The elements of the modern settlement are to be found in Roman law. The *vulgaris, pupillaris,* or *exemplaris substitutio* (consisting in the appointment of successive heirs in case of the death, incapacity, or refusal of the heir first nominated) may have suggested the modern mode of giving enjoyment of property in succession. Such a *substitutio* could, however, only have been made by will, while the settlement of English law is, in the general acceptation of the term, exclusively an instrument *inter vivos.* The *dos* or *donatio propter nuptias* corresponds to a considerable extent with the marriage settlement, the instrument itself being represented by the *dotale instru­mentum* or *pacta dotalia.* In the earliest period of Roman law no provision for the wife was required, for she passed under *manus* of her husband, and became in law his daughter, entitled as such to a share of his property at his death. In course of time the plebeian form of marriage by *usus,* according to which the wife did not become sub­ject to *manus,* gradually superseded the older form, and it became necessary to make a provision for the wife by contract. Such provision from the wife’s side was made by the *dos,* the property contributed by the wife or some one on her behalf towards the expenses of the new house­hold. *Dos* might be given before or after marriage, or might be increased after marriage. It was a duty enforced by legislation to provide *dos* where the father possessed a sufficient fortune. *Dos* was of three kinds :—*profectitia,* contributed by the father or other ascendant on the male side ; *adventitia,* by the wife herself or any person other than those who contributed *dos profectitia ; receptitia,* by any person who contributed *dos adventitia,* subject to the stipulation that the property was to be returned to the person advancing it on dissolution of the marriage. The position of the husband gradually changed for the worse. From being owner, subject to an obligation to return the *dos* if the wife predeceased him, he became a trustee of the *corpus* of the property for the wife’s family, retaining only the enjoyment of the income as long as the marriage continued. The contribution by the husband was called *donatio propter nuptias. @@1* The most striking point of dif­ference between the Roman and the English law is that under the former the children took no interest in the con­tributions made by the parents. Other modes of settling property in Roman law were the life interest or *usus,* the *fideicommissum,* and the prohibition of alienation of a *legatum.*

The oldest form of settlement in England was perhaps the gift in frankmarriage to the donees in frankmarriage, and the heirs between them two begotten (Littleton, § 17). This was simply a form of gift in special tail, which became up to the reign of Queen Elizabeth the most usual kind of settlement. The time at which the modern form of settlement of real estate came into use seems to be doubtful. There does not appear to be any trace of a limitation of an estate to an unborn child prior to 1556. In an instrument of that year such a limitation was effected by means of a feoffment to uses. The plan of granting the freehold to trustees to preserve contingent remainders @@2 is said to have been invented by Lord Keeper Bridgman in the 17th century, the object being to preserve the estate from forfeiture for treason during the Common­wealth. @@3 The settlement of chattels is no doubt of consider­ably later origin, and the principles were adopted by courts of equity from the corresponding law as to real estate.

@@@1 See Hunter, *Roman Law,* p. 150 ; Maine, *Early History of Insti­tutions,* lect. xi.

@@@2 The appointment of such trustees has been rendered unnecessary by 8 and 9 Vict. c. 106 and 40 and 41 Vict. c. 33.

@@@3 This sketch of the history of settlement is abridged from a paper by the late Mr Joshua Williams, *Papers of the Juridical Society,* vol. i. p. 45.

At the present time the settlement in England is, so far as regards real estate, used for two inconsistent purposes, —to “ make an eldest son,” as it is called, and to avoid the results of the right of succession to real property of the eldest son by making provision for the younger children. The first result is generally obtained by a strict settlement, the latter by a marriage settlement, which is for valuable consideration if ante-nuptial, voluntary if post-nuptial. At the same time it should be remembered that these two kinds of settlement are not mutually exclusive : a marriage settlement may often take the form of a strict settlement and be in substance a resettlement of the family estate.

There are three possible varieties of the marriage settlement :— (1) the dotal system *(régime dotal),* under which the husband generally has the usufruct but not the property in the *dos* ; this is the system generally followed in countries where the Roman law prevails ; (2) the system of community of goods *(communauté de biens),* by which the wife becomes a kind of partner of the husband ; this system, said to have been originally the custom of ancient Germany, is in vogue in France and Louisiana; (3) the system of separate property, by which (subject to contract) the wife’s pro­perty is free from the control of her husband ; this system prevails in the United Kingdom and the United States. An ordinary English marriage settlement of personalty is a deed to which the parties are the intended husband and wife and trustees nominated on their behalf. It generally contains the following clauses :—a power to vary the investments of the settled property within limits ; trusts of the income for the benefit of the husband and wife during their lives ; trusts for the issue, usually according to the appointment of the husband and wife or the survivor, and in default for sons attaining twenty-one and for daughters attaining that ago or marrying, equally, subject to a “hotchpot” clause, charging the children with the amount of any previous appoint­ments ; a power of advancement of the portions of children in anticipation ; a trust for the maintenance of infant children after the death of the parents, with a direction for the accumulation of surplus income ; ultimate trusts fixing the destination of the settled property in default of issue. The receipt and trustee clauses, at one time usual, have been rendered unnecessary by recent legislation. The Conveyancing Act, 1881, superseding Lord St Leonard’s Act of 1859 and Lord Cranworth's Act of 1860, gives power to appoint new trustees, and makes a trustee’s receipt a sufficient discharge. Trustees were formerly much restricted in their investments, but various Acts of Parliament have now increased their powers of choice of investment (see Trust). The settlement of real estate is still a matter of greater difficulty than that of personalty, though it has been considerably simplified by recent legislation. A short statutory form of settlement of real estate is provided by the Conveyancing Act, 1881 (Fourth Schedule, Form iv.). The Act further enacts that a covenant by the settlor for further assurance is to be implied. This takes the place of those covenants usually inserted in settlements before the Act, which were the ordinary covenants for title. (See Real Estate. ) The Settled Land Act, 1882, gives statutory authority to certain provisions generally inserted by conveyancers. The clauses must, however, still vary infinitely according to the circumstances of particular cases. Where the settlement is of copyholds, the usual course is to surrender them to the use of trustees as joint tenants in fee upon such trusts as will effect the desired devolution of the property.

A strict settlement of real estate usually takes place on the coming of age or marriage of the eldest son, if it be the intention of the parties that the estate should continue undivided. The consideration for the settlement in the first case is usually an immediate allowance made to the son, in the second the marriage itself, a valuable consideration. It will appear on referring to the articles Entail and Real Estate that an estate cannot be entailed for a period exceeding a fixed number of existing lives and an additional term of twenty-one years, but that if it be sought to bar the entail within that period the consent of the protector of the settlement must be obtained. The process of resettlement is thus described by Lord St Leonards : “Where there are younger children, the father is always anxious to have the estate resettled on them and their issue, in case of failure of issue of the first son. This he cannot accomplish without the concurrence of the son ; and, as the son, upon his establishment in life in his father’s life­time, requires an immediate provision, the father generally secures to him a provision during their joint lives as a consideration for the resettlement of the estate in remainder upon the younger sons.” The settlement usually takes the form of a life estate for the father, followed by a life estate for the son, with remainder in tail to the unborn child of the son, the continuance of the estate in the family being further secured by a series of cross-remainders. There is often a name and arms clause, under which, by means of a