And as it appears, by the documents, that these [illegible] of the real estate in question, which lie in the states N. York & R. Island, are brought within the same rule, by express legislative provision. The statute of Massachusetts does not expressly decide the point, either way. If the words of the act had been (as I at first understood from Mr. Channing's statement), "that every person, lawfully seised &c. "shall have power" to devise, without any express exception; I should not have felt the least hesitation, in saying, that the words could not, in construction, include femes covert, any more than infants, lunatics & idiots. For the legal incapacity of the first of these femes covert is even more unqualified & entire, in relation to contracts, & transfers of property, than that of either of the other three classes of persons, just mentioned. And this exposition would accord, precisely, with the judicial & legislative construction, ~~[illegible]~~ given to the words, "all & every person & persons", in the English statute of devises, 32 H. 8. c. 5. (Dy. 354. b. Stat. 34 H. 8. c. 5. s. 14. Pow. Dev. 141. Wes. 300. ans.). But upon examination, I find the devising clause of the statute of Massachusetts to be, "That every person, lawfully seised &c. of the age of twenty-one "years, & upwards, & of sane mind, shall have "power" to devise &c. — thus expressly excepting infants, & persons of non-sane mind, & making no mention of femes covert. This exception presents, to my mind, some embarrassment, upon either side of the question. For if it was not intended to extend the power of devising, to this last class of persons; it seems remarkable, that they also were not expressly disqualified.