As to the question of the power of a Feme-covert to devise lands within the Commonwealth of Massachusetts, I refer to the case of Osgood v. Breed 12. Massachusetts Report. 525. and to the opinion of the Court in that case delivered by Judge Jackson.

As the Book may not be at hand, out of the state, I subjoin a part of Judge Jackson's Opinion. Edward T. Channing

"It was said in the argument, that every married woman might by our laws devise her lands, as if sole; provided her husband assented to it: the counsel for the appellant contending that married women were included in the description of persons, who by our statute of of wills [1783, c. 24] are capable of devising real estate; and that the English cases to the contrary did not apply here, because they are founded on the Statute of 34 & 35 Henry 8. c. 5, which expressly prohibit such devises by married women.

"The English statute of Wills [32. Hen. 8. c. 1] authorises every person having lands &c to devise them: and it seems to have been the better opinion, on the construction of that statute, that a married woman could not make a will of lands [1. Powell on Dev. 140. Dyer 354] But as "divers doubts, questions and ambiguities" had arisen or were apprehended on that and other points, the statute of 34 & 35 Hen. 8. c. 5 was made, to remove them: and this last statute § 14. contains the express prohibition before mentioned as to married women.

"Our Statute provides that persons of full age and of sane mind may dispose of their real estates, "as well by last will & testament in writing, as otherwise by any act executed in his or her lifetime"