 may affect the subject, if being very compatible for one to have
 a right of property, and to be obliged to transfer it to another.
 Thus in a Competition between an assignee to a debt whose right
 was never Intimated, and the Cedent's executor or Creditor who Con-
 = firmed it as in bond of the Debtor, the Executor or Creditor was
 preferred 5 July 1726 Sinclair of Southdein contra Sinclair
 But Intimation of such Assignation completes the assignee's
 title, and labors the subject conveyed out of the hands of Cedent,
 without necessity of Confirmation; just as in bond upon
 a Disposition or Assignment taken after the death of the
 Debtor or Debtor, established in the Disposition or bond per
 which before was in hand debite Invalide.

As to the Moveables of persons Decedent who make
 their own wills, or gratuitous General Dispositions in their
 Bonorum, are perfected by Confirmation at the instance of their
 Executors or Heirs, and the persons to whom Bonorum Dis-
 = positions are Granted. By the Kings Instructions to the Commissioners
 21 January 1666 the Executor or Administrator is preferred to the
 office. If there be no Executor named by the Decedent, or if the
 person named Refuse the office, the nearest of kin upon their
 desire may have it. If the nearest of kin decline it, it may
 be given to such Creditor as desire it, they justifying their
 debts. If Creditor Don't apply for it, legataries may have
 = have it upon their desire, and justifying that they are cre-
 = ditaries. Where no person having interest claim'd the
 office, the Commissioners were allowed to Confer it upon their
 own procurator Fiscal. Commissioners were in use formerly
 in such case to Charge upon General Letters of Homage the
 Debtor and nearest of kin to Confirm, and they no offering
 to do it, Decreed their own procurator Fiscal executor. And
 if thereafter the persons Bonorum, or all such having Interest
 before confirmation, the procurator Fiscal to Instance
 desire to Confirm, they were to be surrogated in place of the
 procurator Fiscal, and were thence called Executors surro-
 = gate. But such charging of the legs to Confirm the testa-
 = = ments of their Decedent Relations, having Intimated and
 = Intimation to them, all charging or acquiring persons to
 Confirm testaments, except at the Instance of the Heir
 Burns, nearest of kin or Creditor, is now Discharged
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