

other issue of the testator to whom any real or personal estate shall be devised or bequeathed for any estate or interest not determinable at or before the death of such person shall die in the lifetime of the testator leaving issue, and any such issue of such person shall be living at the time of the death of the testator, such devise or bequest shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the Will.

leave issue living at the testator's death, shall not lapse.

XXXII. And be it further enacted, That the words and expressions hereinafter mentioned which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows: (that is to say,) the word "Will" shall extend to a testament, and to a codicil, and to an appointment by Will or by writing in the nature of a Will in exercise of a power, and also to a disposition by Will, and testamentor devise of the custody and tuition of any child, by virtue of an Act of the Parliament of England, passed in the twelfth year of the reign of King Charles the Second, intituled "An Act for taking away the Court of Wards and Liveries and tenures *in capite*, and by Knight's service and purveyance, and for settling a Revenue upon His Majesty in lieu thereof," and to any other testamentary disposition; and the words "real estate" shall extend to messuages, lands, rents and hereditaments, whether corporeal, incorporeal or personal, and to any undivided share thereof, and to any estate, right or interest (other than a chattel interest) therein; and the words "personal estate," shall extend to leasehold estates and other chattels real, and also to monies, shares of government and other funds, securities for money (not being real estates), debts, choses in action, rights, credits, goods, and all other property whatsoever, which by law devolves upon the executor or administrator, and to any share or interest therein; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

Meaning of certain words in this Act.

"wm."

"Real estate."

"Personal estate."

Number.

Gender.

XXXIII. And be it further enacted, That this Act shall not extend to any Will made before the first day of January one thousand eight hundred and thirty nine, and that every Will re-executed or revived by any Codicil shall for the purposes of this Act be deemed to have been made at the time at which the same shall be so re-executed or revived; and that this Act shall not extend to any estate *pur autre vie* of any person who shall die before the first day of January one thousand eight hundred and thirty nine.

Act not to extend to Wills made before 1839 nor to estates *pur autre vie* of persons who die before 1839.

CAP. X

An Act in addition to the Act for defining the crime of Forgery.

Passed 9th March 1838.

Repealed by 12 vic cap 29

WHEREAS in and by an Act of Assembly passed in the fifth year of the reign of King William the Fourth, intituled "An Act to define the crime of Forgery," it is declared and enacted, "that if any person shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any writing, with intent to defraud any person whatsoever, every such offender shall be deemed to have committed the crime of forgery, and shall be guilty of felony:" And whereas it is necessary for the purposes of justice to enlarge the meaning of the word "writing" in the said Act contained, in manner following,

Preamble. 5 W. 4, c. 35.

Be

What shall be deemed a writing under the Act 5 W. 4, c. 35.

Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That every instrument partly printed and partly written, or wholly printed, with a written signature thereto, and every signature of an individual, or a firm, or a corporate body, or of any officer of such body, to any instrument, and every writing purporting to be such signature, shall be deemed and taken to be a writing within the meaning of the provisions of the said Act.

CAP. XI.

An Act in addition to and explanatory of an Act, intituled *An Act to regulate proceedings before Justices of the Peace in Civil Suits.*

Passed 9th March 1838.

Preamble.
4 W. 4, c. 45.

WHEREAS in and by the third section of an Act made and passed in the fourth year of the reign of His late Majesty King William the Fourth, intituled "An Act to regulate proceedings before Justices of the Peace in Civil Suits," it is among other things enacted, that "a Justice shall upon application issue a *capias*, when it is made to appear on affidavit, to be taken in writing of the plaintiff or his agent, that the cause of action does not exceed five pounds, that the defendant is justly and truly indebted to the plaintiff in a sum to be specified in the affidavit which shall not be less than twenty shillings, after giving full credit to the best of deponent's knowledge or belief for all payments and offsets:" And whereas it is expedient that Justices of the Peace should be authorized and empowered to issue *capiases* when the sum sworn to shall amount to ten shillings;

Capias may be issued when sum sworn to shall amount to ten shillings.

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That from and after the passing of this Act, it shall and may be lawful for a Justice of the Peace, when proceeding under the authority and according to the provisions of the hereinbefore recited Act, upon application and affidavit, as therein directed, to issue a *capias* when the sum sworn to shall amount to ten shillings, any thing in the said Act contained to the contrary thereof in any wise notwithstanding.

Debtors having the benefit of the Gaol Limits under the Act 6 W. 4, c. 41, not to be entitled to a discharge.

II. 'And whereas doubts have arisen whether defendants arrested by virtue of executions issued under the provisions of the said Act, and not in close custody, but only confined within the limits of the Gaol under the authority of an Act of the General Assembly of this Province, intituled "An Act relating to insolvent confined debtors," are entitled to their discharge after a certain number of days imprisonment, in like manner as is provided by the third section of the said first recited Act, for persons actually committed in close custody;' Be it therefore further enacted and declared, That nothing in the said first mentioned Act contained, with respect to the discharge of a debtor after a certain number of days imprisonment, shall extend or be construed to extend to persons having the benefit of the Gaol Limits.

Execution may be issued by a Justice other than the Justice before whom the trial may have been had.

III. And be it further enacted, That whenever a cause shall have been heard and determined before any Justice of the Peace; and judgment given and entered under the authority of the said first mentioned Act, in case of the absence, sickness or death of such Justice, it shall and may be lawful for any other Justice of the Peace resident in the County or Parish in which said judgment may have been given and entered as aforesaid, at any time within three calendar months after the giving of such judgment, on view of the original entry of such judgment, and on affidavit made before him that the amount of the said judgment or some part thereof remains