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Jörg Rüpke

FLAMINES, SALII, AND THE PRIESTESSES OF VESTA: INDIVIDUAL DECISION AND DIFFERENCES OF SOCIAL ORDER IN LATE REPUBLICAN ROMAN PRIESTHOODS

1. INTRODUCTION

Among the variety of official and priestly “careers” seeming normal in the Roman republic historically accessible to us from the third until the first century BC, there are some cases which show individual interpretations of traditional priest roles that seem surprising and that remain often isolated. I would like to analyse these cases anew, which have been used as evidence for the “liquid” character and adaptability of “sacral law”.¹ They are, however, much more interesting and merit our attention as they point to a rather neglected aspect of late republican religion. My starting point for the renewed examination of the material is an omission to which Robinson Baudry has drawn attention²: it is the neglect of the factor “patriciate” for the late republic. While the latter’s research is completely concentrating on careers of magistrates, the phenomena I am dealing with concern priests, and even *sacerdotes publici*. As I will argue, these incidences throw new light onto another group of priests, the priestesses of Vesta, one of the most ancient deities of the Roman pantheon.

2. REINTERPRETATIONS OF PRIEST ROLES

The events which form the base of my considerations can be summarized into three groups. They concern ritual mistakes by Flamines, secondly conflicts whether Flamines are allowed to take up an extra-urban office, and thirdly a priest neglecting duties in an extra-urban office on account of his priesthood. In monthly routine rituals at the Ides and in some annual rituals a priest called Flamen Dialis was active. Like the two other *flamines maiores*, namely the Flamen Martialis and the Flamen Quirinalis, he was called according to a God (Jupiter, Mars, Quirinus), but his duty was not restricted to this cult. All of them, but in particular the Flamen Dialis was subjected to various regulations. Corresponding information in the

¹ Rüpke 2005, 1569–86 (in the further course the title *Fasti sacerdotum* will be abbreviated to *FS*).

² In his thesis written under the guidance of Jean-Michel David at the Centre-Glotz, Paris-Sorbonne (not yet published).

antiquarian tradition is concentrated or even projected on the Flamen Dialis; the writer Aulus Gellius offers the most detailed list in his *Noctes Atticae*.³ The sanctions at non-compliance to the regulations were without exception hard: the Flamen Dialis would therefore have been in the permanent danger to lose his office. All the more astonishing it is that the number of the cases of removals from office documented historically is very low. The most comprehensive source to this is offered by a short passage in the *Memorabilia* of Valerius Maximus:

*Consimili ratione P. Cloelius Siculus, M. Cornelius Cethegus, C. Claudius propter exta parum curiose adnota [deorum immortalium aris uariis temporibus bellisque diuersis] flamine abire iussi sunt coactique etiam at Q. Sulpicio inter sacrificandum e capite apex prolapsus idem sacerdotium abstulit ...*⁴

In the same logic P. Cloelius Siculus, M. Cornelius Cethegus and C. Claudius were called and even forced to resign from the Flaminiate because of a careless presentation of entrails. But an apex fallen down during the sacrifice snatched the same priesthood from Q. Sulpicius.

The parallel tradition for two of the four persons named by Valerius Maximus suggests that the list is organized chronologically.⁵ M. Cornelius Cethegus (according to Plutarch, Marcellus 5.3 f.) had to resign in the year 223; C. Claudius, one Flamen Dialis, experienced the same destiny according to Livy in the year 211 (26.23.8)⁶ - the grounds given for it correspond in their uncertainty to the one given by Valerius Maximus who could have gone back to Livy for this news: *Quod exta perperam dederat* - "because he had offered the entrails faultily." The passage in Plutarch already mentioned attests the fact that Q. Sulpicius must be placed chronologically within this list: the forced abdication due to the loss of the apex identifies Sulpicius as Flamen Dialis since the Flamen Dialis was not allowed to stay in the open without the headgear.⁷ The event belongs in the same time as the withdrawal of the Cethegus and has approximately to be dated to 223.⁸ Since there was only one Flamen Dialis at each time, the contemporary Cethegus should have been Flamen Martialis or Quirinalis;⁹ I assume the same for the probable predecessor P. Cloelius Siculus.¹⁰

If one tries to summarize these cases appearing in a very short time period, they can be described as a radicalization from outside: by an exact observation of the performance the office is made precarious. In looking for an explanation here,

3 Gell. 10.15.

4 Val. Max. 1.14f. Perhaps the Horatian verses *hinc apicem rapax / Fortuna cum stridore acuto / sustulit hic posuisse gaudet* (carm. 1.34.14-16) refer to this incidence instead of any unknown contemporary, as supposed by most of the commentaries on Horace (Will. Oksala) or on mythical events of fallen kings (Nisbet, Hubbard).

5 Klose 1910, 27 f.

6 FS no. 1159.

7 Gell. 10.15.17.

8 FS no. 3176.

9 FS no. 1317.

10 FS no. 1272.

should we invoke the envy of rivals in the competition for the extremely restricted number of positions available?

The second case group speaks against such an interpretation: already in the year 242 BC there was a conflict which concerned a Flamen. A. Postumius Albinus was the Flamen Martialis, and at the same time a magistrate – a consul – who wanted to leave Rome in order to go to a theatre of war. The pontifex maximus achieved, against him, that Albinus had to remain in Rome.¹¹ Comparable cases followed. According to Livy¹² in the year 215 Q. Fabius Maximus Verrucosus “Cunctator” stopped the consular election when the votes of the *centuria praerogativa* had gone – together with a fellow applicant – to the Flamen Martialis M. Aemilius Regillus. Fabius pointed to the problems of a Flamen who becomes consul regarding tasks in warfare; however, he could not reach any clear exclusion of the candidate.¹³

The constellation of this clash continued. C. Valerius Flaccus had to fight for the right to a senate seat and magisterial offices at first. However, finally he occupied the offices of aedilis and the urban praetorship.¹⁴ We will come back to Valerius Flaccus soon. Problems which arose were removed constructively: when in the election to the aedileship Gaius could not take any oath as Flamen Dialis,¹⁵ the problem was solved by the swearing of the oath by his brother.¹⁶ This instance did not solve the fundamental problems of the relationship of this priesthood to the magistracies and their political and military task. It was forbidden to the newly elected praetor Q. Fabius Pictor in the year 189 to leave the town so that he had to settle for the urban praetorship.¹⁷ The pontifex maximus and consular colleague P. Licinius Crassus Dives Mucianus denied the take-over of a province to the Flamen Martialis L. Valerius L. f. L. n. Flaccus in the year 131 BC.¹⁸ We know a similar constellation even from the imperial period. In AD 22 Servius Cornelius Lentulus Maluginensis due to augural and pontifical objections as Flamen Dialis and suffect consul of AD 10 did not manage to become a proconsul of Asia.¹⁹

Rightly these conflicts have been seen as conflicts between two systems and as a political instrumentalization of these conflicts, with an anti-patrician aim.²⁰ Common denominator of the political interpretations is the serious hindrance which arises from the take-over of such a priesthood. Another two occurrences correspondingly are also assigned to such a political theatre. From the beginning of the second century BC, for the first time males were appointed to a priesthood against their will: in the year 209 against Gaius Valerius Flaccus this was success-

11 See Liv., *Per.* 19; Val. Max. 1.1.2; *FS* no. 2817.

12 Liv. 24.7.12.

13 *FS* no. 525.

14 *FS* no. 3393; Liv. 27.8-10; 31.50.6-9; 39.45 2-4.

15 *Plut. q. R.* 44; *Paul. Fest.* 92.25 L.

16 Liv. 31.50.6-9.

17 *FS* no. 1599; Liv. 37.51.1-7.

18 *FS* no. 3395 and 2236 (PM); Cic. *Phil.* 11.18.

19 *FS* no. 1349; Tac. *ann.* 3.58 f. and 71.

20 See the discussion in Simón 1996, in particular 195-206.

fully achieved, with unexpected and long-term success even: Flaccus proved himself excellently as Flamen Dialis.²¹ This did not always turn out well. In the year 180 the attempt to appoint L. Cornelius Dolabella against his will to the office of Rex sacrorum failed.²² To appoint an ailing member of the Corneli Scipiones, one P. Cornelius P. f. P. n. Scipio²³ to the office of Flamen Dialis in the year 174 seemed to follow the same logic²⁴. Likewise it is frequently questioned that C. Iulius Caesar contested for the position of the Flamen Dialis²⁵, an office he never occupied but that was not filled by somebody else during his lifetime either²⁶.

A third case type lets doubt about such an assessment arise. The Salius P. Cornelius Scipio Africanus interrupted a military operation in Asia Minor for the time of the urban Roman rites of the Salii in March 191 BC (republican calendar) and had ordered a march break of 30 or 31 days for his army.²⁷ He offered as an explanation that on the days, at which *ancilia moventur*, that is, when in the town the Salians were dancing and moving the shields, Salii may not march on in the field.²⁸ Obviously, quite individual, subjective interpretations of situations were at work. However, these must not remove systemic explanations that will be addressed in my next step.

3. PATRICIAN PRIESTHOODS

It is not by chance that the incidences mentioned occur within the decades before the *lex Villia annalis* and within an epoch highly interested in the systematization of the official career. The clarification of the character of public offices concerned also religious roles, *sacerdotia*. But the restrictions to only a few roles are striking, the measures surprising, rather fail or seem to work contrary to intention.

Particularly the older research has rightly seen that the occurrences proceed on a conflict line of patricians and plebeians. How relevant this line still was in the religious area is shown by the following fact: the *lex Ogulnia* of the year 300 BC had established the principle of the at least 50 percent occupation of the large

21 FS no. 3393; Liv. 27.8.4-10; Val. Max. 6.9.3.

22 Liv. 40.42.8-11.

23 FS no. 1371; ILS 4; Liv. 41.28.7 (with *praenomen* Cn.).

24 Simón 1996, 199.

25 See FS no. 2003 with elaborate argumentation.

26 Simón 1996, 212: "era demasiado joven para una elección autónoma que, además, le imponía fuertes constricciones en la vida pública y privada." See the evaluation to the contrary in FS no. 2003.

27 Polyb. 21.13.7-14 (with regard to Herakleides of Byzantium). According to most of the editors, the text has a lacuna for other reasons (Causabonius 1609; Buettner-Wobst 1904; Paton 1926).

28 Liv. 37.33.6 f.: *Statim deinde ad Hellespontum aliquamdiu habuerunt, quia dies forte, quibus ancilia moventur, religiosi at iter inciderant. (7) idem dies P. Scipionem propiore etiam religione, quia salius erat, diuinxerant ab exercitu; causaque ei ipse morae erat, dum consequeretur.*

colleges by plebeians and at the same time the keeping of a patrician minority which nearly reaches 50 percent. This principle was not only preserved within all the old colleges, but was applied to the staffing of the newly founded college of the Tresviri epulones in the year 196, too.²⁹ P. Manlius should have been a patrician next to two tribunes of the plebs.³⁰

For the cases discussed earlier I have to point to the introduction (even if modified) of direct elections of the pontifex maximus in the second half of the third century.³¹ This was followed by the presumably first direct elections and first choice of a plebeian to the office of Curio maximus in the year 209.³² From the time of the re-organisation of the priesthoods under the *Lex Ogulnia* of 300 CE, if not before, the authority of the pontifex maximus grew constantly, so that he came to play a decisive role in virtually all cases involving pontifical and related questions. Since 243 and till 221, the first well-known plebeian was in charge of this office, L. Caecilius Metellus. In his period of office the conflicts mentioned for the time from 241 to about 221 fell. The plebeian being in office from 213 down to 183 was P. Licinius Crassus Dives. He was responsible for most of the other conflicts that I am dealing with.

The sequence of the topics of these conflicts is not without interest. At first regulation of the - for Rome completely new - problem of the administration of province: a problem that had not existed before the end of the First Punic War and the creation of the provinces of Sicilia and Sardinia. The solution to this was the exclusion of long-term absence for the exclusively patrician priesthood of the Flamines (maiores) (and of course reges sacrorum). The solution found here during the second half of the third century BC lasted: despite repeated individual protests. The second conflict concerned the main item of the priesthood, their life long period of office. The rigorous observation of ritual details as a precondition for remaining in office hit this conception of priesthoods in its hearts. It is this topic which was picked out as a central theme in discussions about the exile of augurs in the first century BC and afterwards.³³ The failure of this attempt to deprive people of their priesthood is shown by the fact that we do not know about any further cases, but damage was left. When Livy talks about the fact (in the case of C. Valerius Flaccus; Liv. 27.8) that the positive change of character has led to a resumption of the supposedly old custom to grant the Flamen a senate seat which had been lost by the *indignitas* of earlier Flamines³⁴, then one could relate this to the events of the 220s, if one assumes historicity.

29 For the immediate (religio-)political context see Rüpke 1995, 319 and 330.

30 FS no. 2342; Baudry assumed this hypothesis.

31 The election was performed in a meeting (*comitia*) of 17 out of 35 *tribus* (drawn by lot, see Cic., *leg. agr.* 2.16-18).

32 Liv. 27.8 1-3.

33 For example for Sulla, FS no. 1390 with further literature.

34 Liv. 27.8.7: *huius famae consensu elates ad iustam fiduciam sui rem intermissam per multos annos ob indignitatem flaminum priorum repetivit, ut in senatum introiret.*

After a patrician intermezzo, the successor of Metellus, Crassus, in the office of the supreme pontiff opened another area of conflict, by appointments against will. To take a close look is valuable here too. For the incidence of 209 BC Livy does not emphasize the resistance of the candidate (a fact that one might gather from the wording *coacti flaminis* but need not do) but talks about his lack of reputation among his cognate relatives which also can have been aimed against his appointment. The appointment must be seen in the context of another appointment still waiting to be concluded, namely the appointment of a Rex sacrorum. With high probability M. Marcius had been appointed the first plebeian Rex sacrorum by the first plebeian pontifex maximus within the late 240s or 230s, any literary report of this process is unfortunately missing.³⁵ When Marcius died in 210 this opening could not be continued. After a vacancy of two years – pointing to conflict and discussion – patricians were appointed only. The first plebeian Curio maximus also had been chosen in the year 209. The person involved already attained the praetorship in 207 BC, his name was C. Mamilius Atellus³⁶, and to be more precise his praetorship was related to the administration of Sicily. The role of the local dimension, the tie with Rome, is illuminated by the accessibility of priesthoods: the possibility of absence from Rome obviously allowed the Roman elite to think about a plebeian occupation of such a priesthood. Inaugurated in the year 208, the Rex sacrorum Cn. Cornelius Dolabella had only been Monetalis, he was young and remained in the office for 28 years.³⁷

In the year 205 there was a vacant position, when the Flamen Martialis M. Aemilius Regillus³⁸ died after having reached the consulship. Only in 204 Ti. Veturius Philo was appointed his successor, he was a brother of the consul of 206 and perhaps already in a higher age, since he found a successor presumably already soon after the turn of the century.³⁹ The lack of offices held, the age, the vacancy (the length of which cannot be determined, the turn of the year offers only a clue), all these items signal conflicts in the occupation. If the successor P. Quinctilius Varus was identical with the praetor of the year 203, he would have gone into very old age when he died as a Flamen in 169 BC; it seems more reasonable to think of a son who was appropriately young but did not reach any office despite the possibilities.⁴⁰ A routine seems to be at work here, visible also when a young Scipio was appointed Flamen Dialis in the 180s or in the attempt to appoint the Dolabella as Rex sacrorum: after all, this is the son of the deceased Rex sacrorum. Therefore his rejection has to be judged to be individual, hardly systemic. Like the abdications of the 220s, the forced appointments and the disputes over the quality of the appointments occupy a relatively short period around

35 FS no. 2368.

36 FS no. 2334.

37 FS no. 1322.

38 FS no. 525.

39 FS no. 3481.

40 Thus FS no. 2868.

the year 210. Both cases are not to be classified individually but systemically as indicating a conflict between patricians and plebeians.

The new constellation does not suggest that the offices of Flamen were dreaded offices: transitions on children were just as usual as the nomination of promising persons, one also will be allowed to put the young Julius Caesar here judging his family constellation without getting the reproach of a *vaticinium ex eventu*. And much points to the fact that this was not without reason. Privileges were offered by the exclusively patrician offices - the great Flamines, Rex, but also the membership in the Salii - , privileges conferring prestige: they offered a lifelong high visibility by their unusual working dress, the right to a curule chair, a lictor, the frequent appearance in public: repeatedly, they moved in the political and religious centre of the town. All this is in a clear contrast to other priesthoods also being open to plebeians for ritual activities throughout a month or throughout a year.⁴¹

For the Salii, the practice of leaving the priesthood on achieving higher official offices or another priesthood so prominent for the imperial era might have existed already in the late republic. The prosopographical material does not permit a strengthening of this thesis. The case of the praetor and Salius Furius Bibaculus even speaks against it.⁴² But this could have been an exception, an individual clinging to the office; otherwise the *sodalitas* of the Salii admitted a considerable number of patricians to an early priesthood that was characterised by a short period of office. This hypothesis is supported by the parallelism of Augustus' course of action. He enlarged the patriciate and the number of the Salii at the same time: for such a second sodality which placed Salii Collini next to the Salii Palatini is not attested before Augustus. If the doubling should be older, it would increase the probability of the supply of positions for all patricians.

If one did not think of the economic potentials of activity in the province, the restrictions were definitely tolerable for the mentioned priesthood. Moreover, the privileges listed before started one to two decades before the consular age. Who would want to exchange an associated professorship directly after highschool for the mere hope for a chair by the age of forty-five years? We should not narrow historical importance to political careers, only.

The individual perspective mentioned last also had a systemic side, however. We have to ask what - in the uniform nobility of the republic since the third century - did legitimate the large share of a few patricians at high offices, particularly the consulate, what its monopoly on certain functions like the interregnum, and finally: what did justify the Julian-Augustan expansion and upgrading of the patriciate with its enormous discrimination of careers? Evidently its religious special role formed the hardest argument, regardless of the fact how controversially the question of the auspices was always discussed.⁴³ This argument of a special religious role was conveyed medially by the few exclusively patrician offices and

41 See Rupke 2005a on the limited visibility of other priesthoods.

42 *FS* no. 1781; Val. Max. 1.1.9.

43 In addition Liv. 10.7.9 f.

only the aforementioned patrician priesthoods were permanently and undoubtedly visible. Elections to priesthoods, just like elections to consulships and other magistracies, required knowledge of the status, patrician or plebeian, of the candidates, in order to assure the correct overall composition of a given priestly college.

The visibility and the exceptional quality of the religious offices found their expression also in an otherwise unknown form of the inclusion of women. This does not have to be argued for the *Reginae sacrorum* and the *Flaminicae*, the wives of the great *Flamines*. For the *Salii* we are dependent on a very thin tradition; but Fay Glinister has made probable at a conference in Lampeter⁴⁴ that the *Saliae virgines* in a quotation by Cincius in the lexicon of Festus⁴⁵ meant patrician girls in priest quality. In the parallelism shown by me it had to be checked whether the term *conducticiae* used by Cincius has to be associated with the expression *in matrimonium ducere* as a conscious linguistic reference, a term applicable of course also for the marriage entered into *per confarreationem*. It is important to realise that this form of marriage was valid also for women of plebeian origin, thus made patricians.⁴⁶

4. A NEW POSITION FOR THE VESTAL VIRGINS

My argument here can be supported by a negative one, appropriate to our hono-
rand, Giulia Sfameni Gasparro. The topic of women calls attention to an obvious gap in my presentation of the evidence. There is another priesthood for life with high visibility, the *virgines Vestae*, the vestals, persons who are excluded from all offices for another reason, i.e. gender. Where the priests have come into our view by their appointment, till now it is the removal from office in the case of the vestals - in the horrifying ritual of burying alive which has brought the names of vestals into the literary tradition in many cases. This is valid from mythical time down to the late antique corpus of letters of Symmachus, which still made the hunting down of unchaste vestals a task of the pontifical college, one of the few remaining at the end of the fourth century.⁴⁷ Hildegard Cancik-Lindemaier has made the threat of lawsuits on account of *incestus* frequently ending in death sentences a basic feature, the *conditio humana* so to say, of the six-headed college of Vestal, a danger not really compensated by other legal privileges.⁴⁸

The issue here is the precariousness, the vulnerability, of sacerdotal status construed mainly in terms of the (alleged) infringement of ritual prescriptions; this was the point that L. Caecilius Metellus, as a plebeian pontifex maximus, tried vainly to make during his years in office in relation to the patrician *flamines maio-*

44 Glinister 2011

45 Fest. 439.18 L

46 Thus Baudry, taking up a suggestion of Rüpke 1990.

47 Symm. *epist.* 9.108 f. and 147 f. See Wissowa 1923.

48 Cancik-Lindemaier 1990: 10; for the political dimension of the lawsuit of 114/3 BC see *ibid.* 8.

res. Much more forcefully the construction of the vulnerability was reinforced by the dealing with the Vestal virgins, the priesthood living in the centre of the city,⁴⁹ over a period of more than half a millennium. Thus we have to ask for the status of the vestals now. The answer - I claim - is not found in the latest monographs⁵⁰ of Wildfang, Schultz, Mekacher, or Takács but in the prosopography: the plebeians, surely twelve out of seventeen known names dominate the republican time starting with the mythical names. The temporal distribution of the exceptions is interesting. The earliest is an Aemilia made vestal around 205, who in 178 served as *Vestalis maxima* and in a wonderful way lit again the fire that a younger vestal had let go down from carelessness.⁵¹

Aemilia⁵² became patrician through the hypothesis of Friedrich Münzer, who identified her as the oldest daughter of the later *pontifex maximus* M. Aemilius Lepidus.⁵³ The assumption that the younger one also had been patrician⁵⁴ is completely unfounded. The patrician status for the daughter (or according to a less probable tradition sister) of the triumphator and consul of 143 BC, Ap. Claudius C. f. Ap. n. Pulcher, Claudia is secure.⁵⁵ The vestal Aemilia executed in 114 might well have been patrician;⁵⁶ it would be unusual to find a plebeian Aemilia in such a position by the late second century. However, this argument applies in no way to the vestal Fabia, accused of *incestus* with Sergius Catilina but acquitted in the year 73.⁵⁷ This half-sister of Cicero's wife Terentia could absolutely have been a plebeian; outstanding patrician family branches hardly offer themselves for identification in this period. Thus, the only possible patrician would have been removed from the circle of the *Virgines Vestales*, completely known for the late seventies: for Popillia, Perpennia, Fonteia, Licinia and Arruntia, the five others, one can exclude such a status for certain.⁵⁸

In the first century but presumably also until the end of the third century BC *Virgines Vestales* were plebeians. The already examined activity of the *Pontifex maximus* Crassus probably led to a first exception at the end of the third century; these exceptions were ended toward the end of the second century perhaps with the execution of the year 114. This result is matched in the following period, by rules for example systematized by the *lex Papia* which Gellius wrote down for us

49 See the documentation in Arvanitis 2010.

50 Wildfang 2006; Schultz 2006; Mekacher 2006; Takács 2008. Cf. Saquete 2000, 120-2, who repeats the older state of the art by assuming an opening for plebeians in the consequence of the *lex Ogulnia* of 300 BC.

51 *FS* no. 490 listing the sources; the dated account of Livius (*Liv.*, *per.* 41, *Obseq.* 8) quotes no names.

52 *FS* no. 507.

53 Münzer 1920, 173-6; Münzer 1973, 199-203.

54 Saquete 2000, 64; followed by Rupke, *FS* no. 130.

55 *FS* no. 1152.

56 *FS* no. 491.

57 *FS* no. 1577.

58 They names are known from the list of participants in the inaugural dinner of the pontifical college in 70 BC (Maer., *Sat.* 3.13.11).

in the second half of the second century AD. He collects norms, at what age, from what kind of family, by what rites, ceremonies and observances, and under what conditions a Vestal virgin is "taken" by the pontifex maximus; what legal privileges she has immediately upon being chosen; also that, according to Labeo, she is lawfully neither heir of an intestate person, nor is anyone her heir, in case she dies without a will:

(11) *Sed Papiam legem inuenimus, qua caueretur, ut pontificis maximi arbitratu uirgines e populo uinginti legantur sortitioque in contione ex eo numero fiat et, cuius uirginis ducta erit, ut eam pontifex maximus capiat eaque Vestae fiat.* (12) *sed ea sortitio ex lege Papia non necessaria nunc uideri solet. nam si quis honesto loco natus adeat pontificem maximum atque offerat ad sacerdotium filiam suam, cuius dumtaxat saluis religionum observationibus rano haberi possit, gratia Papiae legis per senatum fit.*⁵⁹

Yet there is a Papian law, which provides that twenty girls be selected from the people at the discretion of the supreme pontiff, that a choice by lot be made from that number in the assembly, and that the girl whose lot is drawn be "taken" by the supreme pontiff and become Vesta's. But that allotment in accordance with the Papian law is usually unnecessary at present. For if any man of respectable birth goes to the supreme pontiff and offers his daughter for the priesthood, provided consideration may be given to her candidacy without violating any religious requirement, the senate grants him exemption from the Papian law.

The law aims against the absolute right of decision of the *pontifex maximus* in the determination of the *uirgines Vestae*. He is obliged to prepare a list of candidates covering twenty names - one can not understand otherwise the phrase *pontificis maximi arbitratu uirgines e populo uinginti legantur* (§ 11), from which a girl is drawn by lots in a *contio*, a public meeting, as a future vestal; the text suggests, that the names of the fathers of the candidates were on the lots. The girl was then made vestal by the ritual *captio* by the pontifex maximus.

If one looks for traces of the conflicts shown by the *captio* of the patrician Aemilia by the plebeian chief pontiff, one could find them in a detail which - without connection to the context - Gellius names shortly before his treatment of the Papian law: it was open to sisters of vestals as well as daughters and fiancées of different priests, to decline the candidature:

... *eum cuius soror ad id sacerdotium lecta est, excusationem mereri aiunt: item cuius pater Flamen aut augur aut XVuirum sacris faciundis aut VIIuirum epulonum aut Salus est. (7) sponsue quoque pontificis et tubicinis sacrorum filiae uacatio a sacerdotio ista tribui solet.*⁶⁰

But they say that one whose sister has been chosen to that priesthood acquires exemption, as well as one whose father is a flamen or an augur, one of the Quindecimviri sacris faciundis, one of the Septemviri epulonum, or a Salian. Exemption from that priesthood is regularly allowed also to the betrothed of a pontiff and to the daughter of the tubicines sacrorum.

The mention of the fathers in the rank of a Flamen or Salus leads to the interpretation: not priests but primarily patricians are concerned even if the wording avoids to name this status qualification. This concentrates the choice on plebeian

59 Gell. 1.12.11 f.

60 Gell. 1.12.6 f.

families. The superiority of the patricians is demonstrated to all *ex negativo* in every lawsuit against the Vestals. The systemic exclusion of patricians from the danger of losing their religious qualification contributes anew to the adscription of a special status.

5. CONCLUSION

Let me come back to the cases of the end of the third and beginning of the second century BC. We do not see an innovative behaviour on the part of the plebeian *pontifices maximi*. Also among the patricians we see individuals who do not interpret a religious role in the traditional way but interpret it as a specifically religious role, as a *Salii* for instance. These were cases of highly individual behaviour. They intended to problematize the relationship to political offices or emphasize their special religious obligation even against a political role. In both cases they did so against the background of a perfect religious role. Basic, however, to these individual attempts at further developing given role was a shared conviction: the religious foundation of the Roman community is provided by the patriciate in the long run. Civic religion is not a matter of all citizens to an equal share. With regard to the priestesses of Vesta, the consequences of this conviction went far beyond the republic, if one thinks of accusations and the sentencing directed against them.

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