

ROMAN DOWRY AND THE DEVOLUTION OF PROPERTY IN THE PRINCIPATE

The rapid turnover of senatorial families during the Principate is a well-known phenomenon, but one which awaits satisfactory explanation. Comparative evidence shows the rate of turnover to have been unusually high.¹ For example, the old aristocratic families of early modern Europe gave way to new at a much slower rate. Patterns of Roman property-holding and of the transmission of wealth from one generation to the next must have been closely associated with this rapid turnover. When an aristocratic family produced no offspring who reached adulthood, the normal pattern of passing the bulk of the estate from one generation to the next within the family was interrupted. On the other hand, if a family produced many children, it might well become impoverished in the process of providing for all of them.² Consequently, to perpetuate the family line with its status intact required careful financial and family planning. It was necessary to use or to take into account the various laws and customs regarding the family, including those regulating division of the estate among heirs, adoption, dowry and so on.

In this essay I wish to examine the function of dowry in this context. J. Goody in his general comparative work on dowry has illustrated how dowry can serve different functions in various systems of devolution of property from one generation to the next.³ In most societies where a dowry is given by the wife's family to the husband it serves substantially to settle the wife's claim to her father's estate, and thus provides a vehicle for passing on part of her family property to the daughter's children. Goody describes this as a *diverging* pattern of property devolution because the dotal property passes out of the patrilineal family. Such a diverging pattern clearly makes planning for the continuity of the male family line at the same level of wealth more difficult than a strict male primogeniture system. At the other end of the spectrum, in some societies dowries are so small as to be nominal, including no more than the wife's trousseau and contributing little to the future financial well-being of the new household. In between these two extremes dowries might be at a level at which they provide support for the wife in her new household but do not serve to pass on a substantial share of her father's estate to her children.

In Greece, though dotal law varied from polis to polis, dowries seem generally to have served to settle the daughter's claim to her father's property. Athenian law stipulated that daughters should have no share of the inheritance when legitimate sons existed, and so the dowry provided daughters with their portion of the family wealth (sometimes as much as a quarter or more of the whole estate).⁴ Goody treats dowries as an alternative to female inheritance, an alternative made explicit in the Gortyn code.⁵ There, daughters had a right to one-half the share of their brothers, which they

¹ M. Hammond, 'Composition of the senate, A.D. 68–235', *JRS* 47 (1957), 75; Keith Hopkins, *Death and Renewal* (1983), ch. 3.

² On the cost of having children see Pliny, *Ep.* 4. 15. 3; Musonius Rufus, fr. 15b (ed. O. Hense).

³ J. Goody and S. J. Tambiah, *Bridewealth and Dowry* (1973), 17–47. See also his more general work, *Production and Reproduction* (1976).

⁴ D. Schaps, *Economic Rights of Women in Ancient Greece* (1979), ch. 6 and App. 1.

⁵ Goody, *Production*, 6–7. Goody recognizes that the two means of transmission of property to daughters carry with them some noteworthy differences. Gortyn code iv. 31–54.

might receive either on their marriage as dowry or on their father's death as an inheritance.

Similarly, in early modern Europe dowries represented the daughter's share of the family estate, or at least the bulk of it. Customs regarding dotal settlements varied from place to place and time to time, but in general dowries were substantial, in many places three to five times the family's annual income.⁶ Such sizeable settlements had important consequences. First, it was customary in many places to marry off only one daughter: to provide dowries for more was not financially feasible (England was an exception in this respect, in part because dowries were relatively small). Secondly, aristocrats often went deeply into debt in order to pay these sums without selling their land. Thirdly, as a result there were widespread complaints about extravagant dowries leading to the ruin of great families, and in Venice laws were passed to limit the size. Nevertheless, aristocratic competition to achieve the most prestigious marriages possible for daughters continued to inflate dotal settlements from Venice to England. Fourthly, large dowries tend to result in endogamy within the aristocracy (wealthy aristocrats can provide large dowries to secure prestigious marriages with other aristocrats). But a *nouveau riche* may also be able to use his money to buy a good match for his daughter, thus affording an opportunity to a poor noble family to re-establish its fortunes by offering a son in such a marriage. Some noble families were able to trade on their status in this way and to make a profit from dowry exchange over several generations, but most families in the long run probably paid out for their daughters' marriages roughly what they received from their sons'.

How do Roman dowries compare in size and function with their Greek and early modern European counterparts?⁷ The development of Roman marriage customs and law reflects a change in the dowry's function. In early Rome marriage *cum manu* was the normal form.⁸ Upon her marriage the woman passed from her father's *potestas* into her husband's and took her place *in loco filiae*. Along with her the dowry passed into the *dominium* of her husband or his *paterfamilias*. The wife in a *manus* marriage gave up her right to intestate succession in her father's family and became one of her husband's *sui heredes*, along with her children. In this system of property devolution it seems that the dowry served to satisfy the daughter's claim to the paternal estates, as it did in Athens and Gortyn.

By the time of the Principate a marked change, impossible to date precisely, had taken place in marriage customs.⁹ Before the end of the Republic *matrimonium sine manu* (or 'free marriage') became the dominant form. In such marriages the wife remained in her father's *potestas* and, when he died or emancipated her, she acquired an independent right to own property, which was kept entirely separate from her husband's. Dowries, the provision of which was a *paternum officium*, continued to be

⁶ For the European evidence I have depended on J. P. Cooper, 'Patterns of inheritance and settlement by great landowners from the fifteenth to the eighteenth centuries' in *Family and Inheritance: Rural Society in Western Europe, 1200-1800*, ed. J. Goody, J. Thirsk, E. P. Thompson (1976), 192-327 (especially 249, 269, 283, 286, 301); R. Forster, *The Nobility of Toulouse in the Eighteenth Century* (1960), ch. 6; J. C. Davis, *A Venetian Family and its Fortune 1500-1900* (1975), 106 ff.; L. Stone, *The Crisis of the Aristocracy, 1558-1641* (1965), 175; R. B. Litchfield, 'Demographic characteristics of Florentine patrician families, sixteenth to nineteenth centuries', *Journal of Economic History* 29 (1969), 203.

⁷ I am concerned here exclusively with well-to-do classes of Rome and Italy (from the municipal aristocracies up). To the best of my knowledge no evidence exists concerning dowry exchange among members of the lower orders.

⁸ Alan Watson, *Roman Private Law around 200 B.C.* (1971), 17, together with his *The Law of Persons in the Later Roman Republic* (1967), 29 ff.

⁹ P. E. Corbett, *The Roman Law of Marriage* (1930), 90 f.; Watson, *Persons*, 19.

the custom among the propertied classes.¹⁰ As in *manus* marriages, the dotal property was under the *dominium* of the husband, but as divorces became more frequent from the late third century B.C. on, legal provision was made for the return of the dowry. Consequently, though the husband (or his *paterfamilias*) was *dominus* of the *dos* and used the *fructus* as his own, his powers of management were limited by law to protect the wife's claim in case of dissolution of the marriage.¹¹

Since the specific rules governing the return of the *dos* are important for understanding both the purpose of dowry and its function in the devolution of property from one generation to the next, a brief review of them may be useful. It seems likely that upper-class parties to a marriage usually made explicit agreements (*pacta dotalia*) concerning the fate of the dowry on the dissolution of the marriage.¹² In the absence of a pact, the law provided that different types of dowry be treated in different ways, depending on who gave the dowry and how the marriage ended. In cases of divorce or husband's death the *dos* could be recovered by the wife together with her *paterfamilias* by an *actio rei uxoriae*. If the divorce was at the instigation of the woman or her *paterfamilias* or on account of her moral lapses, the husband would be allowed to retain one-sixth of the *dos* for each child up to three (*retentio propter liberos*) and up to one-sixth for moral offences (*retentio propter mores*).¹³ Thus the rules were such that if the wife lived on after the dissolution of the marriage, she would have at least part of her original *dos* for another marriage. On the wife's death *dos adventicia* (dowry contributed by the wife herself or someone other than her *paterfamilias*) went to the husband unless specific agreement had been made for its return to the donor (in which case it was *dos recepticia*). *Dos profecticia*, dowry from the woman's *paterfamilias*, went back to the *paterfamilias* on the wife's death (probably an infrequent event).¹⁴ I describe these basic rules in some detail because they form a sharp and informative contrast with the early modern European situation, where marriages were assumed to be lifetime arrangements and the dowry became part of the estate of the husband's family. In Rome there were many circumstances which might require the husband to give up all or most of the dowry, rather than keeping it and passing it on as a permanent addition to the wealth of his family line.

Of course, these rules could be, and often were, altered by *pacta dotalia*. The terms of the pacts varied considerably and might favour either the husband's or the wife's side.¹⁵

¹⁰ Corbett, *Law of Marriage*, 152–4.

¹¹ Ibid. 179 ff. For example, a law of Augustus prohibited the husband from alienating Italian *praedia* in the dowry without the wife's consent.

¹² A title in the *Digest* (23. 4) is devoted to such pacts.

¹³ Corbett, *Law of Marriage*, 182–201. F. Schulz, *Classical Roman Law* (1951), 126–8, offers a brief summary of the rules. The rules are set out in *Ulp. Reg.* 6. 3–13 (in *FIRA* ii. 269 f.).

¹⁴ It is possible to use life tables to arrive at a rough estimate of the chances that a *paterfamilias* who has provided a *dos profecticia* will die before his daughter, with the consequence that the *dos* will remain with the husband on her death (assuming no divorce). The numbers are based on the assumption that the daughter was born when the father was 30 and married 15 years later. At the age of marriage roughly one-third of the brides would already have lost their fathers through death and as a result their *dos* would necessarily have been *adventicia*, thus reverting to the husband on their death. Of those who married with their fathers still alive, roughly three in every four would have outlived their fathers. Thus, the reversion of *dos profecticia* to the *paterfamilias* was a rarity. The husband was much more likely to restore the *dos* upon divorce. (For age of marriage see M. K. Hopkins, 'The age of Roman girls at marriage', *Population Studies* [1965], 315 ff. I have used the life-table of Bruce Frier, 'Roman life expectancy: Ulpian's evidence', *HSCP* 86 [1982], 245, with no pretence of being able to judge its relative merits in comparison with other tables on the grounds that any high mortality table is likely to produce roughly similar results.)

¹⁵ J. Crook, *Law and Life of Rome* (1967), 105.

The frequent appearance of certain terms in the *Digest* suggests that they were common. One stipulated that the wife's father forfeit his right to recovery of *dos profecticia* where the wife died leaving children.¹⁶ Since the right to claim *dos profecticia* could not be inherited, there was another common term to the effect that the *paterfamilias*' heirs, particularly the wife's brother, be able to claim return of the *dos* or part of it (again often under the condition of no children of the marriage).¹⁷ It is not clear what effect these legal rules and agreements may have had in actual settlements on the dissolution of marriages. Roman aristocrats were often reluctant to take their peers to court.¹⁸ But it is difficult to believe that pacts were made in the belief that they would not be adhered to. Even if settlements were negotiated out of court, surely the bargaining position of each side was based on what it could get by pressing the case as far as the courts. In any case, the *pacta* are informative about the purpose of dowries, because they show what adjustments to legal rules husbands, wives and their families thought to be necessary to ensure a fair final destination of the dowry when the marriage ended. The first common term cited above suggests that it was thought right for the husband to keep part or all of the dowry to maintain offspring of the marriage. The second term is a sort of corollary: where the marriage failed to produce children, the wife's side was entitled to recover some or all of the dowry, regardless of the rules about the lack of inheritability of the right to *dos profecticia*.¹⁹

One other legal rule is directly relevant to the relation of dowry to the devolution of property, and that is the one concerning *collatio dotis*. The praetor could set aside a will in which the testator did not deal adequately with *sui* (e.g. where a son was neither named as heir nor explicitly disinherited). If a married daughter pressed a claim to a share of her paternal estate in such circumstances, in the division of the estate her dowry would be taken into account as a part of her share, a procedure called *collatio dotis*.²⁰ Its implications for the purpose and function of dowry are ambiguous and will be discussed below.²¹

No single, simple purpose for dowry can be deduced from these various provisions in the law on the subject. P. E. Corbett, in his book *The Roman Law of Marriage*, begins the chapter on dowry with the assertion: 'In its essential character and purpose dowry is a contribution from the wife's side to the expenses of the household' (p. 147). In other words, the *fructus* and *usus* of the *dos* were intended to help offset the *onera matrimonii*.²² There has been considerable debate among Roman lawyers concerning the significance of *onera*, and detailed studies have shown that the matter is not so straightforward as Corbett's introduction might suggest. For example, if *onera matrimonii* had been the main principle underlying the legal regime of dowry, it would be difficult to explain, *inter alia*, why on the death of the wife *dos adventicia* remained with the husband even where there were no children and no further *onera*. In view of the difficulties M. Humbert in his important book on remarriage in Rome has

¹⁶ In the title on *pacta dotalia* 23. 4 see 2, 12. pr., 23, 24, 26. pr., 26. 2, 30. For further discussion and references in other titles see M. Humbert, *Le remariage à Rome* (1972), 284 ff.

¹⁷ Humbert, *Remariage*, 284 n. 6.

¹⁸ *Personal Patronage under the Early Empire* (1982), 121. Cicero showed great reluctance about using legal remedies to recover Tullia's dowry from Dolabella (*Ad Att.* 12. 12, 14. 18–19, 16. 15).

¹⁹ Humbert, *Remariage*, 284 ff.

²⁰ W. Buckland, *Text-book of Roman Law*, 325 f.

²¹ P. 199

²² While stressing *onera matrimonii* Corbett (*Law of Marriage*, 178) recognizes that 'there were cases of legal separation of *dos* from the *onera*'. Schulz, *Classical Roman Law*, 124 f. and M. Kaser, *Das römische Privatrecht*² i (1971), 332 f. stress *onera matrimonii*.

recently preferred to emphasize the State's interest in keeping the woman *dotata* so that she could remarry as 'le fondement du droit à la restitution'.²³ But this principle is also of limited application, in no way explaining why *dos profecticia* should go back to the father on the wife's death, nor, more generally, why dowries were given in the first place. In the end, as Koschaker and Wolff argued long ago, it is probably futile to look for a single principle governing the law of dowry.²⁴ As elsewhere, the classical jurists followed a practical approach, taking account of the various social needs that dowries had to meet. From the above-mentioned rules it is clear that the law tried to ensure that the dowry would be available to provide for the expenses of the household (in particular, offspring of the marriage) and to provide another dowry for the re-marriage of a widow or divorcée; in addition, to the extent that the *dos* was not needed for these purposes, there was a feeling that it should revert to the wife's *paterfamilias*. One final negative point about the classical law: there is nothing in it parallel to the Gortyn code to suggest that the dowry was intended to satisfy the woman's claim to her father's estate. *Collatio dotis* implies that dowries were substantial enough to be worth taking into account when dividing the estate on the father's death, but not to represent the woman's whole share. To pursue the matter further, it will be necessary to discover the customary size of dowries.

Part of the ambiguity in the law about the purpose of dowry stems from the fact that the law was developing from its early stress on the *dos* as the husband's property to the Justinianic view (probably interpolated into some *Digest* passages) that the dotal *fructus* was the wife's for her maintenance.²⁵ Since the arguments about the distinctions between the classical and the post-classical views will no doubt continue among the lawyers, it is important to examine the literary evidence for the Principate and its implications.

I know of no literary evidence from the Principate which provides an explicit statement about the purpose of *dos*, but a contrast in Tacitus' *Germania* (18. 1) between German and Roman dotal customs carries valuable implications on the subject. According to Tacitus, the Germans practised a system of 'indirect dowry' (that is, from husband to wife) as opposed to Roman 'direct dowries' from the wife's family to the husband. A second aspect of the contrast is that German dowries comprised productive things, such as oxen, horses, spears and shields, while the Romans gave dowries of *deliciae muliebres*. This passage is tendentious and problematic. Tacitus no doubt misunderstood German dowries, which were not provided so much for the wife – what need had she for spears and shields? – as for the common household. Moreover, Tacitus is exaggerating in his reference to *deliciae muliebres*: it is certain that Roman dowries included *fundi*.²⁶ Nevertheless, behind the exaggeration there may lie a real and significant distinction of purpose. It may be suggested that while the German indirect dowry provided the primary basis of production to support the new household, the Roman dowry of the classical period was intended more modestly to maintain the wife and *sui* (which I take to include her children and slaves).

²³ *Remarriage*, 275. The State's interest in remarriage certainly explains the restrictions on dotal pacts to the detriment of the wife.

²⁴ H. J. Wolff, 'Zur Stellung der Frau im klassischen römischen Dotalrecht', *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte* 53, 2 (1933), 297–371; Paul Koschaker, 'Unterhalt der Ehefrau und Früchte der Dos', *Studi Bonfante* iv. 3–27.

²⁵ This is the conclusion of Koschaker in the article cited in the previous note. Wolff gives close attention to the problem of interpolation in his previously cited article, particularly in n. 1, p. 369.

²⁶ *Fundi* and *praedia* are frequently mentioned in the *Digest* titles concerning dowry, e.g. from title 23. 3: 6. 1, 10. 1, 32, 47, 50pr., 52.

A letter from Pliny to Quintilianus (6. 32) lends support to this interpretation. Pliny offers to contribute 50,000HS to the dowry for the daughter of Quintilianus, a man of modest means (not the great teacher of rhetoric).²⁷ As an explanation of the need for his contribution, Pliny says: 'Since your daughter is about to marry a distinguished man, Nonius Celer, on whom the requirements of public duties impose a certain need for splendour, she ought to have clothing and a retinue in accordance with her husband's position; of course such things do not increase her worth but nevertheless adorn it and provide for it'. Unfortunately, this letter tells us about only one dowry and I know of no other comparable statement, but it does lend support to Tacitus' general contrast: the dowry of Quintilianus' daughter was not intended to contribute substantially to the production or wealth of Celer's household, but to maintain the daughter in a style appropriate to her new position.

Central to the questions of purpose and function is the customary size of dowries. As mentioned above, dowries in early modern Europe commonly amounted to three to five times the annual income, hence a considerable fraction of the family's wealth and rightly interpreted as the daughter receiving her inheritance before the death of her father. Of course, it is impossible to work out such averages for Rome, but enough literary passages with figures have survived to give us an idea of the customary range of value. These passages fall into two categories: (1) the statements of values of real dowries, and (2) the moralists' and satirists' stock figures for extravagant dowries. Taken together, they produce a coherent idea of dowry sizes which, though not conclusively proven, I am willing to accept in the absence of evidence to the contrary.

Among the real dowries Pliny generously contributed 50,000HS and 100,000HS to daughters of a friend and a relative in the class of local worthies. Pliny's donations did not constitute the whole of the dowries, but in view of what he says about the fathers' financial situations Pliny's contributions were surely a large part.²⁸ At a somewhat higher level, that of the very wealthy provincial, we have Apuleius' wife Pudentilla, a widow *sui iuris* and worth 4,000,000HS. She offered a dowry of 300,000HS, to revert to her sons by her first marriage should the marriage with Apuleius produce no children.²⁹ The interpretation of this figure is not necessarily straightforward: Apuleius describes the *dos* as *modica*, but then it was in his interest to minimize it in answering an accusation of marrying Pudentilla for her money. *Modica* in any case suggests that a 300,000HS *dos* for someone of Pudentilla's wealth was nothing out of the ordinary, though perhaps somewhat on the low side. Apuleius then proceeds to compare this with the sum settled by his arch-enemy Rufinus on his daughter – 400,000HS, an extravagant dowry from Rufinus, who had squandered his 3,000,000HS estate and had to borrow the money.³⁰ After the rhetorical exaggeration has been stripped away, two useful points remain. Rufinus' provision for his daughter was at roughly the same level as Pudentilla's dowry, suggesting that it may have been

²⁷ Though this letter does not include the word *dos*, from the context it seems to me all but certain that Pliny's contribution was intended for the dowry. (R. Duncan-Jones, *The Economy of the Roman Empire* [1974], 28, includes this among contributions to dowries.) The context and language (*confero*) are parallel to Pliny, *Ep.* 2. 4, which explicitly involved dowry. *Digest* 23. 3. 10pr. makes it clear that the wife's clothing, mentioned by Pliny, might be included in a *dos aestimata* (though it was to the husband's disadvantage to have it valued in this way). A Latin dotal agreement from Egypt of c. A.D. 100 has been preserved on papyrus and includes clothing and jewelry as a part of the *dos aestimata*, but unfortunately this is not very sound evidence for the custom in Rome and Italy (*FIRA* iii, no. 17).

²⁸ *Ep.* 2. 4, 6. 32.

²⁹ *Apol.* 71, 77, 92; 91 for the description of the *dos* as *modica*.

³⁰ *Apol.* 92.

customary for the class of wealthy provincials worth several millions. Secondly, the fact that the 400,000 HS was borrowed seems to be levelled at Rufinus as a criticism, a sign of his extravagance in spite of his poverty. The implication is that for *patres* pursuing sound financial management borrowing was not usually necessary to provide a dowry. In the context of early modern Europe, where dowries were typically borrowed, a comment such as Apuleius' would not have been understood as criticism.

One other passage concerning the Principate offers a real figure for a dowry. Tacitus reports that in A.D. 19 it was necessary to fill a vacancy in the college of Vestal Virgins. The daughters of two prestigious senatorial families were presented as candidates. As a consolation to the unsuccessful one, the daughter of Fonteius Agrippa, Tiberius bestowed on her a dowry of 1,000,000 HS ('et Caesar quamvis posthabitam deciens sestertii dote solatus est').³¹ This figure is particularly useful: unless Tiberius wished to look ridiculous with a show of imperial beneficence that was in reality niggardly, this gift must have represented a generous *dos* among the wealthiest of Roman society.

To generalize from the above figures, one might say that among the municipal aristocracy dowries were customarily of the order of magnitude of tens of thousands of sesterces, while the wealthiest of the empire who counted their riches by the millions gave dowries worth hundreds of thousands up to a million sesterces. These numbers fit well the assumptions of the moralists and satirists of the early empire. Seneca, Martial and Juvenal, when referring to extravagant dowries, pick figures of 400,000 and 1,000,000 HS. Among his remarks on how little good the wealth of the very rich does them, Seneca comments that Scipio's daughters, who enjoyed the great honour of a dowry provided by the State, were in a more enviable situation than someone of a disreputable profession such as a *pantomima* with a dowry of one million.³² In one of his epigrams about a woman trying to lure him into marriage, the reluctant Martial requires as one of his outrageous conditions a *dos* of one million.³³ The same figure is used twice by Juvenal: in *Satire* 6 he says sarcastically that for a dowry of one million a husband will call the most immoral wife chaste, and then in *Satire* 10 the notorious wedding of Messalina and Silius is mentioned along with a dowry put at a million. Finally, in *Satire* 2 Juvenal talks of a rich man who celebrated a mock wedding with a male horn-player, a wedding with all due ritual including a 400,000 HS *dos*.³⁴ Of course, these are stock figures, representing the senatorial and equestrian census requirements. Nevertheless, it seems to me that these passages would lack point if one million were not conventionally thought to be an exceedingly large dowry suitable for the wealthiest class – i.e. if dowries of five to ten million were not uncommon among senators.

To be understood, the dowry figures of several hundred thousand to a million for families of senatorial wealth must be put into context. Pudentilla's *dos* is the only one which can be compared with net wealth. It represented about seven per cent of her estate or something like one year's income on the conventional reckoning. More generally and less precisely, it can be said that the conventional very large dotal settlement of one million was of the same order (one year's income) for moderately

³¹ *Ann.* 2. 86. It has been suggested to me that Tiberius simply contributed to the dowry, but the Latin says that Tiberius consoled the loser with a *dos*, not a contribution to one. Furneaux implies in his comment on the passage an understanding similar to mine. This passage and others cited below have been used as evidence that 1,000,000 HS was a customary size for dowries: see e.g. J. P. V. D. Balsdon, *Roman Women*, 187 and Mayor's commentary on Juvenal 10. 335.

³² *Cons. ad Helv.* 12. 6. Seneca makes it clear in this passage that he is not referring to the modestly rich but to the very rich.

³³ *Epig.* 11. 23; the same figure appears in 2. 65 and 12. 75.

³⁴ *Sat.* 6. 136; 10. 335; 2. 117.

wealthy senators, such as Pliny.³⁵ Thus, for the well-off senator dowries were markedly smaller than in many early modern European societies, where they ranged from three to five times annual income. On the other hand, they were substantial enough to encourage endogamy: only a wealthy family could have provided the hundreds of thousands customary for a senatorial marriage. It should be remembered that one year's income is a rough average, not a firm rule. It is probable that convention and competition kept variations in the absolute size of dowries within a narrower range than the relative size as compared with the family's wealth.³⁶ In other words, neither convention nor competition would have required the very wealthiest senators to pay out much more than one million, a mere fraction of one year's income, while a struggling senatorial family might feel that in order to maintain its social position a dowry of several hundred thousand sesterces was required, though this represented an extravagant proportion of its estate. Apuleius' comparison of Pudentilla's and Rufinus' settlements offers a concrete illustration of this: the two dowries were roughly commensurate (perhaps a customary level for their status), but Pudentilla's estate could easily provide the sum while Rufinus had to borrow owing to his ambition and extravagance.³⁷ Other factors no doubt also influenced dowry sizes, in particular the innate attractiveness of the bride. Apuleius claims that a beautiful young virgin might be thought amply endowed without the addition of money, while an old widow would have to offer a considerable sum of money to lure a man into marriage.³⁸

We can now return to the matter of the function of dowries, bearing in mind their modest size in Rome of the Principate. On the one hand, sums of several hundred thousand sesterces are too large to qualify as mere wedding gifts. On the other, a dotal settlement of the order of one year's income from the family estate would usually have been only a fraction of the daughter's share of her father's fortune (though one substantial enough to be taken into account when calculating that share).³⁹ In short, the size of dowries lends support to the notion in the law that they were intended for an intermediate function, i.e. to offset the living expenses of the wife and *sui* in the household (though nothing in classical law required the husband to devote the whole of the dotal *fructus* to this end).

³⁵ Duncan-Jones, *Economy*, 32.

³⁶ Schaps, *Economic Rights of Women*, 78, makes this point for Athenian dowries on the basis of better evidence than is available for Rome.

³⁷ *Apol.* 91–2.

³⁸ *Apol.* 91 (it should be noted that there is no evidence that young, beautiful brides from wealthy families went without dowries); see also Seneca, *Ben.* 4. 22. 4 and Martial, *Epig.* 7. 10.

³⁹ It seems probable to me that daughters usually received a large fraction (a quarter or more) of their father's estates, since (1) aristocratic families of this period were typically quite small, (2) only a third of the children born outlived their fathers, and (3) there was a strong feeling that daughters deserved an equal or at least substantial share of the inheritance. The assumption of small families is based on the opposition to Augustan legislation penalizing those with fewer than three children and literary evidence such as that cited in n. 2. For (2) see Goody, *Production and Reproduction*, 133 f. J. Crook has argued for (3) in a paper entitled 'Women in Roman succession' (as yet unpublished). Though a daughter's rights were not quite on a par with her brother's, she had a claim to an equal share according to the civil law rules on intestacy; further, the praetor in the late Republic recognized her claim in granting *bonorum possessio contra tabulas* even if she had been emancipated; finally, unless disinherited by her father (though not necessarily by name as her brother had to be) she could undertake a *querela inofficiosi testamenti* in order to receive her intestate share of the estate (see Pliny, *Ep.* 6. 33). This last development probably occurred in the early Principate and shows a continuing feeling that daughters deserved a substantial share of the estate. (See Schulz, *Classical Roman Law*, 270–9.) I am grateful to Professor Crook for permission to read and to use his paper before publication. S. B. Pomeroy, 'The relationship of the married woman to her blood relatives in Rome', *Anc. Soc.* 7 (1976), 223 f., misstates the rule regarding succession of *filiae*, neglecting the distinction between *sui heredes* and *agnati* (Gaius, *Inst.* 3. 1–16).

If Roman dowries were relatively small in comparison with those of many other societies and if they did not serve the more usual function of an alternative to female inheritance, it remains to ask why this was so and what implications it has for the larger issue of Roman noble families' strategies for perpetuating their lineages. The answer to the first question seems to me to be relatively simple. The grant of large dowries as the daughter's share of the family estate makes sense where marriages are stable. As Humbert has shown, divorce and remarriage were quite common in classical Roman society.⁴⁰ Given this fact and the possibility that the husband would be entitled to retain some fraction of the dowry on divorce, the best strategy for the wife's *paterfamilias* wishing his estate to reach his own descendants was to give a minimal dowry into the *dominium* of his son-in-law and then to transmit the bulk of the daughter's share directly into her *dominium* by will. His daughter could then pass on this portion of the estate directly to her children by her first or subsequent marriages, without disputes with any former husband about *retentiones*. It was perhaps the instability of marriage that militated against the sort of dowry inflation common in early modern Europe, but apparently absent or minimal in classical Rome.⁴¹ Despite the general rise in living standards through the late Republic and early Principate, the largest dowry in our sources comes from the first half of the second century B.C., when the great Scipio Africanus promised to pay dowries of fifty talents (1,250,000 HS) for each of his two daughters – sums which Scipio Aemilianus was left to pay, and paid with a promptness that surprised the husbands.⁴² The fact that the largest known dowry comes early in the classical period is not so surprising when it is remembered that in all probability marriages were still stable arrangements for the most part and *manus* marriages were common.⁴³ Further, it is interesting to note that Goody finds the exceptions to his generalization that dowries are used as an alternative to female inheritance precisely in societies with high divorce rates (such as Arab societies).⁴⁴

As for the second question, it seems reasonable to suppose that relatively small dowries played a correspondingly small part in the long-term financial strategies of aristocratic families. In contrast to early modern European nobles, there is no evidence that Roman aristocrats often went deeply into debt to provide dowries. The Roman custom was to pay in three annual instalments – something that was possible without borrowing if the dowry amounted to one year's income.⁴⁵ Another, related contrast may be worth pointing out. Across early modern Europe there were complaints that lavish dowries were driving the nobilities into financial ruin, and consequently attempts were made to limit dowries.⁴⁶ I know of no such complaints in the literature of the Principate, nor attempts to institute limits as a part of sumptuary legislation.

If small dowries were not a major drain on Roman aristocrats' estates, they also limited the opportunities for financial improvement of impoverished families through marriage, particularly in the context of unstable marriages. Humbert refers to 'mariages d'argent' – that is, marriages in which a man from a family in financial straits revives the family fortune by taking a wife with a large dowry.⁴⁷ This sort of

⁴⁰ *Remariage*, 76–112.

⁴¹ Cooper (above, n. 2), 301.

⁴² Polyb. 31. 27; cf. Polyb. 18. 35 for the dowry received by Aemilius Paulus.

⁴³ See n. 8.

⁴⁴ *Production and Reproduction*, 61.

⁴⁵ Polyb. 31. 27; Cicero, *Ad Att.* 11. 2. 2; 11. 23. 3. Cicero had some difficulty in making the dowry payments for Tullia and mentions the possibility of borrowing from Atticus, but he clearly attributes the difficulty to mismanagement of his property. *Ad Att.* 11. 2. 2 indicates that Cicero *expected* to be able to pay the second instalment, at least in part, out of current income from his estates.

⁴⁶ Cooper (above, n. 2), 301.

⁴⁷ *Remariage*, 99 f.

marriage certainly took place among the early modern nobilities, and perhaps they were at the back of Humbert's mind. In fact, however, the evidence for marriages to revive family fortunes is very meagre. Apuleius was accused of marrying Pudentilla for her wealth, and yet, as he points out, a *dos* of 300,000 HS was not going to re-establish his family fortune of a few millions, particularly since it was to revert to her sons by her first marriage if their marriage produced no offspring.⁴⁸ Nearly all the literary evidence for enrichment through marriage concerns rich old women who are about to die rather than young brides with large dowries.⁴⁹ There are a few passages from Horace, Seneca, Martial and Juvenal which point to the awkward position of the poor husband of a wife with a large dowry: the threat of divorce and recovery of the dowry (or at least most of it) allows the wife to lord it over her husband and get away with outrageous behaviour.⁵⁰ Neither these passages nor any other evidence from the Principate suggests that dowry-hunting was a common strategy among noble families for sustaining or recovering their fortunes and status. The contrast with the abundant references to legacy-hunting at all levels of Roman society from the emperor down is striking, and the reason is not far to seek. A leading senator such as Pliny might acquire a number of inheritances during his lifetime, but would receive only one dowry per marriage, a dowry of such a size that it would increase a moderate senatorial fortune by only a small fraction (one-twentieth or so).⁵¹ Moreover, if the marriage ended in divorce, most or all of the *dos* would have to be returned: neither in law nor in practice could it be treated as a permanent addition to the family fortune. If the marriage produced children, then the husband could expect to add at least part of the *dos* to the family estate. But given the Roman aristocracy's views about the expense of raising children, nobles can hardly have believed that their lineage would enjoy much net profit from keeping a fraction of the dowry for each child.⁵² In addition,

⁴⁸ *Apol.* 91.

⁴⁹ Though Humbert refers in the text (*Remarriage*, 99 f.) to enrichment through acquisition of a large dowry, in fact none of his references concerns *dos*. In *Ad Att.* 13. 28. 4 Cicero does not say that Nicias Talna was trying to marry Cornificia for her money; even if that was the case, there is no hint that the enrichment would have been in the form of a *dos*, as opposed to inheritance on her death. In any case Talna suffered what must often have been the fate of would-be fortune hunters: his advances were discouraged because he had an estate worth a mere 800,000 HS. Quintilian, *Inst.* 6. 3. 73 again says nothing of financial motives for marriage and not a word about dowry. The motives of the quaestor who divorced his wife after being assigned his province (Suet. *Tib.* 35. 2) are not stated, but the reference to the assignment of the province implies that the quaestor kept his wife just long enough to take advantage of Augustus' marriage laws favouring candidates with wives and children (nothing to do with the wife's money or dowry). Finally, Humbert refers to the important financial questions raised by Cicero's divorce and remarriage. The restoration of Terentia's dowry caused Cicero some discomfort in a time of civil war and disarray in his own estate management. Whether these financial problems prompted the marriage to Publilia is an impossible question to answer (D. R. Shackleton Bailey, *Cicero* [1971], 202 f.). If it was a 'mariage d'argent', it is unclear whether Cicero was interested in her dowry or her personal fortune. (Publilia's father had died, so she would have owned property in her own right.) The last point to be made about this case is that even if Cicero had married Publilia to solve financial difficulties, the dowry was small enough to be repaid without great discomfort (one instalment being repaid before the due date according to *Ad Att.* 16. 2. 1). Better evidence for Humbert's argument, though fictional, are Martial's *Epig.* 2. 65 and 10. 15, which refer to the husband acquiring a large dowry, but it is important to note that the husband is said to enjoy the windfall only in the wife's death rather than from the beginning of the marriage. J. Carcopino, *Daily Life in Ancient Rome*, transl. E. O. Lorimer (Penguin ed., 1956), 103, portrays Roman husbands as moving from wife to wife in search of ever larger dowries – an exaggerated view of 'mariages d'argent' for which he produces no adequate evidence.

⁵⁰ Horace, *Carm.* 3. 24; Seneca, *Matrim.*, fr. 87; Martial, *Epig.* 8. 12; Juvenal, *Sat.* 6. 136.

⁵¹ Duncan-Jones, *Economy*, 25 ff.

⁵² See above n. 2.

the poets' scorn for the poor man marrying a rich wife must reflect a very real problem. Where marriages are life-time arrangements, a large dowry gives the wife no special power in the family. In Rome the constant threat of divorce and consequent power of the wife with a large dowry must have made 'mariages d'argent' less appealing. Martial puts the matter with his usual point: he does not want to take a rich wife to be his husband.⁵³

Altogether, the evidence from the Principate, though fragmentary, presents a consistent picture of the function of dowry, one rather different from the later European experience. It was relatively small but not negligible. Consequently, it served not to give the woman her share of the family estate, but to support her, her children and her entourage in her husband's house – a function that makes good sense in the context of a high divorce rate. It follows that dowries usually did not play a very large part either in aristocrats' strategies for financial success or in their financial ruin, conclusions supported by some notable silences in our evidence. This evidence is perhaps not as complete as we might hope, but in view of the coherence of the picture and the absence of evidence to the contrary, the conclusions seem tenable.⁵⁴

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⁵³ *Epig.* 8. 12.

⁵⁴ A preliminary version of this paper was read at a seminar of the London Institute of Classical Studies. I am grateful to the participants for their suggestions and to Professor J. Crook, Sir Moses Finley, Dr P. Garnsey, Mr G. Herman, Dr B. Shaw, Dr A. Wallace-Hadrill and Mr C. R. Whittaker for reading and commenting on the paper.