

## LAND TENURE AND INHERITANCE IN CLASSICAL SPARTA\*

*In memoriam Moses Finley*

‘The problem of Spartan land tenure is one of the most vexed in the obscure field of Spartan institutions.’ Walbank’s remark is as true today as when it was written nearly thirty years ago.<sup>1</sup> Controversy surrounding this subject has a long tradition going back to the nineteenth century and the last thirty years have witnessed no diminution in the level of disagreement, as is demonstrated by a comparison of the differing approaches in the recent works by Cartledge, Cozzoli, David and Marasco.<sup>2</sup> Although another study runs the risk of merely adding one more hypothesis to the general state of uncertainty, a fundamental reassessment of the question is required, not least because of its significance for the historian’s interpretation of the overall character of Spartiate society. Through the introduction of a new perspective it may be possible to advance our understanding of the subject.

In Section I of this essay I shall attempt to review several influential scholarly theories and to examine their feasibility and the reliability of the evidence upon which they are based. Section II will begin to construct a more plausible alternative account which is based upon more trustworthy evidence. Finally, Section III will discuss a comparatively underemphasised aspect of the topic, the property rights of Spartiate women, which suggests a rather different interpretation of the character of land tenure and inheritance from those more usually adopted.

### I. SOME STANDARD VIEWS OF LAND TENURE AND INHERITANCE: A CRITIQUE

Much of the controversy surrounding Spartiate land tenure concerns the extent to which land was publicly or privately controlled. What private rights, if any, did the individual citizen have over the estates which supported his family and provided his means of paying the contributions to the common meals necessary for the maintenance of his citizen status?

\* The following abbreviations for modern works have been used: Asheri, *SLE* = D. Asheri, ‘Sulla legge di Epitadeo’, *Athenaeum* 39 (1961), 45ff.; Asheri, *LDP* = D. Asheri, ‘Laws of Inheritance, Distribution of Land and Political Constitutions in Ancient Greece’, *Historia* 12 (1963), 1ff.; Cartledge, *SL* = P. Cartledge, *Sparta and Lakonia. A Regional History 1300–362 B.C.* (London, 1979); Cartledge, *SW* = P. Cartledge, ‘Spartan Wives: Liberation or Licence?’, *CQ* 31 (1981), 84ff.; Cozzoli = U. Cozzoli, *Proprietà Fondiaria ed Esercizio nello Stato Spartano dell’Età Classica* (Rome, 1979); David, *AS* = E. David, ‘Aristotle and Sparta’, *Ancient Society* 13/14 (1982/83), 67ff.; David, *SER* = E. David, *Sparta between Empire and Revolution 404–243 B.C.* (New York, 1981); Grote = G. Grote, *A History of Greece*, 4th ed. (London, 1854); Lane Fox = R. Lane Fox, ‘Aspects of Inheritance in the Greek World’, in *Crux. Essays presented to G. E. M. de Ste. Croix on his 75th Birthday*, edd. P. Cartledge and F. D. Harvey (Exeter, 1985), 208ff.; Marasco, *Commento* = G. Marasco, *Commento alle Biographie Plutarchee di Agide e di Cleomene* (Rome, 1981); Schaps = D. M. Schaps, *Economic Rights of Women in Ancient Greece* (Edinburgh, 1979).

<sup>1</sup> F. W. Walbank, *A Historical Commentary on Polybius* 1 (Oxford, 1957), 728.

<sup>2</sup> Cartledge, *SL* 165ff.; Cozzoli, 1ff.; David, *SER* 46ff.; Marasco, *Commento* 204ff. For an example of 19th-century controversy, Grote ii. 530ff., with refs. to earlier views. For refs. to other discussions, cf. Walbank, *ibid.* 731; H. Michell, *Sparta* (Cambridge, 1964), 205ff.; P. Oliva, *Sparta and her Social Problems* (Prague, 1971), 32ff., 48ff. and 188ff.

Until recently at least the majority opinion has argued in favour of a considerable degree of state control over Spartiate landholdings. This view usually gives prominence to the evidence of Plutarch, who wrote in the late first and early second centuries A.D. In his biography of Lykourgos (8.3–6) Plutarch claims that the mythical Spartan lawgiver

persuaded his fellow citizens to make one parcel of all their territory and divide it up anew, and to live with one another on a basis of entire uniformity and equality in their means of subsistence... Suiting the deed to the word, he distributed the rest of the Lakonian land to the *perioikoi* in thirty thousand lots, and that which belonged to the city of Sparta, in nine thousand lots (*klēroi*), to as many Spartiates. Some say, however, that Lykourgos distributed six thousand and that afterwards Polydoros added three thousand; others, that Polydoros assigned half of the nine thousand and Lykourgos the other half.

Later he adds that

a child was not reared at the will of the father, but was taken and carried by him to a place called *Leschē*, where the elders of the tribes officially examined the infant; and, if it was well-built and sturdy, they ordered the father to rear it, and assigned it one of the nine thousand lots of land (16.1).

In his biography of King Agis IV, the third-century reforming king, however, Plutarch gives a somewhat different account when writing of the decline of Sparta in the early fourth century.

Since, however, the number of households instituted by Lykourgos was still preserved in the transmission of lots (*klēroi*), and father left to son his inheritance, to some extent the continuation of this order and equality sustained the state in spite of its errors in other respects. But when a certain powerful man, Epitadeus by name, who was headstrong and of a violent temper, came to be ephor, he had a quarrel with his son and introduced a law permitting a man during his lifetime to give his household (*oikos*) and lot (*klēros*) to any one he wished, or in his will and testament so to leave it (5.2–3).

Those scholars who emphasise this Plutarchean evidence differ among themselves concerning the degree of reliance to be placed upon one or other of the above passages. Some, stressing the evidence of *Lykourgos* 16, envisage a Spartiate as being merely the life tenant of his *klēros*, which reverted to the state on his death.<sup>3</sup> Others follow *Agis* 5 in arguing that the *klēros* passed down hereditarily from a man to his eldest son. Some of those who hold the latter view incorporate the evidence of *Lykourgos* 16 to the extent of postulating a state-controlled reserve of *klēroi* available for distribution to younger sons who did not inherit their fathers' lots.<sup>4</sup> Others dismiss *Lykourgos* 16 and the notion of the state endowing a young Spartiate with a *klēros*, except as an occasional measure when a citizen died heirless or needed to adopt an heir before his death, in which case, according to this hypothesis, a landless younger son could be nominated to succeed.<sup>5</sup> Despite their differences, common to all these views is the belief that the transmission of land on a Spartiate's death was governed by (variously defined) strict state-enforced rules which were designed to ensure that

<sup>3</sup> E.g. Michell, *ibid.* 205ff.; Oliva, *ibid.* 36ff.; W. G. Forrest, *A History of Sparta 950–192 B.C.*, 2nd ed. (London, 1980), 135ff.; T. J. Figueira, 'Mess Contributions and Subsistence at Sparta', *TAPA* 114 (1984), 87ff., at 96f. Both Michell and Oliva, however, waver somewhat in their accounts, saying that a man's *klēros* must often have been passed on by the state to his eldest son.

<sup>4</sup> E.g. L. Ziehen, 'Das spartanische Bevölkerungsproblem', *Hermes* 68 (1933), 218ff.; Asheri, *SLE*; *id.* *LDP*.

<sup>5</sup> E.g. G. Busolt and H. Swoboda, *Griechische Staatskunde*, 3rd ed., II (Munich, 1926), 633ff.; J. T. Hooker, *The Ancient Spartans* (London, 1980), 116ff.; David, *SER* 46ff.

the estate remained undivided and which denied the individual landholder any power of testament. Common also is the belief that the landholder had no right to alienate the estate during his lifetime by gift or sale. Given Aristotle's definition (*Rhetoric* 1361a19) that the right of alienation by gift and sale was the test of private ownership, it is clear that, according to these theories, land was far from being private property, whether transmitted hereditarily or not.

Those scholars who adopt the view that the *klēros* was transmitted hereditarily and that there was no regular reserve of land do, it is true, sometimes distinguish two types of land, drawing upon a passage in the second-century B.C. writer, Herakleides Lembos (373.12 Dilts), which probably derives from the Aristotelian *Polity of the Lakedaimonians* (fr. 611.12 Rose):<sup>6</sup>

It is shameful for the Lakedaimonians to sell land; and it is illegal to sell the ancient portion (*archaia moira*).<sup>7</sup>

Some of these scholars attempt to identify this 'ancient portion' with land in the *politikē chōra* which appears in a passage from the second-century B.C. historian, Polybius.<sup>8</sup> Referring to the constitution of Crete, he remarks,

How was it that the most learned of the ancient writers – Ephorus, Xenophon, Kallisthenes and Plato – first, state that it is one and the same with that of the Lakedaimonians... As to its dissimilarity, the peculiar features of the Lakedaimonian constitution are said to be, first, the land laws by which no citizen may own more than another, but all must possess an equal share of the *politikē chōra*...<sup>9</sup>

It is suggested that the rule concerning the indivisibility of a Spartiate's estate applied only to the ancient portions, identified with the *klēroi* allotted in the Lykourgan redistribution, and that many Spartiates held other land less subject to state interference which might be divided up among all a man's sons. Even on this view, however, the more important category of land was still subject to strict regulation.

The above views can be criticised on a variety of counts. One general weakness is the reliance placed upon the evidence of later writers like Polybius and Plutarch at the expense of alternative earlier accounts, particularly that of Aristotle's *Politics*, consideration of which is often relegated to the tail-end of modern discussions.<sup>10</sup> A related problem is that the sources of information upon which these later writers drew are not such as to inspire confidence. In these late accounts there are three main

<sup>6</sup> M. R. Dilts, *Heraclides Lembos Excerpta Politiarum*, *GRBS Monographs* 5 (1971); see also the works cited by E. N. Tigerstedt, *The Legend of Sparta in Classical Antiquity* (Stockholm, 1965–78), i.566 n. 412.

<sup>7</sup> Cf. also Plut. *Mor.* 238e–f, which refers to 'the anciently established portion, which it is illegal to sell'.

<sup>8</sup> E.g. L. Pareti, *Storia di Sparta arcaica* (Florence, 1917), 197ff.; David, *SER* 46ff.

<sup>9</sup> 6.45.1–3; cf. 6.48.3, where this equality is attributed to Lykourgos.

<sup>10</sup> This procedure, denounced by Grote (ii.555f. note) in the last century, is most obvious with regard to belief in the indivisibility of the Spartiate *klēros*. Some examples: (i) Michell, op. cit. (n. 2) accepts the evidence of Plut. *Lyk.* 16 on pp. 207ff., without mentioning Aristotle's account, which is not introduced until p. 219. Aristotle's crucial comment on the divisibility of Spartiate estates (*Politics* 1270b4–6) is not quoted until p. 229 and is then ignored in the subsequent discussion; (ii) Hooker, op. cit. (n. 5) pronounces on p. 116 that estates were indivisible, does not quote Aristotle until pp. 142f. and then ends the quotation one sentence before the comment upon divisibility; (iii) David, *SER* conducts his discussion (46ff.) without a reference to Aristotle in the main text, mentioning his testimony only in later sections (68f., 102ff.) as evidence for the new system supposedly introduced by the law of Epitadeus. His earlier discussion (50ff.) of a number of other fourth-century sources does not include any precise evidence about the nature of land tenure and inheritance.

elements: first, the ascription of an equal redistribution of *klēroi* to Lykourgos (sometimes also to King Polydoros), which is common to all accounts;<sup>11</sup> secondly, the claim that this equality was maintained into classical times, explicitly stated in the life of Agis and implicit in that of Lykourgos and in Polybius; thirdly, the description of a system of land tenure and inheritance which was supposedly responsible for the maintenance of this equality. As has already been seen, two different versions of such a system are found in the lives of Agis and Lykourgos. Although it is the last of the above elements which is of most concern to our discussion, it is also necessary to investigate the sources of the other two elements because all three are closely interlinked.

The first element, the idea of an equal redistribution of *klēroi* by Lykourgos, is clearly the basis upon which the other elements rest; yet all the evidence suggests that it did not originate before the late classical period. There is no sign of it in fifth-century writers. It was not known to Hellanikos, who attributed the whole Spartan polity to Kings Eurysthenes and Prokles (fr. 91, *apud* Strabo 8.5.5, 366c); nor is it mentioned in Herodotus' account of Lykourgos' reforms (1.65–6). In the fourth century, it is absent from Xenophon's *Polity of the Lakedaimonians*, which claimed instead that Lykourgos' measures were designed to ensure that the poor were not in want and the rich not able to employ their wealth (6.4–7.6). Plato (*Laws* 648d) and Isokrates (*Archidamos* 20) wrote of an equal distribution of land in a much earlier era after the original Dorian conquest of Lakonia, but never hinted at any later similar measure. Indeed, Isokrates (*Panathenaios* 259) denied that there had been any subsequent redistribution in Spartan history. Aristotle not only does not mention the idea in connection with Sparta, but states (*Pol.* 1266a39–40) that Phaleas of Chalkedon was the first to propose equality of landholding, thereby excluding Lykourgos.

Consequently, when Polybius in the passage quoted above attributes the idea of landed equality to Ephorus, Xenophon, Kallisthenes and Plato, there is considerable reason to doubt his evidence. David has claimed that the unanimity of these writers affords proof of the authenticity of the idea of equal *klēroi*.<sup>12</sup> This supposed unanimity, however, is specious. This is not the only occasion when Polybius erroneously ascribes a certain view to earlier writers; and in this instance it appears to be the view of Ephorus alone which he is describing.<sup>13</sup> Of Kallisthenes' work little is known; but, as we have already seen, there is no trace in the works of Xenophon or Plato of any belief in an equal distribution of *klēroi* in historical times and good reason to doubt that they shared such a belief.<sup>14</sup>

The evidence suggests that Ephorus, who ascribed all Sparta's institutions to Lykourgos, was either the first writer to transfer the idea of an equal redistribution of land from the time of the Dorian conquest to that of Lykourgos or at least the first to popularise this new ascription.<sup>15</sup> It is possible that he took the idea from the

<sup>11</sup> In addition to those cited above, cf. Plut. *Comp. Lyk.-Num.* 2.6; Solon 16.1–2; Kleom. 18.2; Mor. 226b; Justin 3.3.3.

<sup>12</sup> David, *SER* 69; *AS* 82 n. 52.

<sup>13</sup> Walbank, *op. cit.* (n. 1) 727; cf. his comment on Plb. 6.5.1, where 'the *anacyclosis*, which is probably the work of some writer of the third or second century, is said to have been set forth by "Plato and certain other philosophers"'. See also E. Gabba, 'Studi Su Filarco', *Athenaeum* 35 (1957), 3ff.; 193ff., at 205.

<sup>14</sup> Walbank, *ibid.*; cf. A. H. M. Jones, *Sparta* (Oxford, 1967), 40f.; Cozzoli 18ff. Xenophon's view that the Lykourgan reforms were approved by Delphi and that they were unique (refs. in Cozzoli, 20) further demonstrates the inaccuracy of Polybius' claim that he identified the Lakedaimonian constitution with that of Crete.

<sup>15</sup> Walbank, *ibid.* 728; G. L. Barber, *The Historian Ephorus* (Cambridge, 1935), 116. Cf. the

pamphlet which the exiled Spartan king, Pausanias, wrote in the early fourth century;<sup>16</sup> but even if this were so, the likelihood of its authenticity would not be increased. An exile bent upon discrediting his opponents, whose pamphlet constituted, in David's words, 'an important stage in the idealisation of "Lycurgan" Sparta', is not to be depended upon as a trustworthy source.<sup>17</sup> The notion in later writers of an equal redistribution of *klēroi* by Lykourgos is, consequently, to be regarded not as historical reality but as a product of fourth-century invention and as an idea which even in that century was far from generally accepted.

It is far from clear whether the views of Ephorus had any direct influence upon the only detailed account of the supposed Lykourgan redistribution of land, that in Plutarch, *Lykourgos* 8 quoted above. Recent studies by Marasco have suggested that none of the three versions which Plutarch cites antedates the third century B.C.<sup>18</sup> He argues that the supposed Lykourgan distributions of 4,500 and 6,000 lots reflect the attempts of propagandists of the late-third-century Spartan revolution to justify, respectively, the numbers involved in the projected reform of King Agis IV and the size of the citizen body finally achieved by King Kleomenes III (Plut. *Kleom.* 11.2, 23.1, 28.8). The inventors of both versions added a subsequent Polydoran distribution to bring the figures into line with the 8,000 and 10,000 Spartiates mentioned by Herodotus (7.234) and Aristotle (*Politics* 1270a36–8).<sup>19</sup> Finally, it seems from Plutarch's wording that his account of the different versions came from a single source, possibly the third-century writer, Hermippos of Smyrna, who, noting the agreement on the total figure of 9,000 *klēroi*, simplified matters by ascribing them all to Lykourgos.<sup>20</sup> He probably also doubled the number of 15,000 perioikic *klēroi* projected by Agis IV, in order to bring them into apparent agreement with the 30,000 potential hoplite population mentioned by Aristotle (*Politics* 1270a29–30).

judgement of Tigerstedt, op. cit. (n. 6) 210 that Ephorus' biography of Lykourgos 'has no historical value, but... shows how quasi-scientific history in combination with political propaganda fashioned a consistent picture of the organization of the Spartan state and its mythical lawgiver'.

<sup>16</sup> A hypothesis discounted by E. Kessler, *Plutarchs Leben des Lykurgos* (Berlin, 1910), 38; but for the considerable influence of this pamphlet on Ephorus, cf. Barber, *ibid.*; E. David, 'The Pamphlet of Pausanias', *PP* 34 (1979), 94ff., at 109ff.

<sup>17</sup> David, *ibid.* 116. I accept his thesis, following Ed. Meyer, *Forschungen zur Alten Geschichte* 1 (Halle, 1892), 233ff., that Pausanias' pamphlet contained not an attack on Lykourgos' laws but a eulogy aimed at convicting his opponents, who, he claimed, had violated those laws.

<sup>18</sup> G. Marasco, 'La leggenda di Polidoro e la redistribuzione di terre di Licurgo nella propaganda Spartana del III secolo', *Prometheus* 4 (1978), 115ff.; 'Cleomene III, i mercenari e gli iloti', *Prometheus* 5 (1979), 45ff.; *Commento* i. 248ff., ii. 584f.; cf. *Plutarco. Le Vite di Licurgo e di Numa*, edd. M. Manfredini and L. Piccirilli (Milan, 1980), 246ff.

<sup>19</sup> And possibly also with the 9,000-strong citizen-body achieved in Athens in 322 by a limitation of the franchise which was portrayed as a return to the ancestral constitution (Diod. 18.18.5; Plut. *Phokion* 27.5) and may have been viewed by contemporaries as the archetype of a balanced constitution.

<sup>20</sup> This explanation of Plutarch's first version seems preferable to the alternative argument that the 9,000 citizen *klēroi* represent an arbitrary doubling of the *klēroi* in Agis' projected reform designed to reflect Sparta's former control of Messenia (see the refs. in Marasco, *Commento* i. 115 n. 1, to which add Cartledge, *SL* 169f.), because the tradition about Lykourgos uniformly places him before the conquest of Messenia. The opposite theory that Plutarch's first version was in existence before the third century and was halved by the revolutionaries (V. Ehrenberg, 'Spartiaten und Lakedaemonier', *Hermes* 59 (1924), 23ff., at 44; Ziehen, op. cit. (n. 4) 223) fails to explain the 30,000 perioikic *klēroi*. Since there is no reason to believe that the Spartiates redistributed, or were thought to have redistributed, perioikic land before the third century, the revolutionaries' figure for the perioikic, and therefore also for the Spartiate, *klēroi* must have existed first: Cartledge, *ibid.*; A. H. M. Jones, op. cit. (n. 14) 40.

The other two ideas identified above, the belief that equality in land was maintained into the classical period and, closely linked to it, the description of a system of tenure and inheritance supposedly responsible for the maintenance of this equality, are similarly the products of later invention. There is of course no suggestion of equality of landholding in any of the historical sources from the sixth century down to Aristotle; they all testify to marked differences in wealth.<sup>21</sup> Whether the idea antedates the third century is uncertain. Polybius seems to imply that Ephorus believed that landed equality survived into the classical period, to judge from the fact that landed equality is mentioned immediately before such longstanding elements of Spartiate life as denigration of money-making and the offices of kings and *gerontes*; but, as Cozzoli has pointed out, there is no independent means of demonstrating that this really was Ephorus' view.<sup>22</sup> It is possible that, since the system of life tenancy of the *klēros* described in Plutarch, *Lykourgos* 16, which implicitly assumes the maintenance of equality, appears in a different context from the account of the Lykourgan and Polydoran redistributions in Chapter 8, it may derive from a different source from the third-century ones behind the latter account.<sup>23</sup> It has been suggested independently that much of Plutarch's information on Sparta may have derived from the early Peripatetic writers of the late fourth and early third centuries. Such a source could lie behind the passage in question. Even if this is correct, however, the general character of the Peripatetics' approach to Sparta is not such as to inspire confidence in the reliability of their evidence.<sup>24</sup>

Whatever antecedents there may have been, the most notable source of the view that landed equality was preserved into the classical period was the third-century Spartan revolution, chronicled by its supporter and propagandist, the historian Phylarchos.<sup>25</sup> In order to validate their attempts to sweep away the existing system of land tenure and replace it with a scheme of equal *klēroi*, the revolutionaries claimed that it was a return to the landed equality established by Lykourgos which had been maintained throughout the era of Spartan eminence until it was ruined by the *rhētra* of the ephor, Epitadeus, sometime after the end of the Peloponnesian war. This is the historical reconstruction given in the passage cited earlier from Plutarch's *Agis* which probably reflects the ideology of the revolution as described by the partisan Phylarchos.<sup>26</sup> This view has been disputed by Marasco, who claims that Plutarch derived his account of land tenure in the lives of Agis and Kleomenes from information in the largely lost Aristotelian *Polity of the Lakedaimonians* whose contents are reflected in Aristotle's *Politics* (1270a15–b6).<sup>27</sup> The supposed similarities

<sup>21</sup> Refs. in Grote ii.549f.; G. E. M. de Ste. Croix, *The Origins of the Peloponnesian War* (London, 1972), 137f.

<sup>22</sup> Cozzoli 21.

<sup>23</sup> Ibid. 23.

<sup>24</sup> For the suggested influence of the Peripatetics on Plutarch and their unreliability, Tigerstedt, op. cit. (n. 6) i.304ff.; G. J. D. Aalders, *Plutarch's Political Thought* (Amsterdam, 1982), 64.

<sup>25</sup> On the effect of the revolution in propagating an idealised vision of Lykourgan Sparta, T. W. Africa, *Phylarchos and the Spartan Revolution* (Berkeley and Los Angeles, 1961); C. G. Starr, 'The Credibility of Early Spartan History', *Historia* 14 (1965), 257ff. = id., *Essays in Ancient History*, edd. A. Ferrill and T. Kelly (Leiden, 1979), 145ff.; Tigerstedt, op. cit. (n. 6) ii.49ff.

<sup>26</sup> For Plutarch's dependence upon Phylarchos, cf. the refs. in David, *SER* 211 n. 86.

<sup>27</sup> 'Aristotele come fonte di Plutarco nelle biografie di Agide e Cleomene', *Athenaeum* 56 (1978), 170ff.

between the *Politics* and the two lives do not, however, stand up to scrutiny.<sup>28</sup> Despite the oft-repeated assertion that the wording of Plutarch's description of freedom of gift and bequest (*Agis* 5.3: ἐξείναι τὸν οἶκον αὐτοῦ καὶ τὸν κλῆρον ᾧ τις ἐθέλοι καὶ ζῶντα δοῦναι καὶ καταλιπεῖν διατιθέμενον) resembles that of Aristotle (*Pol.* 1270a21: διδόναι δὲ καὶ καταλείπειν ἐξουσίαν ἔδωκε τοῖς βουλομένοις),<sup>29</sup> there is no real correspondence in terminology between the two passages, apart from their unsurprising use of the verbs διδόναι and καταλείπειν. Above all, there is little similarity between the sophisticated analysis in the *Politics*, in which the concentration of land and decline in manpower is explained in terms of a variety of contributory factors, and the simplistic account in the life of Agis, which ascribes the bulk of the responsibility to a single person.

An integral part of Plutarch's account is his description of a system of land tenure and inheritance according to which each father passed down his *klēros* intact to a single son over a period of centuries. This system, designed to explain the maintenance of equality over such a long period, is likely to be a product of the reconstruction of Spartan history effected by the revolutionaries. As Cozzoli has pointed out, there was little precise information in the works of earlier writers to justify this historical reconstruction, although there were sufficient general ideas about an earlier equality in land to lend it some degree of superficial credibility when combined with the traditional belief in the stability of the Spartan constitution.<sup>30</sup>

The sources of these late accounts are therefore not of the highest quality. One's misgivings about their reliability are not allayed when one examines the inherent impracticability of the systems of tenure and inheritance which they describe or which scholars have constructed upon the basis of their evidence. First of all, it is doubtful whether the Spartan state possessed the bureaucratic machinery necessary to keep records of all the *klēroi* in order to administer a system of continuous reallocation of land or a state-controlled reserve as envisaged above.<sup>31</sup>

Secondly, the property systems described in Plutarch's separate accounts in *Agis* and *Lykourgos* are, as they stand, incompatible.<sup>32</sup> According to the former, a

<sup>28</sup> E.g. *ibid.* 174: (1) the reference to conflict between kings and ephors in *Plut. Agis* 12.2 goes far beyond *Arist. Pol.* 1271a 24–6, esp. the idea that the two kings together could outweigh the ephors; (2) in *Agis* 9.1, 11.1, despite the fact that an assembly was called when the Gerousia was divided, it was still the Gerousia which made the final decision, not the assembly as in *Pol.* 1273a6ff. (whichever one prefers of the two possible interpretations suggested by T. J. Saunders, in ed. T. A. Sinclair, *Aristotle, The Politics*, rev. ed. (Harmondsworth, 1981), 156 n. 3); (3) in *Kleom.* 10.2–3 the ephors gradually usurp power after initially being assistants to the kings, whereas in *Pol.* 1313a25ff. and in *Plut. Lyk.* 7.2 they are a check on royal authority from the start. This last example demonstrates the error of Marasco's general assumption that Plutarch's sources for the lives of Agis and Kleomenes were the same as those for the life of Lykourgos. Plutarch's use of Aristotle in the *Lykourgos* does not prove that he was a significant source for the other two lives.

<sup>29</sup> Marasco, *ibid.* 179, with refs. to earlier works; David, *AS* 80.

<sup>30</sup> Cozzoli 22. In particular, David's implicit claim (*SER* 59ff., esp. 66), that the remarks of Plato, *Republic* 547d–552e on the decline of (Spartan) timocracy and the evils of oligarchy corroborate the account of Phylarchos, is not true as regards the issue under discussion. Plato says nothing of changes in the nature of land tenure. His general statement that under an oligarchy a man is allowed to sell all he has to another and become a pauper (552a–b) is unlikely to be a reference to such a measure as the supposed law of Epitadeus, which concerned not sale but gift and bequest.

<sup>31</sup> A. J. Toynbee, *Some Problems of Greek History* (Oxford, 1969), 302; J. Buckler, 'Land and Money in the Spartan Economy – A Hypothesis', *Research in Economic History* 2 (1977), 249ff., at 258.

<sup>32</sup> Busolt-Swoboda, *op. cit.* (n. 5) 636 n. 3; *pace* N. D. Fustel de Coulanges, 'Étude sur la propriété foncière à Sparte', *Mémoires de l'Académie des sciences morales et politiques de*

Spartiate son (and only one son) inherited the *klēros* of his father; according to the latter, he was assigned a *klēros* by the state. The accounts are reconciled only by the sort of modern invention mentioned above, such as the claim that state allocation applied to younger sons whom the inheritance system in *Agis* leaves out. This supposed reconciliation distorts the evidence of both accounts. Since Plutarch either did not appreciate or was unconcerned that his accounts were incompatible, a saner approach would be to doubt the reliability of his evidence.

Taken separately, however, both systems are impracticable. Cozzoli has already indicated the weakness of the system postulated in the life of Lykourgos, namely, that from the very start it would have meant either a continual need for young men to wait for *klēroi* to become available before they could exercise citizen rights or that there were consistently far fewer warriors than the available number of *klēroi*.<sup>33</sup> The difficulty with the account in the life of Agis is that, although Plutarch insists that landed equality was maintained for several centuries, he does not explain how younger sons were catered for or what arrangements were made under a regime of hereditary transmission to prevent accumulation of land by kinsmen or others when there was no son to inherit. The system is made workable only through the liberal application of modern conjecture outlined above: by the forced 'reconciliation' with the account in the life of Lykourgos, by the unsupported speculation that uninherited estates were always diverted to landless younger sons, or by the claim that, although he fails to say so, Plutarch is referring only to one of the two categories of land mentioned by Herakleides Lembos.

This last conjecture illustrates clearly the problems of relying upon the life of Agis. On the one hand, modern studies are compelled to modify Plutarch's evidence in order to remedy the fact noted above that the complete equality of landholding assumed in his account is inconsistent with the testimony of all the historical sources from the sixth to the fourth centuries. On the other hand, their claim that besides the ancient portion there was other land of a more private nature which was owned unequally contradicts the idea of strict equality in Plutarch's account.<sup>34</sup> Furthermore, one of the main supporting arguments for this view, the suggestion that the ancient portions of Herakleides and Plutarch's equal inheritances are identical with the equal shares in the *politikē chōra* referred to by Polybius, involves a misrepresentation of Polybius' evidence. Unlike Herakleides, he does not distinguish two types of land. The implication of his equal shares in the *politikē chōra* is that this meant complete equality in landholding, a point repeated shortly afterwards (6.48.3), and that the *politikē chōra* was the only type of land held by citizens. The *politikē chōra* means not 'civic land' in contrast to another type of citizen-held land more private in character, but simply the 'land divided among the citizens'.<sup>35</sup> Polybius, therefore, is not describing the same system as that referred to by Herakleides Lembos, or as that which some scholars have conjecturally extrapolated from the account in Plutarch's *Agis*. His remarks do not

*l'Institut de France* 16 (1888), 835ff., at 851ff. = id. *Nouvelles recherches sur quelques problèmes d'histoire* (Paris, 1891), 54ff., at 62ff.

<sup>33</sup> Cozzoli 28.

<sup>34</sup> For this claim, see e.g. Michell, *op. cit.* (n. 2) 207ff.; David, *SER* 46ff.; Marasco, *Commento* i.211. Marasco attempts to avoid this contradiction by claiming that Plutarch's account is not one of complete equality. He argues that the phrase *ἀμῶς γέ πως* in *Agis* 5.2 indicates that the equality was only partial. For this to be so, however, one would expect the phrase to be placed either before or after *διαμένοισα*. As it stands, the more natural interpretation of the meaning of the sentence is that other defects in the state were partially corrected by the complete equality.

<sup>35</sup> Walbank, *op. cit.* (n. 1) 728ff.; Busolt-Swoboda, *op. cit.* (n. 5) 634 n. 2; Cartledge, *SL* 166.

offer any support for attempts to rescue the latter's evidence. Polybius' own account is merely one of complete equality, itself offered without explanation as to how that equality was sustained.

The final major weakness of these late accounts and of modern studies which accept their evidence is that they do not adequately explain the serious decline in Spartiate numbers in the classical period which, whatever one's precise explanation of its causes, was in some way connected with the increasing concentration of land in a few hands and the impoverishment of many citizen households. Although the exact rate of the decline in different periods is the subject of debate, there is sufficiently wide agreement that it was a long-term process which had begun by the mid-fifth century at the latest.<sup>36</sup> Plutarch's *Lykourgos* provides no framework at all for explaining these developments. Those studies which rely upon its evidence, since they cannot explain the decline in terms of inherited poverty, are forced, rather implausibly, to account for it in terms of either widespread personal mismanagement and misfortune or a general increase in luxurious living which supposedly led to extensive poverty and consequent failure to reproduce.<sup>37</sup> Plutarch's *Agis* provides an explanation of widespread poverty only from some unspecified date after the end of the Peloponnesian War when the *rhētra* of Epitadeus supposedly wrecked the system of equal *klēroi* which had prevailed until then.<sup>38</sup> Those studies which follow this version, in so far as they do not simply ignore the earlier decline in the number of Spartiates, are able to explain it only by the supposed poverty of deprived younger sons who were then a drain on the *klēros* of the eldest son or by the natural extinction of citizen families.<sup>39</sup> The manifest inadequacy of these explanations has already been pointed out by Buckler.<sup>40</sup> It is indeed impossible to reconcile the evidence for citizen population decline with the testimony of the life of Agis, since Plutarch insists that until the law of Epitadeus the number of households instituted by Lykourgos remained undiminished.

## II. TOWARDS AN ALTERNATIVE ACCOUNT

It is possible to provide a more satisfactory explanation of the decline in citizen numbers upon the basis of a different system of land tenure and inheritance which puts greater emphasis upon private rights. This point of view has been argued in the past by a number of scholars,<sup>41</sup> but in the light of the continuing debate it is necessary

<sup>36</sup> E.g. A. M. Andreades, *A History of Greek Public Finance* (Cambridge, Mass., 1933), 53ff.; Jones, op. cit. (n. 14) 134ff.; Toynbee, op. cit. (n. 31) 297ff.; de Ste. Croix, op. cit. (n. 21) 331f.; Cartledge, *SL* 307ff.; Forrest, op. cit. (n. 3) 134ff.; G. L. Cawkwell, 'The Decline of Sparta', *CQ* 33 (1983), 385ff.; Lane Fox 221f.

<sup>37</sup> Michell, op. cit. (n. 2) 207ff., 228ff.; Forrest, *ibid.* 136.

<sup>38</sup> Cf. R. von Pöhlmann, *Grundriss der griechischen Geschichte*, 3rd ed. (Munich, 1906), 275 n. 1. It is no defence to argue, as does Marasco, *Commento* i.209f., that Plutarch was not concerned with the concentration of land but with the freedom to alienate the *klēros* which led the poor into destitution. Plutarch himself states that equality existed before Epitadeus' law and that concentration of land and widespread poverty were its consequences.

<sup>39</sup> Poverty of younger sons: David, *SER* 48; both he (at 92) and Hooker, op. cit. (n. 5) 143, fail to discuss the question of manpower decline before the battle of Mantinea in 418. Natural extinction: Marasco, *Commento* i.211; the implausibility of this explanation is increased by the fact that it is supposed to account for the entire manpower decline down to the 360s, since Marasco believes that each Spartiate possessed by right of birth a lot sufficient for his maintenance until the law of Epitadeus, which he dates after the loss of Messenia (214).

<sup>40</sup> Op. cit. (n. 31) 259.

<sup>41</sup> Refs. to older works in Toynbee, op. cit. (n. 31) 301 n. 1; cf. more recently Cartledge, *SL* 165ff.; Cozzoli 1ff.

to develop the argument somewhat further than has previously been attempted. This alternative system can be founded more securely upon the evidence of reliable sources than the theories already discussed. It relies first and foremost upon the evidence of Aristotle, who in Book 2 of his *Politics* provides our earliest detailed account of Spartiate land tenure:

One might next go on to attack the inequality of property-ownership. For we find that some have come to have far too many possessions, others very few indeed; hence the land has fallen into the hands of a small number. Here there have been errors in the legal provisions too. For he [the lawgiver] quite rightly made it dishonourable to buy or sell land in someone's possession, but allowed those who wished to give and bequeath it; and yet this inevitably leads to the same result. Moreover, approximately [or 'nearly'] two-fifths of all the land is possessed by women. There are two reasons for this: heiresses (*epiklēroi*) are numerous and dowries (*proikes*) are large. It would have been better to have regulated dowries, prohibiting them altogether or making them small or at any rate moderate in size. But, as it is, an *epiklēros* may be given in marriage to any person whatsoever; and, if a man dies without making a will, the man who is left as *kléronomos* gives her to whom he likes. So although the land is sufficient to support 1,500 cavalry and 30,000 hoplites, the number fell to below 1,000. The sheer facts have shown that these arrangements were bad: one single blow was too much for the *polis* and she succumbed owing to the shortage of men. It is said that in the time of their early kings they gave others a share in their constitution, so that in spite of long continuous wars there was not then any shortage of men. It is also said that at one time the Spartiates had as many as 10,000. However, whether these statements are true or false, it is far better to keep up the numbers of males in a state by a levelling out of property. But the law on the begetting of children tends to militate against this reform. For the lawgiver, intending that the Spartiates should be as numerous as possible, encourages the citizens to beget many children; for they have a law by which the father of three sons is exempt from military service, and the father of four from all taxes. But it is obvious that, if many are born and the land distributed accordingly, many must inevitably become poor (1270a15–b6).

Aristotle's evidence offers a reasoned account of the causes of the concentration of land and widespread impoverishment which, when linked with his further remark (1271a26–36) that those who were too poor to contribute their *syssitia* dues were excluded from citizenship, explains the long-term decline in Spartiate numbers. Unlike the account in Plutarch's *Agis*, it relies not on a single cause but provides a sophisticated analysis which lays stress on a variety of contributory factors: the rights of gift and bequest, the number of heiresses and lack of controls over their marriages, the size of dowries, the failure to extend citizen rights to outsiders, the law on procreation and the system of partible inheritance.

Above all, Aristotle presents an account of the classical Spartiate system of land tenure and inheritance which differs significantly from those in Plutarch or Polybius or in modern accounts which follow them. This has been denied by David, who argues that Aristotle's criticisms of Sparta are mainly directed not against the Lykourgan regime as such but against contemporary corruptions of Lykourgan institutions, including the system of land tenure and inheritance which he describes. David claims that this system, in particular such elements as freedom of gift and bequest, partible inheritance, the absence of strict control over the marriage of heiresses and the role of large dowries, resulted from the law of Epitadeus and other associated changes in the early fourth century.<sup>42</sup> Full discussion of his arguments concerning Aristotle's general attitude to Sparta lies outside the scope of this essay.<sup>43</sup> I hope to show below,

<sup>42</sup> David, *AS*, esp. 79ff.

<sup>43</sup> Note, however, that *Rhetoric* 1398b17–18, which David cites to underpin his argument (*AS* 85ff.; *SER* 69, 213 nn. 98, 100f.) that the object of Aristotle's criticisms were departures from Lykourgos' laws, not the laws themselves, will hardly bear the weight placed upon it. The

however, that none of the elements specified above were the result of fourth-century innovations, but constituted fundamental aspects of the system of land tenure and inheritance in operation throughout the classical period.

Although Aristotle provides the most penetrating analysis of all our sources, his is by no means a complete account of the practices of land tenure and inheritance, the operation of which is discussed only in so far as they shed light upon the failings which Aristotle identifies, and then only in the briefest of terms. Consequently, there remain several points which require elucidation.

The first point concerns his remarks about purchase, sale, gift and bequest.<sup>44</sup> The regulations on these subjects are included within the same sentence and are all ascribed, through the use of the verbs *ἐποίησεν* and *ἔδωκε* without any corresponding subject, to an individual whose identity is not specified. (This will be discussed below.) Aristotle states that he made it improper to buy or sell land. This testimony is not incompatible with the passage of Herakleides Lembos quoted above, which derives from the Aristotelian *Polity of the Lakedaimonians*. Although the *Politics* does not distinguish two types of land, its statement that the purchase or sale of land was dishonourable can be interpreted, in keeping with the nature of this tightly argued work, as a compressed account corresponding to the *Lak. Pol.*'s more detailed elaboration that the sale of any land was shameful and the sale of the ancient portion illegal.<sup>45</sup> Aristotle is not ignoring the ancient portion and 'discussing only one category of land, legally alienable property', as Cartledge suggests.<sup>46</sup> Rather, for the sake of brevity he stresses the dishonour attached to the purchase or sale of *any* land.

Acceptance of Aristotle's testimony regarding sale is, therefore, consistent with the belief that there were two categories of Spartiate land, one of which was termed the 'ancient portion', precisely as the *Lak. Pol.* states. The significance of the distinction between them, however, is unclear. Older studies have typically viewed the ancient portions as *klēroi* in the original Spartiate heartland of the Eurotas valley distributed among the whole citizen-body, as distinct from land which some citizens acquired elsewhere;<sup>47</sup> and, as noted in Section I, they have often been equated with the *politikē*

statement that the Spartans were happy as long as they obeyed the laws of Lykourgos appears merely as a commonplace saying cited as an example of argument by induction, a counterpart to the vague statement that the Athenians were happy as long as they observed Solon's laws and the ascription of Theban success to their leaders' becoming philosophers. It is not even certain that the statement is by Aristotle himself, rather than a continuation of the quotation from Alkidamas which precedes it: E. M. Cope, *The Rhetoric of Aristotle*, rev. J. E. Sandys, II (Cambridge, 1877), 233.

<sup>44</sup> 1270a18–21: τοῦτο δὲ καὶ διὰ τῶν νόμων τέτακται φαύλως· ἀνείσθαι μὲν γὰρ ἢ πωλεῖν τὴν ὑπάρχουσαν ἐποίησεν οὐ καλόν, ὀρθῶς ποιήσας, δίδοναι δὲ καὶ καταλείπειν ἑξουσίαν ἔδωκε τοῖς βουλομένοις.

<sup>45</sup> Compare 1263a35–7, a summary of the details in Xen. *Lak. Pol.* 6.3–4. This explanation is preferable to the suggestion of J. J. Keaney, 'Hignett's *HAC* and the Authorship of the *Athēnaiōn Politeia*', *LCM* 5 (1980), 51ff., at 53, that Aristotle learnt about the ancient portions only after writing this part of the *Politics*, when the detailed research for the *Lak. Pol.* was undertaken. His possible ignorance of the role ascribed to the early Spartan king, Theopompos (below, n. 57), constitutes no parallel to this supposed ignorance of a longstanding and contemporary form of land tenure.

<sup>46</sup> *SL* 166. The argument of Michell, *op. cit.* (n. 2) 220f., that Aristotle ignores the Spartan prohibition against sale of the ancient portion, on the grounds that at 1319a10–19 he gives examples of such prohibitions without mentioning Sparta, is incorrect. The cases of Oxylos and the Aphytaians to which Michell refers are *not* examples of prohibition against sale, nor did Aristotle intend them as such; he gives no examples at all.

<sup>47</sup> See esp. Pareti, *op. cit.* (n. 8) 197ff.; Ehrenberg, *op. cit.* (n. 20) 45ff. Further refs. in David, *SER* 200f. n. 13.

*chōra* of Polybius and the equal *klēroi* of Plutarch. The error of this identification with such fictional entities of land has, however, already been demonstrated. This does not exclude the possibility that the distinction between the two categories may have originated at a time of a distribution of land; but precise historical situations need to be found for such an occurrence. Obvious possibilities are the late eighth century, after the initial conquest of part of Messenia; or during the seventh century, when it is likely that there was some fresh allocation of land, whether a partial redistribution of older land or a distribution of new land acquired after the second Messenian War, in order to bring poor Spartiates up to the level required to maintain themselves as full-time hoplites.<sup>48</sup> (These contexts are of course very different from that of the wholesale equal redistribution of land described by Plutarch and do not imply the kind of state control over the distributed land envisaged in his accounts.)<sup>49</sup> If one is correct in seeking the origin of the ancient portion in such a context, it is still uncertain whether the term refers to the land thus allocated, which might later have been regarded as the original citizen portions of newly-established Spartiates, or, as Cartledge has argued, to ancestral private estates mostly in the possession of the aristocracy.<sup>50</sup> Some scholars, however, disassociate the distinction between the ancient portion and other land from the context of a past distribution. They view it largely in contemporary terms, with the ancient portion being merely land thought of as having passed down within the family from of old as opposed to land recently acquired by various means.<sup>51</sup> Owing to these prevailing uncertainties, it is impossible to make any reliable judgment on precise issues regarding the ancient portions, such as their likely extent relative to other land, without first forming some general impression of their nature and significance through consideration below of other aspects of Spartan land tenure.

In the second part of the sentence referred to above Aristotle states that those who wished to give or bequeath land were allowed to do so. The identity of the unspecified individual who permitted these actions has been hotly disputed. Many scholars believe that the person in question here, and also when he refers to 'the lawgiver' elsewhere in this chapter, is Lykourgos and that this passage provides clear evidence against the historical reconstruction in Plutarch's *Agis*, according to which free gift and bequest were introduced only in the early fourth century by the ephor, Epitadeus.<sup>52</sup> Some scholars have argued, however, that the phrase 'the lawgiver' is used generically to denote simply the author, whoever it may be, of whatever law Aristotle is discussing at the time.<sup>53</sup> Others have, consequently, maintained that Epitadeus himself is the person to whom Aristotle is referring and that the passage reinforces Plutarch's account.<sup>54</sup>

On the basis of Aristotle's text the balance of argument favours Lykourgos. Since the person's identity is not specified in the sentence in question, one can reasonably

<sup>48</sup> Cartledge, *SL* 135, 168.

<sup>49</sup> Toynbee, *op. cit.* (n. 31) 301 n. 1.

<sup>50</sup> *SL* 168.

<sup>51</sup> Jones, *op. cit.* (n. 14) 43; Cozzoli 8.

<sup>52</sup> Meyer, *op. cit.* (n. 17) 258 n. 3; G. Busolt, *Griechische Geschichte* 1, 2nd ed. (Gotha, 1893), 523; W. L. Newman, *The Politics of Aristotle* (Oxford, 1887–1902), ii.325f.; T. Meier, *Das Wesen der spartanischen Staatsordnung* (Leipzig, 1939), 56; Jones, *ibid.* 41; Cartledge, *SL* 165ff.; Cozzoli 6; Forrest, *op. cit.* (n. 3) 137.

<sup>53</sup> C. von Holzinger, 'Aristoteles' und Herakleides' lakonische und kretische Politien', *Philologus* 52 (1894), 58ff., at 61; R. Weil, *Aristôte et l'Histoire* (Paris, 1960), 244.

<sup>54</sup> V. Ehrenberg, *RE* III, A 2, s.v. Sparta (Geschichte) cols. 1373ff., at 1402; Asheri, *SLE* 45ff.; *LDP* 12; A. Fuks, 'The Spartan Citizen-body in the Mid-Third Century and its Enlargement

expect that it is to be found earlier. There are two relevant earlier contexts in this section, 1269b19–22 and 1270a6–8. The former passage states that ‘the lawgiver’ neglected to control the women; the latter reports the tradition that ‘Lykourgos’ tried to bring them under control but abandoned his attempt, an obvious reference to a statement in Plato’s *Laws* (779e ff., 804e ff.). It seems that ‘Lykourgos’ and ‘the lawgiver’ are to be equated; and it would therefore appear to follow that the unspecified individual responsible for the regulations concerning purchase, sale, gift and bequest, in what is the next comparable context, must also be Lykourgos.<sup>55</sup>

Consideration of other parts of Aristotle’s account also favours this conclusion. Throughout the remainder of the section devoted to Sparta he refers to ‘the lawgiver’ on seven different occasions, at least four of which refer to Lykourgos, since they concern fundamental aspects of the Spartan system which all ancient traditions attributed to him.<sup>56</sup> The only apparent contrary example is 1270b19 where ‘the lawgiver’ responsible for the ephorate may be King Theopompos, to whom the institution of the office is ascribed in Book 5, at 1313a25–33. It is possible that the latter passage represents a change of opinion from that in Book 2;<sup>57</sup> but even if one grants this exception, it concerns an institution founded several hundred years previously which therefore constitutes no parallel to the supposed reference to Epitadeus’ recent law. That Aristotle has Lykourgos in mind as the Spartan lawgiver is suggested by his remark at 1273b32–5 that Lykourgos framed the Spartan laws and constitution of which he has already spoken.<sup>58</sup>

Furthermore, since Aristotle ascribes the disapproval of purchase or sale and the freedom of gift and bequest to the same person, they must both in his view be either longstanding Lykourgan rules or recent innovations attributable to Epitadeus. It is impossible to maintain, as David tries to do, that the first was an archaic attitude but the second a product of an early-fourth-century change of law.<sup>59</sup> Since, as David himself notes, the disapproval of purchase and sale of land was for Aristotle a characteristic of archaic states (*Pol.* 1266b17–21, 1319a10–11), it is unlikely that he

Proposed by Agis IV’, *Athenaeum* 40 (1962), 244ff., at 251 = id. *Social Conflicts in Ancient Greece* (Leiden, 1984), 230ff., at 237; Oliva, op. cit. (n. 2) 191; J. Christien, ‘La Loi D’Epitadeus: un aspect de l’histoire économique et sociale à Sparte’, *RD* 52 (1974), 197ff., at 201ff.; David, *SER* 68f.; *AS* 81ff.; Marasco, *Commento* i.179f.

<sup>55</sup> Marasco, *Commento* i.179 claims that the phrase *διὰ τῶν νόμων* indicates that Aristotle is referring not to the original Lykourgan constitution but to the contemporary situation. This is far from clear, however, especially since at 1270a7 he uses the phrase *ὑπὸ τοῦ νόμου* with reference to Lykourgos’ attempt to control the women. (I owe this last point to Dr J. F. Lazenby.)

<sup>56</sup> The four references are: 1270b42, concerning the elders; 1271a13, ambition; 1271a32 (cf. 26–8), the common meals; 1271b13, intention to instil disdain for money. The other refs. are: 1270b1, b19, 1271a22.

<sup>57</sup> Keaney, op. cit. (n. 45) 52, 56 suggests that the *Lak. Pol.* was written, or at least researched, between the composition of Books 2 and 5 and provided Aristotle with extra information for the latter book.

<sup>58</sup> Although the authenticity of the whole chapter from 1273b27 to 1274b26 has long been the subject of debate (refs. in F. Susemihl and R. D. Hicks, *The Politics of Aristotle. Books I–V* [London, 1894], 318), one should distinguish 1273b27–1274a21, which seems to be a genuine Aristotelian account of Solon’s legislation, from the more dubious section on other lawgivers which follows: Newman, op. cit. (n. 52) 372f. The fragment from the *Lak. Pol.* (Dilts, fr. 9), which implicitly criticises those who attributed the whole Spartan *politeia* to Lykourgos, bears no necessary implications for Aristotle’s view in the *Politics* (pace David, *AS* 81), since it could be another instance of a change of opinion (Keaney, *ibid.* 52).

<sup>59</sup> *AS* 82. His attempt (86) to evade this point by arguing that, because the law was passed several decades before the *Politics* was written, Aristotle already regarded it as an integral part of the Spartan law code is unconvincing.

believed it was a recent innovation in Sparta. Consequently, he must also have regarded freedom of gift and bequest as a traditional right.

Given the amount of detailed knowledge about Spartiate property rights which Aristotle displays, it is unlikely that he was mistaken and was somehow ignorant of Epitadeus' supposed recent law. In fact there is evidence for the legality of gift at the very beginning of the fourth century. We learn of King Agesilaos II that at the start of his reign,

when the *polis* pronounced him heir to all the property of Agis, he gave half to his mother's kinsfolk because he saw that they were in want (Xen. *Ages.* 4.5; cf. Plut. *Ages.* 4.1).

This passage disproves the historical reconstruction in Plutarch's *Agis*. According to the chronology of that account, the Spartan state began to suffer corruption soon after the end of the Peloponnesian War in 404 and then there was a period of length unspecified during which the traditional system of land inheritance preserved the social order before it was ruined by Epitadeus' law introducing free gift and bequest. It is hardly possible for all this to have happened before Agesilaos' accession, which took place in either 400 or 398.<sup>60</sup> This evidence refutes the idea that it was the law of Epitadeus which instituted freedom of gift.<sup>61</sup> The combined testimony of Aristotle and Xenophon indicates that this supposed law is as fictional as the account of land tenure and inheritance with which it is associated; and it suggests that freedom of gift, and probably also of bequest, had long been an established practice.

Just as Aristotle's remarks concerning purchase and sale were seen to apply to all land, so logically should those of gift and bequest. In other words, there is no indication of restrictions on gift and bequest of the ancient portion. Given the forthright manner in which his remarks are made and the fact that he gives freedom of gift and bequest as the first reason for huge disparities in landed wealth, it seems improbable that any significant proportion of land was subject to such restrictions. Moreover, the very fact of a legal prohibition on sale of the ancient portion may presuppose the principle that other forms of alienation were permissible.<sup>62</sup>

This suggestion that the Spartiates' land belonged more to the sphere of private family property than to that of public control is supported by the evidence for

<sup>60</sup> The earliest date at which most scholars who accept the authenticity of Epitadeus would place his law is the mid-390s; e.g. David, *SER* 67, who supposes that it was enacted towards the end of Pausanias' reign in 395, or shortly afterwards. Other scholars place Epitadeus after the battle of Leuktra; e.g. G. Marasco, 'La Retra di Epitadeo e la situazione sociale di Sparta nel IV secolo', *AC* 49 (1980), 131ff., at 132. Attempts to equate Epitadeus with the Epitadas who died on Sphakteria in 425 violate the chronology of Plutarch's account upon which they rely and are justly criticised by David, *SER* 211 n. 88.

<sup>61</sup> The fact that Xenophon's evidence concerning Agesilaos' gift was repeated by Plutarch in his own biography of the king (*Ages.* 4.1) further demonstrates the latter's lack of awareness of contradictions between his accounts in different biographies and casts further doubt upon the veracity of the account in the life of Agis.

Note that Agesilaos' freedom to alienate this land was not restricted by the fact that his son, Archidamos, must already have been alive at the time. Since Archidamos' *paidika*, Kleonymos, was about 18 in the year 378 (he had just come out of the *paides*: Xen. *Hell.* 5.4.25; cf. C. M. Tazelaar, 'ΠΑΙΔΕΣ ΚΑΙ ΕΦΗΒΟΙ. Some notes on the Spartan stages of youth', *Mnemosyne*, 4th ser., 20 [1967], 127ff., at 139f., 147f.), he must himself have been then in his late twenties (there was probably normally at least 8 years between *erastēs* and *paidika*: S. Hodgkinson, 'Social Order and the Conflict of Values in Classical Sparta', *Chiron* 13 (1983), 239ff., at 245, 251 n. 28) and will therefore have been born around 405 or slightly earlier.

<sup>62</sup> Cf. M. I. Finley, 'The Alienability of Land in Ancient Greece', *Eirene* 7 (1968), 25ff. = *Annales ESC* 25 (1970), 1271ff. = id. *The Use and Abuse of History* (London, 1975), 153ff., at 156.

adoption. The role envisaged for the procedure of adoption by scholars who follow the account in Plutarch's *Agis* is one whereby the state ensured that the person adopted was a landless younger son without an inheritance with apparently little attention being paid to the wishes of the person who was to adopt him. The evidence, however, lends no weight to this interpretation. Our only source, Herodotus (6.57.5), reports that 'if anyone wishes (ἢν τις...ἐθέλῃ) to adopt a child, he must do it in the kings' presence'. Although the precise implication of the verb ἐθέλῃ is uncertain, the passage does not suggest state intervention of the sort envisaged above. It affords no grounds for assuming that the kings determined whom the man was to adopt, as Grote pointed out long ago.<sup>63</sup> It is natural that such adoptions should take place before official witnesses such as the kings and there is no necessary implication that they interfered with the choice of adoptee. On the contrary, the primary emphasis here is upon the voluntary nature of the adoption and the kings' role as witnesses suggests simply state confirmation of an otherwise private transaction. As Lacey has remarked, 'the right to adopt a son is...characteristic of a family-based society, a society which thinks in terms of inheritance through the family'.<sup>64</sup> The right to choose a successor through adoption is a further indication of the control of the individual Spartiate over the disposal of his own estate.<sup>65</sup>

A further respect in which the character of Spartiate land tenure was not markedly different in quality from that of private property in other Greek states is that land was hereditarily transmitted from one generation to the next by means of partible inheritance.<sup>66</sup> Aristotle states that, 'if many are born and the land divided accordingly, many must inevitably become poor'. His remarks are confirmed by Xenophon (*Lak. Pol.* 1.9) when he explains that the reason why Spartiate men were willing to lend their wives to produce children for other men who did not want permanent wives of their own was that they 'want to get brothers for their sons, brothers who are part of the kin and share in its power, but claim no part of its property (*chrēmata*)'. The implication is that the property would be divided among the natural sons.

This custom of wife-sharing, mentioned in addition by Plutarch (*Lyk.* 15.13; *Comp. Lyk.-Numa* 3.3; *Mor.* 242b) and Polybius (12.6b.8), should be interpreted as a method of reducing the excessive division of estates inherent in the system of partible inheritance. Polybius implies as much in his remark that it was when a man had begotten enough children by his wife that he would give her to a friend. The man who borrowed the wife could also of course use this custom as a means of limiting the

<sup>63</sup> Grote ii.558f. n. 1. The verb ἐθέλῃ could imply either the initiative of the adopter or his consent to what someone else has requested or proposed; cf. the usages in *LSJ*<sup>9</sup>. The majority of Herodotus' uses of (ἐ)θέλω in hypothetical conditional clauses are of the former type (2.11.4, 13.3, 14.1, 99.3, 173.4, 3.12.1; cf. J. E. Powell, *A Lexicon to Herodotus*, 2nd ed., (Hildesheim, 1960) s.v., Section 7) and this meaning is also frequent in other contexts (e.g. 1.141.1, 2.2.1, 3.1, 6.52.6, 56). Since, however, the passage in question is part of a list which may derive directly from a more or less official Spartan source (Section III, below), it may be that normal Herodotean usage is not relevant. The clause is perhaps deliberately imprecise, but it need imply no more than that a man with too many sons might approach another man to request adoption.

<sup>64</sup> W. K. Lacey, *The Family in Classical Greece* (London, 1968), 201.

<sup>65</sup> Plutarch (*Lyk.* 15.12) refers to adoption when describing the custom whereby an old man with a young wife procured the services of a younger man to beget children by her, a passage clearly derived from Xenophon, *Lak. Pol.* 1.7. Plutarch claims that the older man would then adopt the offspring; but, since this is not mentioned by Xenophon, it is possible that he is mistaken. Since some of the occasions when the custom applied may have been marriages between an heiress and her next of kin (see Section III below), adoption would not always have been appropriate.

<sup>66</sup> On partible inheritance as the general Greek pattern, cf. most recently Lane Fox 211ff.

number of his heirs. In the light of the evidence of the first-century A.D. Jewish scholar, Philo (*On Special Laws* 3.4.22), that the Spartiates allowed marriage between uterine half-siblings (*homomētrioi*, i.e. children of the same mother but different fathers), it has been noted that this co-operation could then be continued through the inter-marriage of the sons and daughters of the two men, thus concentrating their properties for the benefit of the succeeding generation.<sup>67</sup> In the passage above Polybius mentions another practice, polyandry, which had the same purpose, saying that it was a longstanding custom and quite usual for three, four or even more brothers to have one wife.<sup>68</sup> The practices of wife-sharing, uterine half-sibling marriage and polyandry all make sense on the supposition that land was transmitted hereditarily by means of partible inheritance.

It has been claimed that the system of partible inheritance applied only from the fourth century after the supposed law of Epitadeus annulled a previous system of 'single heir' inheritance.<sup>69</sup> The arguments for the existence of such a previous system, however, are not strong: the evidence of Plutarch's *Lykourgos* criticised above and the use of the terms *despotēs*, *desposunos* and *hestiopamon* by various writers with reference to Sparta.<sup>70</sup> Most of these passages tell us nothing about land tenure or inheritance. The passages cited from Tyrtaios (fr. 5 Diehl) and Plutarch (*Lyk.* 28.6) refer only to Spartiate mastership over the helots. Those from Pollux (1.74, 10.20) show only that each household had just one master. Finally, the reference in Xenophon (*Hell.* 3.3.5) indicates no more than that on each estate there was only one master, which would equally be the case under a system of partible inheritance; the other persons on each estate will have been helots.<sup>71</sup> It is also hard to see how the change allegedly introduced by Epitadeus would have brought such a 'single heir' system to an end, since the purpose of the law was, according to Plutarch, to permit free gift and bequest, which is totally different from a change to partible inheritance.<sup>72</sup>

<sup>67</sup> Cartledge, *SW* 103 n. 118; Lane Fox 223. Philo's evidence seems reliable, since his accompanying statements that the Athenians permitted marriage between non-uterine half-siblings and the Egyptians full brother-sister marriage are both correct: A. R. W. Harrison, *The Law of Athens* (Oxford, 1968–71), i.22–3; K. Hopkins, 'Brother-Sister Marriage in Roman Egypt', *CSSH* 22 (1980), 303ff.

<sup>68</sup> I have adopted the interpretation of this passage by Lane Fox 222, who suggests that the clause ἀδελφούς ὄντας should be taken with all the preceding accusatives. On the relevance of polyandry to the concentration of property, B. L. Kunstler, *Women and the Development of the Spartan Polis* (Diss. Boston, 1983), 475, 593 n. 990, who, along with Lane Fox (223), stresses that avoidance of division was as much a strategy of the rich as of the poor upon whom Aristotle concentrates. This is, indeed, suggested in the context of wife-sharing by Xenophon's reference to the power (*dynamis*) of the kin.

<sup>69</sup> Asheri, *SLE* 66; *LDP* 5; David, *SER* 102, 221f. n. 49; *AS* 87.

<sup>70</sup> Asheri's additional references (ibid.) to privileges within the royal houses deriving from primogeniture (Hdt. 6.52; Paus. 1.1.4) are no support for a supposed system of indivisibility. Indeed, his general perspective (for which see also his *Distribuzioni di terre nell'antica Grecia* [Turin, 1966], 71, 77), which involves the claim that primogeniture was the traditional practice of moderate constitutions, is fundamentally mistaken. Partible inheritance was the invariable practice throughout Greek antiquity; the unique regulations of Plato's *Laws* (740b–d, 923c–d) and the frequently misunderstood advice of Hesiod concerning the desired number of sons (*Works and Days* 376–80) offer no support to Asheri's view: Lane Fox 211, 216.

<sup>71</sup> Cf. also the criticism of Asheri's interpretation of this last passage by Cozzoli 7 n. 2.

<sup>72</sup> David (*SER* 102f.; *AS* 87) suggests that families used the new freedom of bequest to divide their estates among all their sons and that this became the common practice, with deleterious effects on the heirs, who each inherited too little land to remain citizens. This, however, involves the implausible view that families throughout Spartiate society voluntarily adopted this practice even when it was detrimental to their heirs.

Finally, it is implausible to believe that Xenophon, Aristotle, Polybius and Philo, who directly attest, or describe practices associated with, the system of partible inheritance, are all referring to some period after the early fourth century rather than to the period of Sparta's classical eminence. It is perhaps indicative that when Plato (*Laws* 740a–741a) set forth his system of indivisible *klēroi* he did not point to a Spartan precedent.

There is, consequently, no reason to doubt that the common Greek practice of partible inheritance was the basic system which operated in Sparta throughout the archaic and classical periods.<sup>73</sup> Moreover, Aristotle's evidence has important implications for the nature of the ancient portions. It would be difficult to make sense of his remarks, and to explain the severe decline in Spartiate numbers, if a significant proportion of the land remained indivisible. Accordingly, either the ancient portions must have been subject to partible inheritance or they must have comprised so small a fraction of citizen land that they did not affect Aristotle's generalisations.

### III. THE PROPERTY RIGHTS OF SPARTIATE WOMEN

The final respect in which Aristotle's analysis differs markedly from later accounts concerns the ownership of landed property by women. This factor is absent from Polybius' and Plutarch's account of classical land tenure, appearing only in the description of the supposedly degenerate third-century system described in the life of Agis. For Aristotle, however, the role of women as landowners, both as heiresses and as the recipients of landed dowries, was a crucial part of the traditional system, as is shown by the fact that he portrays it as an important factor in the decline in the number of citizens to below 1,000 shortly after the battle of Leuktra. Since the property rights of women are an important touchstone for assessing the character of Spartan land tenure and inheritance in the classical period, they are worth considering in detail.

#### (a) *Women as heiresses*

In many Greek states in the classical period the position of a daughter (or daughters) whose father had died without male issue was governed by regulations specifying who had the right to marry her.<sup>74</sup> Three texts inform us about the position of such women in Sparta. The earliest forms part of Herodotus' list of royal prerogatives (6.57.4):

The kings are the sole judges of these cases only: concerning an unmarried heiress, to whom it pertains to have [her], if her father has not betrothed her... (πατρούχου τε παρθένου πέρι, ἐς τὸν ἰκνέεται ἔχειν, ἣν μὴ περ ὁ πατὴρ αὐτὴν ἐγγυήσῃ).

Herodotus' source for this list of prerogatives has recently been illuminated by Carlier.<sup>75</sup> Its style and vocabulary suggest that it probably derived directly from a more or less official Spartiate list. Its manner of presentation implies unchanging prerogatives, accorded definitively in the distant past, which the kings continued to exercise in Herodotus' own day. These prerogatives are, however, described with extreme conciseness, sometimes to the point of ambiguity – a perhaps deliberate

<sup>73</sup> For further arguments, Buckler, *op. cit.* (n. 31) 258ff.

<sup>74</sup> Schaps ch. 3.

<sup>75</sup> P. Carlier, *La Royauté en Grèce avant Alexandre* (Strasbourg, 1984), 250ff.

obscurity which allowed constitutional practice to alter without the kings' rights seeming to be infringed.<sup>76</sup> These points should be borne in mind below, especially when we compare Herodotus' evidence with that of Aristotle.

Three points in the above passage require attention. First, the heiress is called by the term *patrouchos*, meaning 'holder of the patrimony', a combination of *πατρῷα* and *ἔχειν*. It seems to correspond to the term *patrōiōkos* in the law code of Gortyn. A *patrōiōkos* in Gortyn, as long as she conformed to the laws specifying whom she was to marry, remained the legal owner of her father's property throughout her life, in contrast with the Athenian heiress, the *epiklēros*, whose rights over her father's estate were considerably fewer and whose sons became its owners when they came of age. The similarity of terms suggests that the Spartiate *patrouchos* enjoyed legal rights of ownership over the patrimony comparable with those of her Gortynian counterpart.<sup>77</sup> This is illustrated by the case of Lysander's daughters (Plut. *Lys.* 30.6; *Mor.* 230a; Aelian, *V.H.* 6.4, 10.15). The fact that they were courted when their father was thought rich, but deserted when on his death in 395 his poverty was revealed, suggests that they were heirs to whatever wealth Lysander possessed.<sup>78</sup> Accordingly, when Herodotus gives Leonidas' marriage to Kleomenes I's only child, his daughter Gorgo, as one reason why he succeeded to the throne ca. 490 (7.205.1; cf. 5.48, 7.239.4), the most likely explanation is that the marriage bolstered Leonidas' claim because Gorgo had inherited Kleomenes' property.

Secondly, there is the question of the nature of the kings' jurisdiction. It is sometimes assumed that their role was to allocate the heiress to a landless citizen.<sup>79</sup> On the contrary, however, the verb *ἰκνέεται* denotes that the potential husband had some right to the heiress' hand and was not selected upon the initiative of the kings.<sup>80</sup> It seems likely that as in other Greek states the right to marry an heiress who came within the kings' jurisdiction belonged to the nearest male relative.<sup>81</sup> The circumstance of an old man with a young wife described by Xenophon (*Lak. Pol.* 1.7) and Plutarch (*Lyk.* 15.12) may often have been the outcome of just such a situation.<sup>82</sup> The kings'

<sup>76</sup> The clearest case concerns the wording of the kings' prerogative to wage war (6.56), which was sufficiently imprecise to accommodate both their collegial right to declare war before 506 and their subsequently reduced role whereby one of them merely conducted a war declared by the *polis*.

<sup>77</sup> Cartledge, *SW* 97f., who notes that a case can be made for a parallelism of development between some aspects of the Spartan and Cretan social systems; my approach here will be to use the evidence of the Gortyn Code, and also of the law of Athens, solely where it provides a useful analogy. *Gortyn Code* 7.52ff.; 9.8ff.; cf. R. F. Willetts, *The Law Code of Gortyn, Kadmos Suppl.* 1 (Berlin, 1967). On the Athenian *epiklēros*, Harrison, op. cit. (n. 67) i.132ff.; Schaps 25ff. The discussion of this issue by E. Karabélias, 'L'Epiclérat à Sparte', *Studi in Onore di Arnaldo Biscardi* (Milan, 1982), ii.469ff., at 476 is vitiated by his view that a Spartiate held only a life tenure over an inalienable *klēros* until the time of Epitadeus (471 n. 7).

<sup>78</sup> There is no evidence that Lysander had any sons. The episodes in which Dionysios of Syracuse twice offered him gifts for his daughters (Plut. *Lys.* 2.7–8; *Mor.* 141f, 190e, 229a) suggest that they were his only children.

<sup>79</sup> E.g. Asheri, *SLE* 61; *LDP* 18; Cozzoli 7.

<sup>80</sup> Karabélias, op. cit. (n. 77) 473 n. 14, 474f.; Grote ii. 558ff. n. 1; P. Roussel, *Sparte* (Paris, 1939), 122; cf. the usages of *ἰκνέομαι* recorded by Powell, op. cit. (n. 63) 171.

<sup>81</sup> For parallels elsewhere, Schaps 44.

<sup>82</sup> F. Ollier, *Xénophon, La République des Lacédémoniens* (Paris, 1934), 23; Lacey, op. cit. (n. 64) 199, 203, although I do not agree with his line of reasoning; Karabélias, op. cit. (n. 77) 479. The marriage of Leonidas and Gorgo may be a case in point, although it is not known whether it had been arranged by Kleomenes himself, or took place only after his death or during the possibly extended period of his flight from Sparta in winter 491/0. On the problems surrounding the marriage, D. Harvey, 'Leonidas the Regicide?', in *Arktouros. Hellenic Studies presented to*

role was probably to adjudicate between the competing claims of different kinsmen, as did the *dikastērion* of the eponymous *archōn* at Athens.<sup>83</sup>

Finally, the kings' jurisdiction applied only to the case of an unmarried *patrouchos* not betrothed by her father. One already married or even merely betrothed was apparently permitted to retain her existing or intended spouse instead of having to marry her next of kin. This is confirmed by the case of Lysander's daughters. On their father's death the men to whom they were betrothed, far from being expected to give way to the next of kin, were fined when they disowned the girls.<sup>84</sup> This contrasts with the law in both Athens and Gortyn where the next of kin had the right to marry the heiress unless she was married and already had a son (in Athens) or child of either sex (in Gortyn).<sup>85</sup> There was evidently less control in Sparta over the possibility of the property passing to descendants who were not kinsmen and over the father's right to alienate his estate by marrying his heiress outside the kin.

Aristotle's testimony quoted in Section II refers to the heiress by the Athenian term *epiklēros* and mentions a person called the *klēronomos* who had control over her marriage when her father died intestate. The word *klēronomos* often means 'heir';<sup>86</sup> but Aristotle clearly believed that the heiress herself was the legal owner of her father's estates, since he specifies the number of heiresses as one reason why approximately two-fifths of the land was owned by women.<sup>87</sup> Aristotle's use of the term *epiklēros* appears, therefore, to be a case of loose, untechnical phraseology.<sup>88</sup> As for the term *klēronomos*, Newman's solution, that he was the person who inherited the heiress or, more precisely, the right to marry her, may be correct;<sup>89</sup> he will therefore have been her next of kin.

Aristotle's statement that an heiress could be given in marriage to anyone (in the context this means by her father) agrees with the evidence of Herodotus. His following remark that, if a man died intestate, the person left as *klēronomos* gave the heiress to whom he liked, appears to indicate that a father could validly betroth his heiress not only during his lifetime but also in his will.<sup>90</sup> This right may already be implicit in the evidence of Herodotus, although it is not specific enough to permit certainty.

Bernard M. W. Knox, edd. G. W. Bowersock, W. Burkert and M. J. Putnam (Berlin and New York, 1979), 253ff.

<sup>83</sup> Harrison, op. cit. (n. 67) i.10ff.

<sup>84</sup> For a similar interpretation of the evidence of Herodotus to that given in the text, Karabélias, op. cit. (n. 77) 474. Note that the passage lends no weight to the interpretation of Lacey, op. cit. (n. 64) 203 that marriage extinguished a girl's claim to her father's estate. It merely specifies which *patrouchoi* came within the kings' jurisdiction.

<sup>85</sup> Harrison, op. cit. (n. 67) i.11f. and App. I; Schaps 28; *Gortyn Code* 8.20ff. At Gortyn a childless heiress was allowed to avoid the obligation only if she ceded half the inheritance to the next of kin (7.52ff.).

<sup>86</sup> Cf. the usages cited in *LSJ*<sup>9</sup>, s.v.

<sup>87</sup> *Contra* Schaps' idea (44) that the girl's relative was the true heir and that he simply gave her a dowry. I do not imagine that any serious information about Spartan inheritance law underlies the remark of Plut. *Mor.* 775c, during his account of the love story of Damokrita, that her exiled husband's property was confiscated so that his two daughters, his only children, might not be provided with dowries. The possible existence at Sparta of the *kyrieia* (the legal guardianship of a female by her male next of kin, on which see most recently Cartledge, *SW* 99f., with refs. to earlier work) does not as such affect the question of female *ownership* of property, concerning which I have benefited greatly from an unpublished paper by Lin Foxhall on 'Property, Ownership and the Household in Classical Athens'.

<sup>88</sup> H. J. Wolff, *RE* 23, 1957, s.v. *proix*, 133ff., at 166f.; Cartledge, *SW* 97.

<sup>89</sup> Newman, op. cit. (n. 52) ii.329; cf. Asheri, *SLE* 55 n. 29.

<sup>90</sup> Karabélias, op. cit. (n. 77) 478; cf. the translations of this phrase by Newman, op. cit. (n. 52) ii.329 ('without having disposed of her hand by will') and by Asheri, *LDP* 19.

A man's right to pass on his property in this way to descendants outside the kin, certainly during his lifetime (attested by both Herodotus and Aristotle), and perhaps also in his will, fits perfectly with his freedom to alienate his property by gift or bequest discussed in Section II.

Aristotle's remarks concerning the *klēronomos* have usually led scholars to conclude that he is reporting important changes in law and practice since the time of Herodotus. It is argued, first, that the kings had lost their jurisdiction over the unbetrothed heiress, who automatically came under the guardianship of her male next of kin; secondly, that the rules governing the marriage of the heiress had been relaxed so that the next of kin could, and usually did, freely give her in marriage outside the kin.<sup>91</sup>

The procedures described by Herodotus and Aristotle may not, however, be as different as these views suggest.<sup>92</sup> Aristotle's testimony does not necessitate the conclusion that the king's jurisdiction had disappeared or that it differed greatly from the adjudicatory role recorded by Herodotus. He does not specify the precise procedures followed when the father died intestate. The kings may well have adjudicated between competing claimants to the position of *klēronomos*, which was probably much sought after because of the potential for personal advantage and patronage afforded by control over the marriage of the heiress.

It is not even certain that the role of the next of kin differs significantly between the two passages. In comparing their testimony one must take into account the different nature of their evidence. Herodotus is recording the legal prerogatives of the kings, drawing without comment upon a Spartiate source which portrayed the law as traditional and uncontroversial without detailed reference to its practical application. Aristotle's sharp criticisms, on the other hand, are intended to highlight controversial aspects of Spartiate practice whose effects he judged to have been radical. Given these differences, it is not impossible that their seemingly divergent evidence results as much from their totally opposite standpoints as from significant differences in either law or practice. Herodotus' brief statement of the official procedure does not specify the exact obligations upon the man to whom an heiress was adjudicated. Was he obliged to marry her himself? If not, did the right of marriage pass to the next nearest kinsman as at Athens and Gortyn?<sup>93</sup> Or was he at liberty to betroth her to any citizen, as at the time to which Aristotle refers? Equally, it should not be assumed that the *klēronomos* of whom Aristotle writes, although free to dispose of the heiress' hand as he wished, did not frequently choose to marry her himself, as is suggested by Xenophon's reference (*Lak. Pol.* 1.7) to marriages between old men and young women, a phenomenon he records as if it were not uncommon.<sup>94</sup> The most that one can reasonably say is that the process of change,

<sup>91</sup> See e.g. Asheri, *SLE* 62; *LDP* 19; Jones, op. cit. (n. 14) 135; Lacey, op. cit. (n. 64) 204f.; A. Andrewes, *Greek Society* (Harmondsworth, 1971), 125; Cozzoli 7; David, *AS* 88f.; Carlier, op. cit. (n. 75) 271.

<sup>92</sup> The adverb *νῦν* used by Aristotle signifies not a contrast between present and past laws but the antithesis between the actual state of the law and that which Aristotle himself deemed more expedient: Grote ii.554 note.

<sup>93</sup> Athens: Schaps 30, 35; cf. the case of Andokides and Leagros, Andok. 1.117ff. Gortyn: Schaps 45; *Gortyn Code* 7.41ff.

<sup>94</sup> The date of the composition of the *Lak. Pol.* is uncertain. W. E. Higgins, *Xenophon the Athenian* (Albany, 1977), 65ff. suggests the 350s and this is accepted by Cartledge, *SL* 302. Other scholars have preferred earlier dates going back to the mid-390s; see, for example, the works cited by Tigerstedt, op. cit. (n. 6) i.461 nn. 526, 530. In addition, it is difficult to relate Xenophon's evidence to a particular historical period because the ambiguous present tense used throughout the work may refer at different points to a past situation or to an ideal state of

if any, between Herodotus and Aristotle was probably more subtle than has usually been thought.

The final piece of evidence is Plutarch's description of King Leonidas' treatment of Agiatis, widow of King Agis IV whom he had executed in the year 241:

Leonidas took his [Agis'] wife, who had a new-born child (*paidion*), from her home and compelled her to marry his son, Kleomenes, who was not quite at the age of marriage. He did not want to give the woman to anyone else because Agiatis was an *epiklēros* of the large estate of her father, Gylippos (*Kleomenes* 1.1–2).

Two points deserve attention. First, if Plutarch is to be believed, the fact that Agiatis had a new-born child, a son probably named Eurydamidas (Pausanias, *Description of Greece* 2.9.1, 3.10.5), did not alter her status as an heiress.<sup>95</sup> It is uncertain, however, whether Leonidas was using, and of course abusing, the kings' traditional role of adjudication (an interpretation which would lend support to the suggestion that the evidence of Aristotle does not necessarily prove its demise) or simply acting arbitrarily. Secondly, there is the question of inheritance. The episode suggests that any sons born of Agiatis' remarriage would have had an equal claim to the inheritance as the son of her first marriage. The interests of his potential grandchildren will therefore have been an important reason why Leonidas was determined to marry Agiatis to his son.

(b) *Dowry, marriage-settlements and inheritance*

Next we must consider Aristotle's statement concerning the existence of large dowries (*proikes*), which he saw as partly responsible for the fact that women possessed about two-fifths of the land. Some later writers claimed that there were no dowries in Sparta. None of their evidence is, however, of any great reliability. The earliest reference, by Hermippos (fr. 87, *apud* Athenaios 13, 555c), is associated with his incredible portrayal of the supposed custom of marriage by capture in a dark room. Justin's evidence (3.3.8) is connected with the false notion of Lykourgan landed equality. Plutarch had no consistent view about dowries. Although one of his *Lakonian Sayings* (*Mor.* 227f) attributes a prohibition of dowries to Lykourgos, elsewhere he recounts a saying and a love story which imply their existence (*Mor.* 242b, a passage which, though sometimes cited as evidence against dowries, indicates the opposite; 775c–e). Finally, it is unlikely that Aelian (*V.H.* 6.6) was drawing upon a tradition independent of the above writers.

The testimony of Aristotle is sufficient evidence for some kind of transfer of land at the time of marriage by the parents of the bride. This need not, however, have been the same as the institution of dowry as it operated in classical Athens. Aristotle may be using the term *proix* in a loose, untechnical sense to describe an analogous but not identical social practice.<sup>96</sup> It is not necessary, therefore, to believe that any property

affairs as well as to the actual present: A. Momigliano, 'Per l'unità logica della *Πολιτεία Λακεδαιμονίων* di Senofonte', *RFIC* 64 (1936), 170ff., at 171.

<sup>95</sup> There is no reason to doubt the authenticity of this incident, which was contemporary to the period about which Plutarch was writing, in contrast with those sections of the lives of Agis and Kleomenes which refer back to earlier periods. This is not, however, to guarantee the accuracy of the evidence about Agiatis' status. Like Aristotle, Plutarch mistakenly uses the Athenian term *epiklēros*. On Eurydamidas, see A. S. Bradford, *A Prosopography of Lakedaimonians from the Death of Alexander the Great, 323 B.C., to the Sack of Sparta by Alaric* (Munich, 1977), s.v., who notes that Pausanias may have given his name incorrectly; cf. also Marasco, *Commento* ii.347f.

<sup>96</sup> Cf. Schaps App. II, with 85ff.

thus transferred came under the management of the bride's husband as at Athens.<sup>97</sup> The fact that Aristotle saw dowries as partly responsible for female possession of about two-fifths of the land suggests that the bride retained control of the gift just as the *patrouchos* did of her inheritance. This is the interpretation of Cartledge, who argues that 'what Aristotle calls "large dowries" were really... marriage-settlements consisting of landed property together with any movables that a rich father (or mother) saw fit to bestow on a daughter'.<sup>98</sup>

The issue raised by this formulation is whether the amount of property transferred was solely at the discretion of the bride's parents or whether it was predetermined in any way. The Gortyn Code, for example, also refers to the transfer of property to a bride by her father and indicates that, as in Sparta, it remained under her control (6.9–12).<sup>99</sup> The property in question, however, was not merely a voluntary gift but the daughter's rightful inheritance which, if it were not given at marriage, she would receive ultimately on her father's death (4.37–5.9). A daughter was entitled to share in the inheritance of all her father's (and mother's) property, apart from certain specified items (town houses, the contents of untenanted country houses and livestock), even when there were surviving sons, her portion being half that of a son. This was the maximum amount that could be given to her on marriage, to judge from the evidence of the Gortyn Code (4.48–51) that 'if the father, while living, should wish to give to a daughter upon her marriage, let him give as prescribed, but no more' and Ephorus' statement (*FGrHist* 70 F 149, *apud* Strabo 10.4.20) that 'the dowry, if there are brothers, is half of a brother's portion'. The question is whether a Spartiate daughter had the same rights of inheritance as her Gortynian counterpart. If she was not a *patrouchos*, was the amount of property transferred to her on marriage dependent solely upon the generosity of her parents and the strength of their desire to secure a desirable husband for her? Or did the settlement reflect her right to inherit a portion of the parental estates even in the presence of surviving brothers?

The normal assumption has been that Spartiate women did not have any rights of inheritance in the presence of brothers.<sup>100</sup> There is, however, some evidence which suggests the contrary. Aristotle states that approximately (or nearly) two-fifths of the land was in the possession of women.<sup>101</sup> This statement has to my knowledge never been satisfactorily explained. There are two aspects to the problem. First, how did Aristotle discover the proportion of land in female hands? His use of the verb *ἔστι* suggests that it was obtained empirically rather than by a theoretical calculation based upon knowledge of the rules of Spartiate inheritance. Yet it is unlikely to be derived from a register of Spartiate landholdings, since Greek states typically did not keep such records.<sup>102</sup> More probably, it reflects the kind of informal local knowledge about

<sup>97</sup> Harrison, *op. cit.* (n. 67) 52ff.; Schaps 75.

<sup>98</sup> *SW* 98.

<sup>99</sup> Willetts, *op. cit.* (n. 77) 20; Schaps 88.

<sup>100</sup> I say 'assumption' advisedly because the question of female rights to inherit in the presence of brothers is seldom even raised. The account of Michell, *op. cit.* (n. 2) 205ff., for example, contains no discussion of female property rights at all. Most modern works assume without question that transfers at marriage were voluntary gifts, e.g. David, *SER* 103; *AS* 89.

<sup>101</sup> *ἔστι δὲ καὶ τῶν γυναικῶν σχεδὸν τῆς πάσης χώρας τῶν πέντε μερῶν τὰ δύο* (*Pol.* 1270a23–4). It is not clear whether *σχεδὸν* should be translated here as 'approximately' or 'nearly'; for general Aristotelian usage, H. Bonitz, *Index Aristotelicus* (Berlin, 1870), 739, which does not, however, refer to this passage.

<sup>102</sup> M. I. Finley, *Studies in Land and Credit in Ancient Athens 500–200 B.C.* (New Brunswick, 1952), 13f., 207f. nn. 18f.

property-ownership circulating orally in Sparta, as is found in modern Greek small-scale communities.<sup>103</sup>

Secondly, is it possible to explain how or why this particular proportion of land should have been in female hands? Now, a system of inheritance like that at Gortyn, according to which a daughter is entitled to a landed inheritance half that of her brother will tend to produce a distribution of land between the sexes such that the proportion owned by women is about 40%. The reason is that, although in households with both surviving sons and daughters the female proportion is only 33·3%, in households with surviving daughters only the female inheritance is treble the normal share; whereas in those with only surviving sons, the male share is only one and a half times the norm.<sup>104</sup> The existence of such an inheritance system at Sparta would, consequently, explain Aristotle's figure.

Furthermore, Aristotle's remarks concerning partible inheritance (*Politics* 1270b1–6) are not incompatible with the thesis that all children inherited, daughters as well as sons. His statement (lines 5–6) that, 'if many are born (πολλῶν γινομένων) and the land distributed accordingly....' appears to refer back to lines 2–3, where he comments that the lawgiver encouraged the citizens 'to beget many children' (οἷτι πλείστους ποιεῖσθαι παῖδας). There is no indication here that only sons inherited. It may be significant that Aristotle uses terms which carry no obvious differentiation between the sexes when he writes about division of the inheritance, despite the fact that he could easily have indicated such a differentiation. Although in lines 3–4 he mentions the alleviation of public duties which was granted to fathers of three or more sons, he does so only in order to illustrate his general remark about the lawgiver's intentions. He does not continue this explicit reference to sons into the following sentence in which he discusses division of the inheritance.

There are also several historical instances which suggest female inheritance in the presence of brothers. Some concern marriages to close consanguineous kin contracted by members of the royal houses, unions which Cartledge has already interpreted as having been made with the aim of concentration of property.<sup>105</sup> One is the mid-

<sup>103</sup> Lin Foxhall, pers. comm.; such knowledge can often be remarkably detailed and accurate.

<sup>104</sup> Take, for example, the demographic calculations of J. Goody and G. A. Harrison, 'Strategies of Heirship', *CSSH* 15 (1973), 16ff. = J. Goody, *Production and Reproduction* (Cambridge, 1976), 133f., which they deem to correspond most closely with the situation in pre-industrial societies. According to these calculations, in a self-reproducing population marked by high mortality, averaging six children ever born per family, and with only a one in three chance of a child surviving its father, roughly 41% of families would have both son(s) and daughter(s), 21% son(s) only, 21% daughter(s) only and 17% no surviving heirs. The resulting proportion of land inherited by females would be 38·91% [(41 × 1/3) + (21 × 1) + (17 × 1/4)]. (The figure used for calculating the proportion deriving from heirless families is conservative, bearing in mind the prior claim to inherit of the brother(s) of an heirless person.)

These calculations assume a sex ratio of 1:1. The exact proportion of land in female possession will of course vary according to the precise percentage of households with, respectively, both surviving sons and daughters, surviving children of one sex only and no surviving children at all. But even quite significant changes in these percentages do not lead to deviations far from the figure of 40%. Take the extreme case of the calculations given by Goody and Harrison which postulate the greatest degree of continuity in family succession, those at the top right-hand corner of their Table, which assume a population marked by low mortality, averaging six children ever born per family, but with more than a two in three chance of a child surviving its father. According to these calculations, roughly 74% of families would have both son(s) and daughter(s), 10% son(s) only, 10% daughter(s) only and 6% no heirs. The resulting proportion of land inherited by females would still be as high as 36·16% [(74 × 1/3) + (10 × 1) + (6 × 1/4)].

<sup>105</sup> *SW* 99. It might be objected that royal marriage customs may have been exceptional rather than representative of those of ordinary citizens, as was the case in some other societies, including

sixth-century marriage between King Anaxandridas II and his sister's daughter, a union which the king refused to dissolve despite his wife's initial childlessness and the insistence of the ephors that he send her away and marry again to perpetuate the royal lineage (Hdt. 5.39–41). Although Herodotus indicates that Anaxandridas was devoted to his niece, it is likely that material considerations were also involved. Had he sent her away, her property would have gone with her and would almost certainly have been lost to his descendants.<sup>106</sup> Only when he was permitted to retain her as well, did Anaxandridas agree to take another wife; and even after his second wife had borne him a son, he still ensured that his niece subsequently bore him children (three sons) to inherit her property. All this suggests that she was of some wealth. There are several aspects of this case which we should like to know about, in particular her father's level of wealth (probably considerable for him to have married a king's daughter) and how much of it she received (we do not know whether she was a *patrouchos*). Under the hypothesis suggested above, however, her wealth would be explicable on the grounds that her mother, Anaxandridas' sister, would have inherited a portion of the estates of her father, King Leon, and his wife, to which she would then have been sole or joint heiress, in addition to inheriting from her own father. This episode makes more sense on the view that daughters inherited in the presence of brothers than otherwise.

A second example is the early-fifth-century marriage between the future King Archidamos II and his step-aunt, Lampito (Hdt. 6.71). This match originated from the fact that King Leotychidas II had married twice. His first marriage produced only a son, Zeuxidamos, who in turn fathered Archidamos before dying prematurely without further issue. Lampito was the only child of Leotychidas' second marriage to a certain Eurydamē, sister of Menios and daughter of Diaktoridas. Since Archidamos' position as heir to the throne would not seem to have been in doubt, it seems likely that the purpose of the match, which was arranged by Leotychidas himself, was to concentrate the royal property for the benefit of his descendants. Now, if daughters did inherit in the presence of brothers, this marital manoeuvre would be very understandable: first, because Lampito, having only one step-brother, would be due to inherit one-third of Leotychidas' estates; secondly, because there would also be a probably substantial property due to her from her mother, Eurydamē, who would herself have inherited possibly as much as a third of the estates of her father, Diaktoridas, and his wife. Such an inheritance would also explain why Leotychidas chose Eurydamē as his second wife.<sup>107</sup>

A third example concerns Kyniska, daughter of Archidamos II. Although she was not a *patrouchos*, she owned sufficient land and other resources to breed horses of a quality to gain two victories in the four-horse chariot race at Olympia.<sup>108</sup> It seems

ancient Persia and Egypt: Hopkins, *op. cit.* (n. 67) 306f. The Spartiate kings, however, were not monarchs distanced from their subjects like the kings of Persia, who referred to their subjects as 'slaves' (e.g. Hdt. 7.39.1, 8.102.2, 3), or those of Egypt, who received divine worship, but merely leading citizens.

<sup>106</sup> Had she remarried and had children, they would have inherited. Had she remained childless, her property would then have been claimable by her father's kinsfolk.

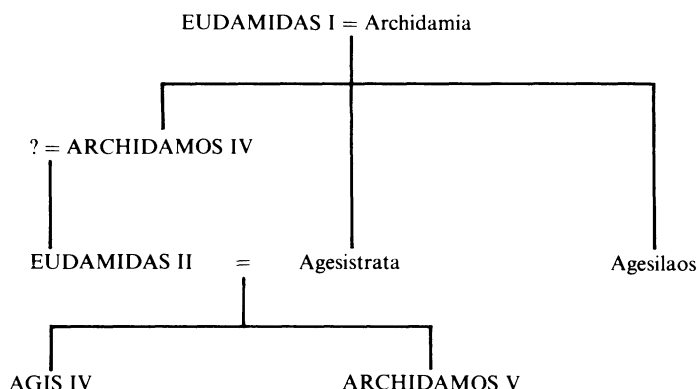
<sup>107</sup> Her family may well have been of some substance. There is a possibility that her father, Diaktoridas, was the Olympic four-horse chariot victor of 456 (L. Moretti, 'Olympionikai, i vincitori nelle antichi agoni olimpici', *Memorie della Classe di Scienze morali e storiche dell'Accademia dei Lincei*, 8, Ser. 8a (Rome, 1957), 53ff., no. 278). In addition, Herodotus' gratuitous mention of Eurydamē's brother, Menios, perhaps suggests that he was a man of note.

<sup>108</sup> Xen. *Ages.* 9.6; Plut. *Ages.* 20.1 describe her as the sister of Agesilaos, probably his natural sister and a daughter of Archidamos' second wife, Eupolia, rather than a daughter of Lampito. For her chariot-race victories, perhaps in 396 and 392, Moretti, *ibid.* nos. 373 and 381. Xen.

more likely that her great wealth stemmed from a right to inherit a portion of the estates of Archidamos and her mother than that she was voluntarily given a dowry of such great proportions.<sup>109</sup> Nor was Kyniska alone. Pausanias (3.8.1, 17.6) informs us that Olympic chariot-race victories were subsequently won by several other Spartiate women, such as Euryleonis, victrix in the two-horse chariot race, probably in 368.<sup>110</sup> In view of the evidence regarding Kyniska's position, it would be special pleading to claim that these other women must all have been *patrouchoi*. The fact that such considerable amounts of land could come into the hands of these women adds further strength to the proposition that they possessed inheritance rights to a significant portion of their parents' property.

Finally, there is the mid-third century case of Agesistrata and Archidamia, respectively mother and maternal grandmother of King Agis IV. (See Table 1 for the family tree, based upon the prosopography of Bradford,<sup>111</sup> to which the reader is

Table 1. *Family tree of Agis IV*



referred for the detailed evidence.) According to Plutarch (*Agis* 4.1), Agesistrata and Archidamia owned the most property of anyone in Sparta. Taken at its face value, this statement would mean that the two women were richer not only than Agesilaos, Archidamia's son and Agesistrata's brother, who, although in debt, was a large landowner (*ibid.* 6.6, 13.1–2), but also than Agis himself. Plutarch does not specify

*Ages.* 9.6 is testimony to Kyniska's wealth. On the huge expenses of chariot-racing, see the collection of material in J. K. Davies, *Athenian Propertied Families 600–300 B.C.* (Oxford, 1971), xxv–xxvi n. 7. Note also the costly dedications which Kyniska made to celebrate her victories (Pausanias 3.8.1–2, 15.1, 5.12.5, 6.1.6; *IG* v.1.1564a; *Palatine Anthology* 13.16).

<sup>109</sup> Assuming that she was indeed married; the sources are silent on the point. Under the hypothesis of female rights of inheritance Kyniska will have been entitled to one-fifth of Archidamos' property, since the latter had another son, Agis II, and to no more than one-fifth of her mother's, since Eupolia had at least one other son, Teleutias, born of a second marriage (*Xen. Hell.* 4.4.19; *Plut. Ages.* 21.1). The fact that on Agis II's death, Agesilaos, as step-brother, inherited all his property (*Xen. Ages.* 4.5; cf. *Plut. Ages.* 4.1), with Kyniska, as step-sister, apparently not sharing in the inheritance, is not incompatible with the hypothesis that daughters inherited in the presence of sons. In the Gortyn Code, for example, in the absence of sons or daughters, a man's or woman's property went first to any brothers, next to their children or grandchildren, and only in the absence of all these to any sisters or their descendants (5.9–22).

<sup>110</sup> Moretti, *op. cit.* (n. 107) no. 418.

<sup>111</sup> *Op. cit.* (n. 95) Appendix 6.

that they were richer in *land* than their two male relatives; but their landed estates must have been comparable or at least not too much smaller for them to be wealthier overall. This might at first sight seem improbable; but it would in fact be perfectly possible under a system according to which a daughter could inherit half a son's portion on marriage, especially if a son might have to wait until his mother's death to gain her property.<sup>112</sup> The only further assumption required is that the amount of land owned by Archidamia was at least about half that owned by her husband, King Eudamidas I, who was father to Agesilaos and great-grandfather to Agis IV. This is by no means impossible, particularly if she was a *patrouchos*. The consequence would be that the inheritance gained by Agesilaos on Eudamidas' death was not that much larger than the combined dowry given to Agesistrata on marriage by both her parents and no more than the amount still retained by Archidamia herself.<sup>113</sup> Furthermore, since Agis IV had a brother, Archidamos, with whom to share the property of their father, King Eudamidas II (Plut. *Kleom.* 1.1, 5.2–3), it is unlikely that he would have owned very much more land than did his mother and grandmother, even on the assumption that his father, Eudamidas II, had had no surviving siblings with whom to divide his parents' property and that his paternal grandmother had already died, thus yielding her property to Agis and his brother.<sup>114</sup> Accordingly, the hypothesis that a daughter normally received half a son's portion on her marriage can explain Plutarch's evidence concerning the level of Archidamia's and Agesistrata's wealth. It also explains why Eudamidas II chose to marry Agesistrata, his aunt, since he could thereby ultimately reunite a significant part of the family property.

In spite of some uncertainties surrounding each of these examples, cumulatively they lend strong support to the proposition that a daughter could normally expect to receive a portion of her parents' property as an inheritance even in the presence of surviving brothers. In a society without a written law code the application of the convention that daughters inherited half the amount of property that went to a son need not have been rigid, especially as it affected the size of marriage-settlements. Under a property regime which permitted transfer of land through gift or bequest, the size of the parental estate might frequently have differed at the time when a son succeeded on the death of one or both parents from the earlier time of his sister's marriage. Similarly, one should not assume either that marriage-settlements were compulsory (they were not at Gortyn) or that they had to be to the full value of a daughter's inheritance entitlement. No doubt rich households could better afford to make such settlements than could poor ones for whom every scrap of land needed to be retained for as long as possible to sustain the *syssitia* contributions of its adult male members. Nevertheless, I would suggest that the knowledge that a daughter would ultimately expect to receive a significant portion of her parents' estates by way

<sup>112</sup> Cf. the Gortyn Code (4.23–31), according to which both mother and father could retain ownership of their property until death, with the exception that a son was entitled to receive his paternal inheritance prematurely in order to pay a fine.

<sup>113</sup> Assume for example, that Eudamidas I had owned 180 units of land and Archidamia 90. Agesilaos' share of Eudamidas' property would be 40%, i.e. 72 units. Agesistrata's share on marriage would be 20% of the property of both parents, i.e.  $36 + 18 = 54$  units. The amount still retained by Archidamia after Agesistrata's marriage would be 80% of her original property, i.e. 72 units.

<sup>114</sup> On the same calculations as in the previous note, Archidamos IV would have inherited 72 units from Eudamidas I. Assuming, *exempli gratia*, that his wife had possessed as many as 54 units (half Archidamos' *potential* inheritance from both father and mother), Eudamidas III would then have inherited 126 units, half of which would have given Agis IV 63 units.

of inheritance exercised a pronounced influence upon the size of marriage-settlements offered by those families which could afford them. That was why Aristotle named large dowries as one of the two reasons for the ownership by women of approximately two-fifths of the land.

Whether or not one accepts this hypothesis, it is apparent that among the richer families marriage-settlements were often large. They were obviously designed not merely to provide support for the bride in her new household, but to settle either the whole or the bulk of her claim to her parents' estates, thus ensuring that a significant part of the parental property was ultimately passed on to her own children.<sup>115</sup> It is clear that the Spartiate inheritance system operated on the basis of a diverging pattern of devolution, according to which the property of an individual (in the Spartiate case, either male or female) was distributed to children of both sexes and hence diffused outside the kin.<sup>116</sup> Indeed, the characteristics of Spartiate marriage patterns (such as uterine half-sibling marriage and royal unions with other close blood relations)<sup>117</sup> closely parallel those found in other societies in which diverging devolution operates. Such societies often have a high level of endogamy and other forms of in-marriage as a means of restricting diffusion of property outside the kin.<sup>118</sup> Adelpic polyandry, another practice evidenced in Sparta, is also associated in many societies with property ownership by women as well as by men.<sup>119</sup> This combination of ethnographic parallels with the evidence of royal marriage manoeuvres going back to the mid-sixth century provides a firm indication that the system of diverging devolution and the significant amount of female land ownership to which it gave rise were basic aspects of Spartiate land tenure and inheritance from at least the late archaic period onwards, if not before.

#### IV. IMPLICATIONS

The picture of Spartiate land tenure and inheritance suggested in this essay is markedly different from those postulated by Plutarch and his modern followers. In place of a schema governed by public controls and dominated by indivisible, inalienable, male-owned and equal *klēroi*, with reversion back to the state at death or succession by primogeniture, we have witnessed a system which was pre-eminently one of private estates transmitted by partible inheritance and diverging devolution and open to alienation through lifetime gifts, testamentary bequests and betrothal of heiresses.

Inevitably, some uncertainties remain, especially concerning the enigmatic ancient portions. Yet even here some advancement of our understanding has been possible. It was noted in Section II that, apart from the legal prohibition on purchase or sale, the ancient portions must either have been subject to the same rules as the rest of Spartiate land, namely, freedom of gift and bequest, partible inheritance and – if one accepts the arguments of Section III – inheritance by women or they can have

<sup>115</sup> These different functions of dowry are clearly distinguished by R. P. Saller, 'Roman Dowry and the Devolution of Property in the Principate', *CQ* 34 (1984), 195ff., following the work of J. Goody, 'Bridewealth and Dowry in Africa and Eurasia', in J. Goody and S. J. Tambiah, *Bridewealth and Dowry* (Cambridge, 1973), 1ff., at 17ff.

<sup>116</sup> Goody, *ibid.*; *id.* op. cit. (n. 104) 6f.

<sup>117</sup> In addition to the examples of royal intra-lineage marriage discussed in the text, note that of Agis IV's brother, Archidamos V, to the daughter of his cousin Hippomedon (Plb. 4.35.13).

<sup>118</sup> Goody, op. cit. (n. 115) 27.

<sup>119</sup> E. R. Leach, 'Polyandry, Inheritance and the Definition of Marriage', *Man* 55 (1955), 182ff. = *Kinship*, ed. J. Goody (Harmondsworth, 1971), 151ff., at 161.

comprised no more than a small fraction of Spartiate estates.<sup>120</sup> It seems clear that the ancient portions are either no exception, or no significant exception, to the private character of land tenure advocated above.

Given the paucity of evidence, we have been able to view the system of tenure and inheritance only in its crudest outlines, without the possibility of considering the many subtleties and complexities of law and practice to which the variety of individual circumstances no doubt gave rise in everyday life. Moreover, this study has focused solely upon rights of ownership, alienation and transmission, to the exclusion of rights and duties concerning the use of land and its produce as well as consideration of other forms of property.

Nevertheless, the interpretations suggested in this essay have important implications for our understanding of the character of classical Spartiate society. Anthropologists have emphasised the significant repercussions of female tenure of land, whether gained through inheritance or dowry, in particular the drastic reorganisation of ownership every generation and the accentuation of demographically-induced inequalities.<sup>121</sup> Demographic studies of pre-industrial societies marked by high mortality rates have stressed the dangers and difficulties inherent in strategies of heirship by which individuals might attempt to ensure the survival of a male heir whilst avoiding excessive division of the inheritance.<sup>122</sup> The fragility of such heirship strategies must have been significantly greater when daughters could inherit portions of the parental landholdings even in the presence of sons. Finally, the evidence from classical Athens, in which women possessed considerably fewer property rights than in Sparta, indicates, nevertheless, the covert household influence of the dowried wife and the potential dominance of the wealthy *epiklēros*.<sup>123</sup> The evidence from Hellenistic Sparta (Plut. *Agis* 6.7, 7.6) demonstrates the pervasive influence of women whose property rights were similar to those of their classical counterparts. It may be significant that Aristotle, the single writer properly to emphasise the role of women as owners of land, is also the one who takes pains to point out the important influence they exercised within the Spartiate state (*Politics* 1269b12–1270a33).<sup>124</sup>

Thus the conclusions of this essay direct us to two basic and related contradictions within Spartiate society: first, between the façade of a seemingly stable society marked by an unchanging system of government and the reality of an unceasing movement of significant tracts of landed property and continual shifts in the fortunes of a declining number of citizen households; and, secondly, between the narrowly political demands of the male-centred hoplite *polis*, which overtly minimised the importance of material considerations, and the fundamental economic needs of female-influenced

<sup>120</sup> On the latter alternative, house and garden land in the five villages of Sparta would be an example of a category of land of the appropriate scale which might well have been regarded as a family's ancient portion (I owe this suggestion to Bjørn Qviller). This would, additionally, be one way of explaining the term *klēronomos*, and of reconciling the seeming contradiction in the evidence of Aristotle discussed in Section III (a), if he was the person who inherited the ancient portion, with the rest of the estate going to the heiress.

<sup>121</sup> J. Goody, 'Inheritance, Property and Women: Some Comparative Considerations.', in *Family and Inheritance. Rural Society in Western Europe 1200–1800*, edd. J. Goody, J. Thirsk and E. P. Thompson (Cambridge, 1976), 10ff.; Leach, *op. cit.* (n. 119) 155.

<sup>122</sup> E. A. Wrigley, 'Fertility Strategy for the Individual and the Group', in *Historical Studies of Changing Fertility*, ed. C. Tilly (Princeton, 1978), 135ff.; cf. Lane Fox 214.

<sup>123</sup> Refs. in Schaps 76f.; cf. Plato, *Laws* 774c; Foxhall, *op. cit.* (n. 87), who stresses that the wife possessed the ultimate sanction of withdrawing herself and her dowry from the household.

<sup>124</sup> Cf. J. Redfield, 'The Women of Sparta', *CJ* 73 (1977/78), 146ff., at 160; Kunstler, *op. cit.* (n. 68) ch. 13.

households upon whose survival the *polis* depended. These insights into the nature of Spartiate society which are gained from a study of its system of land tenure and inheritance would be worthy of more detailed exploration.<sup>125</sup>

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The recent book by D. M. MacDowell, *Spartan Law* (Edinburgh, 1986) did not appear until after this essay had been submitted for publication.

<sup>125</sup> Some illuminating comparisons and contrasts could be made with E. Friedl's discussion of the impact of a similar inheritance system upon modern Greek society: 'Dowry and Inheritance in Modern Greece', *Transactions of the New York Academy of Sciences* 22 (1959), 49ff.; *Vasilika* (New York, 1963), ch. 4, esp. 64ff.