whatever, made, created, and in being before the commencement of this Act, but the same shall, during the continuance of the estate in tail or limitation in tail, and until the same may be legally destroyed or barred, descend according to the course of descent heretofore used and established, nor shall anything herein be taken or construed to interfere with or alter any limitation, grant, or gift by devise, conveyance, or otherwise, to special or particular heirs in a different course of descent from what is by this Act specified, but in such cases the descent shall be according to the limitation or form of the gift, &c., until the entail shall be legally barred or destroyed.

The Act of 1820, ch. 191,[3] provided, that if any person, seised of an estate in any lands, &c., in fee simple, fee simple conditional heretofore or hereafter acquired, or *of an estate in fee-tail general*, created and acquired
92 after the commencement of this *Act, shall die intestate, &c., such lands, &c., shall descend in fee simple to the kindred, male and female, of such person, &c. The sixth section[4] contains a saving of any entail made before the 1st January 1788, and of any limitation, &c., to special and particular heirs, as in the sixth section of the Act of 1786, ch. 45. And now the Code, Art. 47, sec. 1,[5] enacts that if any person, seised of an estate in lands, &c., in fee simple, fee simple conditional, or of an estate in fee-tail general, shall die intestate thereof, such lands, &c., shall descend in fee simple to the kindred, male and female, of such person in the following order, &c. The 28th[6] section excepts entails made and in being before 1st January 1788, as well as limitations to particular or special heirs, i. e. estates tail special.

In Cockey v. Cockey, June, 1834, in the Court of Appeals, not reported, the question was whether the words in the Act of 1786, ch. 45, "*estates in fee-tail to the heirs of the body generally*," included all estates tail general, and it was determined that they did not. The question arose on the will of Thomas Cockey. After giving estate tail to most of his sons in his will, by his codicil he set out with the general declaration that he revoked all the estates tail so created by his will, and then declared that if his son Thomas J. Cockey should die without male issue, the lands given him should descend to his son John R. Cockey in fee simple. Thomas J. Cockey died without male issue; and the question was whether John R. Cockey took the estate so given to Thomas. And it was holden that an estate in tail male general was not within the Act, and the remainder over was therefore good. But the language of the Act of 1820, ch. 191, and of the Code is different, and all estates tail general, created since the 14 February 1821, are by force of that Act and of the Code converted into estates in fee simple.

It was also very early determined, in construction of the Act of 1786, ch. 45, in Smith v. Smith, 2 H. & J. 314, by Ch. J. Chase and Chancellor Kilty, that the course or manner of transmitting the tenancy in tail to the issue of the tenant was altered only by making the land descendible to all the children of the tenant in tail, and their respective issue indefinitely, and

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[3] Code 1911, Art. 46, sec. 1.
[4] Code 1911, Art. 46, sec. 28.
[5] Code 1911, Art. 46, sec. 1.
[6] Code 1911, Art. 46, sec. 28.