tail, who claims *per formam doni*, the heir in gavelkind, who claims by the custom so denominated, and perhaps some other customary heirs; but I have been surprised to find it no where expressly stated that the *hæres factus*, or heir by devise, comes within the description of special heirs, such as may claim and take land, to the prevention of an escheat. In plainer terms, I have not been able, so far as it depended on reading and examination, to discover whether, according to the English doctrines, and their application under the provincial government of Maryland, a devise of lands to a stranger would prevent them from escheating if he left no heirs of his blood. I would not be understood, upon the whole, to question the power of a will in this particular, but it was a point of enquiry naturally suggested by the great number of escheat warrants issued under the former government, and still more by their scarcely ever containing, in the early times, any thing relative to the person last seized having died *intestate*, which is now, *by law*, essential to the validity of such warrants, and is therefore always a part of their form. It is certainly a point which Blackstone, in his chapter of title by escheat, might have settled in a very few words; but this copious and accurate writer repeatedly states in the most unqualified manner that lands become escheat when the heritable blood of the first feudatory or purchaser is extinct, either by attainder or by want of heirs, lineal or collateral, of the whole blood, without once intimating that the escheat may be prevented by a will, and this is the more remarkable as he does not omit to state that a person illegitimate, who can have no heirs of his blood, may save his lands (of which such a person is always deemed in law the first purchaser) from becoming escheat, by devising them. Whether this silence denotes any uncertainty in the law, or that the matter was too plain and obvious to require any explanation, I shall not pretend to judge, but shall leave it as I have found it. As to the rest, it is understood that the general heir whose inheritance prevents an escheat, besides being in other respects a person capable of inheriting, must, as has before been said, be of the whole blood of the first purchaser, known or presumed, and it is in this particular that the state of Maryland adopted a new rule, by permitting a succession to an heir or relation of the half blood, as far to the second degree from the person last seized. If it were true that the English statute of wills had not been of force to prevail against the original doctrine and privileges of escheat, the state of Maryland would have admitted another new principle; since, by its second act upon the subject of escheats, though not by the first, no lands can become escheat