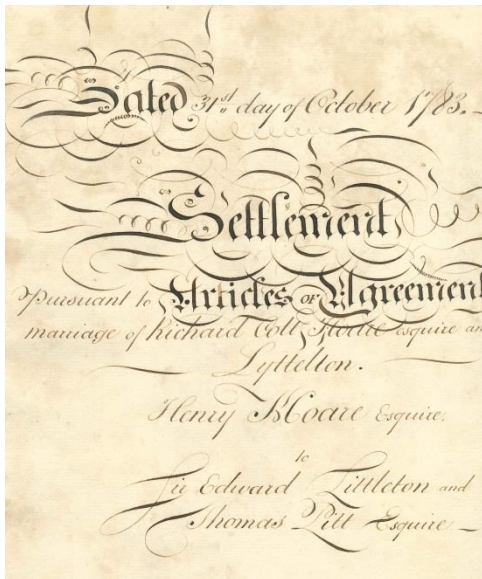


Manuscript of the Month
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Settlement on the marriage of Richard Colt Hoare and Hester Lyttelton, 1783



By marriage, the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during her marriage, or at least is incorporated or consolidated into that of her husband, under whose wing, protection and cover, she performs everything. (Commentaries on the Laws of England, Sir William Blackstone, 1765-69)

Until the latter part of the nineteenth century, common law decreed that a married woman had no legal identity of her own. As a result, any real property she possessed at the time of her marriage was supposed to pass to her husband for his lifetime, and any personal property - such as jewellery or earnings - was to become his outright. In return, a man was expected to maintain his wife in a style befitting her status, although any woman who felt her husband was not fulfilling

his side of the bargain had no legal redress. And while in medieval times common law had entitled widows to one third of their husbands' estates for life or until they remarried, this practice had died out by the 1600s, except within the City of London which retained the custom until 1726. To secure a bride's future, therefore, both as wife and widow, families routinely resorted to marriage settlements.

In its simplest form, a marriage settlement merely acknowledged receipt of a bride's dowry and specified the terms of her jointure - a lump sum or annuity to be paid in the event of widowhood. During the sixteenth century, however, more complex documents, known as 'strict settlements', began to emerge. Strict settlements not only safeguarded a bride's future by spelling out what pin money (annual allowance) and jointure she was to receive, but also sought to preserve a family's wealth, often bound up in property or land, for future generations. Under the terms of a strict settlement, one or more named properties were made over to trustees, leaving their owners as tenants for life. The same document also stipulated who was to inherit the property, usually the eldest son and his male heirs, and what sum any daughters or younger sons were entitled to.

Surviving documents make it clear that at the time of his marriage in 1672, the bank's founder, Richard Hoare, had promised to sell various leasehold properties in London's West Smithfield and Cock Lane *for the best price that could be reasonably gott* and purchase freehold lands in or near London with an annual rental value of £100-£150 as a jointure for his wife Susanna. This led to the acquisition of several parcels of land at Staplehurst, Kent, which were put in trust for the benefit of Richard during his lifetime, *then to the use and behoofe of Dame Susanna during her lifetime in part of her jointure but not to barr her from any third or dower...she may have claim by the Custom of the City of London*, before finally passing to the couple's eldest son and his heirs.

Although Staplehurst would remain in the family's possession for the next two hundred years, the most significant property as far as the Hoares were concerned was Stourhead, Wiltshire. When Richard's second son, Henry, married Jane Benson in 1702, Richard agreed to put up £8,000 (c.£1M today), while the Bensons furnished Jane with a dowry of £4,000. Under the terms of their

marriage settlement, all but £2,000 of this £12,000 was to be laid out in lands and estates, the income of which was to provide Jane's jointure. This in turn resulted in the purchase of Stourton Manor and a number of smaller properties nearby. Following Henry's death in 1725, the house, Stourhead, duly became Jane's for life, along with an annual rental income of £543 (c.£66K today). The remaining rents passed to the couple's elder son, Henry (Magnificent), although he was unable to take possession of the house until his mother's death in 1742. Thereafter, Stourhead played a prominent role in the family's marriage settlements, with each generation being given an income from the estates but lacking the power to sell or bequeath them. When Richard Colt Hoare married Hester Lyttelton in 1783, for example, the marriage settlement (pictured) gave Richard an annual allowance of £3,500 (c.£345K today) and fixed Hester's jointure at £1,000 p.a.

As well as securing a bride's future, marriage settlements also served to protect any property, real or personal, she might bring with her. No family wanted to see its hard-won fortune dissipated by a profligate son-in-law or lost to step-children, while a widow contemplating remarriage would be anxious to safeguard her assets, whether land, a business, cash or family jewels, for any children by her previous husband. Placing a woman's property in the hands of trustees allowed her to exercise complete control over it during her marriage and dispose of it as she saw fit. When Henry and Jane's younger son, Richard, married Sarah Tully, daughter of a prosperous attorney, in 1732, his bride brought with her an estimated fortune of £20,000 (c.£2.8M today). The marriage settlement, a complex document covering seven large vellum skins, ensured that her extensive properties in Berkshire, Norfolk, Lincolnshire and Middlesex, as well as several thousand pounds in South Sea Company Stocks, were placed in a trust, the income of which was to belong to Sarah during her lifetime before passing firstly to Richard, should he outlive her, and then to their eldest son. Following Sarah's death just four years later, this income did indeed pass to Richard and ultimately to their only child, Richard (later 1st Bt). And when Richard remarried, the settlement drawn up on that occasion had to accommodate his previous marriage, his young son and his new bride – *a beautiful young Lady of great Merit, fine Accomplishments, and a considerable Fortune*. (Read's Weekly Journal or British Gazetteer, 2 July 1737)

Marriage without some sort of settlement was at best foolhardy. Eloping heiresses could lose everything to unscrupulous fortune hunters, while couples who married without independent means or their families' blessing risked alienating the very people they relied on most. In 1772, customer Jonathan Watson wrote to the bank from Virginia to say that he had heard of his eldest son's marriage: *which does not at all incline me to augment his allowance for tho' I like his Choice well enough if it had been some years hence, & He in a good Way of Business, yet as she has so little now in hand, tho' with good Expectations I am forc'd to send for them over hither*. But for families anxious to promote advantageous matches, finding the cash required to bring them about could be difficult, particularly if their property was bound up in settlements. Many found themselves forced to seek bank loans to fund dowries and settlements. In 1770, Lord Ilchester asked to borrow £3,000 against a Dorset estate to help bring about a daughter's marriage, while in 1778 lawyer Edward Woodcock wrote to Henry Hoare (Magnificent) requesting an advance of £25,000 to facilitate his daughter's match with Sir John Shelby. The settlement, Woodcock explained, involved various exchanges of land and money which would be *very difficult to obtain but by the Friendship of a Banking house...Your distinguished Parental Affection, at the same time it feels my Anxiety for the Success of a Scheme so Essential to my happiness in the Close of Life, will receive it as an excuse for the trouble of this Application*.

As Woodcock hinted, Henry Hoare knew all about raising money for marriage settlements, having had to provide three dowries totalling nearly £70,000 in the space of just eight years. When his elder daughter married Viscount Dungarvan, son of the Earl of Cork and Orrery, in 1753, she took

with her £25,000 (c.£3M today) in cash, £1,000 for clothes, £3,000 worth of her late mother's jewels and the use of Henry's house in Lincoln's Inn Fields for life. Three years later, Henry had to find another £20,000 to fund his younger daughter's marriage to her cousin Richard. Then in 1761 the widowed Lady Dungarvan married once again. Although this time Henry supplied just £10,000, his private accounts indicate that he also gave his new son-in-law £13,000.

By the nineteenth century, an increasing number of marriage settlements were less about land and more about other assets, including stocks and shares. This made them no less convoluted however. When Henry Merrik Hoare married brewer Henry Thrale's daughter Sophia in 1807, the lawyers were kept busy for weeks preparing the requisite settlements. On 21 July, Sophia wrote to her stepfather: *he [HMH] would most willingly accelerate the Marriage as much as possible, but where Lawyers are concerned you know, that is not always to be done.* (The Piozzi Letters: Correspondence of Hester Lynch Piozzi, 1784-1821 (vol 4, 1805-10), ed by Edward A Bloom and Lillian D Bloom, 1996) Ten days later, Sophia was able to inform her mother: *I think [the marriage] will take place early in the Week after next, as the Writings are nearly finished. It is impossible for anyone to have behaved more liberally than Mr Hoare has done, and I have every Reason to think myself highly fortunate in having gained the Affections of so amiable a Man.* (Ibid)

Under the terms of their settlement, Henry Merrik agreed to put up £10,000, half of which was made over to trustees for the purchase of land or government stocks. The remainder was set aside *to defray the Expences of the intended marriage Establishment.* Interestingly, Henry Merrik observed the old common law tradition of dower by promising Sophia one third of any rentals he might be in receipt of at the time of his death as well as a lump sum of £2,000. This all paled into insignificance next to Sophia's fortune however. Not only did she bring £40,000 (c.£2.6M today) Consolidated 3% Bank Annuities into the marriage, but also the prospect of substantial legacies from her mother and aunt. And she made sure that she retained complete control over her fortune. The £40,000 Consols were put in trust alongside Henry Merrik's £5,000 and the settlement dictated that the first £400 p.a. interest be Sophia's, *for her sole separate and peculiar use and benefit exclusively of the said Henry Merrik Hoare...and without being in any wise subject to his debts, control interference or engagements.* Any interest over and above the £400 would be paid to Henry Merrik during his lifetime, then revert to Sophia should she outlive him. Additionally, the couple also entered into a Settlement of Paraphernalia, which stipulated that *all plate, linen, china and books and the jewels, trinkets and other personal ornaments now belonging to the said Sophia Thrale should...be retained used, worn and enjoyed by the said Sophia Thrale for her sole and separate use and to be disposed of by her at her free will and pleasure.*

As the nineteenth century progressed, women gradually began to acquire more direct control over their property. The Divorce and Matrimonial Causes Act (1857) gave divorced or legally separated women power over their property once more, while the Married Woman's Property Act (1870) allowed women to keep any earnings or property they might acquire during the course of their marriage. Finally, the Married Woman's Property Act (1882) allowed women to retain any property, real or personal, that they owned at the time of their marriage. Thereafter, marriage settlements became less widespread. But recent years have witnessed renewed interest in the concept of marriage settlements, with law firms reporting a sharp rise in the number of couples entering into pre or post-nuptial agreements. And while such agreements were not previously considered binding under British law, recent landmark rulings suggest that judges will accord them more weight in future.