

sidered by Mr. Chancellor Kent as finally settling this question. The case of *Drury vs. Drury* turned upon the statute of 27th *Hen.* 8, which introduced jointures, which *Lord Nottingham* supposed extended only to adult women, and this was the point of difference between him and the House of Lords.

This question came before the Chancery Court in New York, in the case of *McCartee vs. Teller*, 2 *Paige*, 511, and after a very learned and elaborate discussion at the bar, it was decided, that by analogy to the statute which made a legal jointure settled upon an infant before marriage a bar to her dower, a competent, and certain equitable provision settled upon her in bar of dower, and to take effect immediately upon the death of the husband, and to continue during the life of the widow, and being a reasonable and competent livelihood for the wife under the circumstances, was also a bar. There would seem to be as little doubt of the power of a female infant to bind, by settlement before marriage, her general personal estate, because such personal estate becomes, by the marriage, the property of the husband, and the settlement is in effect his settlement, and not hers. This general principle of the Courts of Equity, may, and probably would be considered as modified by the Act of our Legislature of 1842, ch. 293, with reference to the particular description of property mentioned in the Act.

But the question now to be decided is, whether a female infant has the capacity to bind *her own real estate* by a marriage settlement, and this question is considered by Chancellor Kent as being settled against the power, by the case of *Milner vs. Lord Harewood*, 18 *Ves.*, 259. It is true the precise point which the facts of that case made it necessary to decide, did not involve this question, but it is equally true that *Lord Eldon*, more than once in the course of his argument, expressed a decided opinion against the power; and I am persuaded no one can read what his *Lordship* said in that case, without being fully convinced of the absolute conviction of his mind, that a female infant would not be bound by such an *ante-nuptial* settlement of her own real estate.

A very strong case upon this subject is reported, in 13 *Eng.*