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A fee simple conditional is one which restrains the fee to some particular heirs, exclusive of others, as to the heirs of a man's body or to the heirs male of his body.² It is well known that the common law construed such a fee as a fee simple on condition that the grantee had such heirs, or if he died without issue the lands then reverted to the grantor. But if he had issue, it was considered that the condition was performed so that the grantee might alien, forfeit, or charge the estate. He might thus bar not only his own issue but the possibility of a reverter to the original grantor. This Statute was intended to prevent such alienations, and provided that the land was to remain to the issue according to the form of the gift, and, on failure of such issue, was to revert to the donor or his heirs. Where the donee therefore before had a *fee simple*, his interest was under the Statute cut down into a *particular* estate, upon which another estate might be limited by way of remainder, and the possibility or right of reverter of the donor became an actual reversion. And as the donee could neither bar nor charge his issue, nor defeat the donor's reversion, estates tail were not liable to forfeiture for treason or felony, nor bound by any alienation, nor chargeable with any of the debts of the ancestor. Otherwise there does not seem to have been any difference between an estate tail under the Statute and a fee simple conditional at common law; for in the latter the having issue did not alter the course of descent, and if the donee died without having aliened and without having the prescribed issue, the land reverted to the donor. Accordingly it is commonly said that there is now no such thing as a fee simple conditional, for all such estates were converted by this Statute into estates tail general or special.

Estates tail in Maryland.—By the Act of 1786, ch. 45,³ it was provided, "that if any person seised of an estate in any lands, &c., in fee simple, or fee simple conditional, heretofore or hereafter acquired, or of an estate in *fee-tail to the heirs of the body generally, created and acquired after the commencement of this Act*, shall die intestate, such lands, &c., shall descend to the kindred male and female in the following order, to wit: first to the child or children and their descendants, if any, equally, and if no child or descendant, then, &c. to the father, and if no father living then to the brothers and sisters of the intestate, &c." The sixth section provides that the law is not to extend to affect "the case of any entail or limitation in tail

² B. & O. R. R. Co. v. Patterson, 68 Md. 606, 609.

³ Code 1911, Art. 46, sec. 1.