

Concerning the time of (setting up the defense of) dowry money not paid.

(de tempore non numeratse pecuniae dotis)

The same Augustus (Justinian) to Johannes, praetorian prefect the second time, ex consul (Ordinary) and patrician.

Preface. Our laws have not left unexamined the defense of money not paid which is set up in certain cases, but we have shortened the time thereof ^(a) lest men might benefit by their negligence and fraud, in the manner of merchants, and make trouble for others. For proofs which persons want to produce are not equally ready at hand in all things, and time, too, destroys many. Hence we have justly limited complaints of money not paid in some cases, as may be gathered from laws already by us. And we not do the same in connection with dowry. For since husbands were given the whole time while the marriage lasted in which to bring a complaint for dowry not actually paid, and a further addition was made thereto ^(b) by also granting the right to make such complaint within a year after the death of the husband or after divorce, we have deemed it best to shorten such period and release wives from producing proofs in connection therewith after the expiration of a long time.

(a) c.4,30,14.

(b) c.5,15,3.

c.1 If, accordingly, a man is married to a woman for only two years or a shorter time, and has not received the dowry, neither he nor his heirs shall be prejudiced by his silence, but a further period of a year is given to make such complaint; for the shortness of the period of marriage induces us to make this provision. If the marriage lasts longer than two years but less than ten years, the husband may complain ^(a) that part or the whole of the dowry was not paid, and if he does so, the complaint is transmitted (to the heirs), since the husband has complained and the wife has not shown payment. 1. If he does not complain within ten years, a complaint is barred

through his silence, and do not permit him to make it after the expiration of the ten years, and do not give his heirs a further year (after his death). And this is not intended as our punishment for some, but as our care for the tranquility of our subjects. For when a man, who is permitted to make a complaint for so long a time -- we speak of ten years -- prefers to remain silent, although he has not received the dowry, it is clear that he wants his heirs to give it (that is the amount of it, to his widow). This shall apply though the marriage is dissolved by divorce. Nor do we draw any distinction whether the woman herself, or her father or any one else for her, has promised, in writing, to give it, in as much as time has the effect in all such cases as we have stated it, and either permits or destroys the right to make complaint. But we do not speak of verbal announcement (of the complaint), for a man often says such things through wrath or for some other cause, or purchased witnesses lie about it, though the man has said nothing about it, but such announcement of complaint must be made in writing. If someone wants to make it, perchance, in court, it must be made known to the woman or to the other party who has promised in writing to give the dowry; for otherwise nothing would prevent the man doing this and making this complaint by himself, leaving the woman (or the party promising to give the dowry for her) in ignorance, without being able to protect themselves, not knowing that the complaint has been made.

(a) See next chapter, which gives 3 months after the expiration of 10 years. That provision was also in all probability originally in the present chapter.

C.2. To state it briefly, therefore, if the marriage is dissolved within two years, either by death or by divorce, the husband himself, and his heir, may make complaint that the dowry has not been paid, within one year thereafter. But if the marriage lasts beyond

two years, and up to ten, we give the husband and his heir three months thereafter to make such complaint. If the ten years (and three months) have passed, neither the husband nor his heirs may make such complaint, and time shall suffice the woman for all purposes. If the husband is a minor, however, without making such complaint, we give him time for restitution to his rights to the extent that it shall not exceed twelve years from the time of the marriage. For we know that those who enter into a marriage early, do not do so before they are fifteen years old, so that in this way (the time given) will be beyond his twenty fifth year, and he may make complaint that the dowry has not been paid until his twenty seventh year. If he dies within that time, his heirs have a year thereafter to make the complaint. 1. But if the heirs of the person who has made no complaint, whether the latter was over or under age, are minors, they shall have only five years in which to make the complaint that the dowry has not been paid, and this time shall suffice without waiting for the expiration of the whole time of minority. And just this has moved us to enact the present law: For a woman was married fourteen years (and her husband died), and her son, abusing the privilege of his minority, sued twenty years after the death of his father, making the claim thirty four years after the marriage that the dowry had not been paid. We remedied this matter when adjudicating upon it, and on account of this case have fixed the time for minors at five years during which he (the minor heir of the man) who acknowledged the receipt of the dowry, may set up that the dowry was not paid, and whether he is of age or under age, the case must be decided according to such time. This law shall apply to future marriages; as to marriages already existing, if ten years ^(a) or not less than two, are left (after the marriage), he (the husband) shall have such time for making complaint that the dowry was not paid, which also gives

him the right of transmitting (his right to his heirs); if less than two years are left, or the total time of ten years (after the marriage) has passed, then we give the husbands two years to make complaint that the dowry has not been paid, and we give their heirs three months after the dissolution of the marriage, so that we may preserve for them every right that is just.

(a) i.e., if the marriage has just been entered into.

Epilogue:

Your Sublimity will carry this our will, declared by this imperial law, into force and effect.

Given Dec. 20, 539.