

60 WILLS AND TESTAMENTS.

writing, which when rightly executed, lawfully ordains the disposition of that which any person would have done after his death.

If an executor be named in such a will, it is more properly called a testament; if no executor is named, it is then no testament, but only retaineth the name of a will; from which arises the position, that every testament is a last will, but every last will is not a testament.

Of written wills.

Wills are of two kinds, viz. written wills, and *nuncupative* or verbal wills; a written will is that sort of a will, made in the life time of the testator, either by himself or by his direction, and must be signed, sealed, acknowledged, and delivered by the testator himself, in the presence of three credible witnesses, whose names must be thereto subscribed.

Statute 29 Car. 2, wills of lands to be in writing.

The statute of 29 Car. 2, ch. 3, directs, that
“ all devices and bequests of any lands or tenements, devisable either by force of the statute of wills, or by this statute, or by force of the custom of Kent, or the custom of any borough, or any other particular custom, shall be in writing, and signed by the party so devising the same, or by some other person, in his presence, and by his express directions,