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LEX VOCONIA AND CONFLICTING IDEOLOGIES OF SUCCESSION

Privileging Agnatic Obligation over Cognatic Family Feeling

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The aim of this paper is to reconsider the motives behind the enactment of the *lex Voconia*.[1] In 169 BC Q. Voconius Saxa passed a law that prohibited anyone from having more than the heirs through legacies or in consequence of someone's death. Another of its clauses forbade anyone with registered property of 100.000 *as*ses to name a female heir.[2] According to the *Sententiae*, a work attributed to the third century jurist Julius Paulus, female relatives remoter than sisters were denied the right of intestate

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1 I wish to thank Dr. Antti Arjava, Dr. Unto Paananen, Mr. Kaj Sandberg, Dr. Päivi Setälä, Mr. Timo Sironen and Mr. Ville Vuolanto for providing me with invaluable advice and criticism, however the responsibility remains mine. I owe special thanks to Hugh Macpherson for correcting and improving the language of the body type, any remaining errors must be result of my last minute adjustments.

2 Gaius *inst.* 2,226: *Ideo postea lata est lex Voconia, qua cautum est, ne cui plus legatorum nomine mortisue causa capere liceret, quam heredes caperent*; 2,274: *Item mulier, quae ab eo, qui centum milia aeris census est, per legem Voconiam heres institui non potest, tamen fideicommisso relictam sibi hereditatem capere potest*; Liv. *perioch.* 41. J. Gardner, Women in Roman Law and Society, London 1986, 170; J. K. Evans, War, Women and Children in Ancient Rome, London and New York 1991, 72. The second clause (Gaius *inst.* 2.274) concerned the first census class, or *classici*, who's census registered property was 100.000 *as*ses or more: G. Botsford, The Roman Assemblies, reprint, New York 1968 (1909), 84–85, 90–91; A. E. Astin, Cato the Censor, Oxford 1978, 113. It remains unclear wether the quantity of legacies was restricted to the *classici* according to the second provision, or did it concern also *infra classem* as it seems likely: Evans, 96 n. 101; However Sirks, "*Sacra*, Succession and the *lex Voconia*," Latomus 53 (1994) 273–291.

succession among agnates *Voconiana ratione*.[3] There is also juridical case of doubtful origin and actuality (*Fraus legis Voconiae*) presented in *Declamationes Minores* by (Pseudo-)Quintilianus, according to which it was not permitted to leave a woman more than half of an estate.[4] Cassius Dio maintains that, contrary to the *lex Voconia*, Augustus privileged certain women with capacity to inherit more than 100.000 sesterces.[5] Cicero and St. Augustine condemned the law as favourable for men and truly unjust towards women.[6] Finally, Aulus Gellius has preserved a passage of a speech by Cato the Elder supporting this law, in which he appears to attack women and their wealthy dowries. However, Gellius also claimed that the law had long been forgotten. [7]

The obvious disadvantage to women has provoked theories according to which the main motivation behind this law was to deprive women of their increasing wealth.[8] Alternatively it would have put an end to the irritating

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3 Paul. *sent.* 4,8,20. According to the *Sententiae*, The Twelve Tables did not make this distinction by sex. The passage suggests that the enactment was done simultaneously with Voconian law or at a later date, but in both cases more or less under the same motives: Gardner, Women, 171. Gaius does not make any connection to the *lex Voconia*, which may hint to misinterpretation in the *Sententiae*: Gaius *inst.* 3,14. See also J. Crook, "Women in Roman Succession," in B. Rawson (ed.), The Family in Ancient Rome, London and Sydney 1986, 60. On *sententiae* and its post-classical origin: F. Schulz, History of Roman Legal Science, Oxford 1946, 176–179; F. Wieacker, Römische Rechtsgeschichte, München 1988, 133.

4 Quint. *decl.* 264,4. The case, however, is fictive and based on conclusion of the two clauses (see note 2), hence it only represents an interpretation of the *lex Voconia*. A. Quarino, Lex Voconia, Labeo 28 (1982) 120.

5 Dio 56,10,2. The alleged limit of 100.000 sesterces cannot be true because Cicero does not mention any actual limit on women's inheritances (see note 10). The controversy obviously resulted from the modernisation of the initial limitation of concern to persons having property worth 100.000 *as*ses or more.

6 Cic. *Verr.* 2,1,106; Cic. *rep.* 3,17; Aug. *civ.* 3,21.

7 Gell. 17,6; 20,1,23. Gardner and Evans have emphasised that this speech implies only Cato's motives, not necessarily those of Voconius and the supporters of the bill: Gardner, Women, 171; Evans, 74. After all, Gellius selected the passage only because of Cato's use of the term *servus recepticius*. Further discussion below.

8 A. Steinwenter, RE XII.2 (1925) 2426–2427 s.v. Lex Voconia; A. Watson, The Law of Succession in the Later Roman Republic, Oxford 1971, 29; Astin, 113–118; Vigneron,

feminine luxury that was checked already by the *lex Oppia* in 215 BC and later by other sumptuary laws.[9] Gardner has decisively refuted these interpretations.[10] The strongest counter-argument is found in Cicero's statement, which implies that the law did not set any limit for the wealth that women could eventually possess or inherit.[11] Women could be left enormously rich legacies equal to heirs' shares, and the law allowed daughters to be left bequests equal to their intestate portions when sons also survived.[12] The injustice occurred when a father died without sons but having daughters, who were forced by the Voconian law to share their paternal estates with an additional male heir diminishing daughters' shares below due statutory portions.[13]

The *lex Voconia* ignored the loophole provided by remaining intestate because intestacy was an unthinkable option for upper class Romans.[14] The

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"L'antiféministe loi Voconia et les Schleichwege des Lebens," Labeo 29 (1983) 145–146; J. P. Hallett, Fathers and Daughters in Roman Society, Princeton 1984, 92–93, 227–228.

9 J. Crook, Law and Life of Rome, London 1967, 121–122; M. Kaser, Das römische Privatrecht, Munich 1971, 684; S. Pomeroy, Goddesses, Whores, Wives and Slaves: Women in Classical Antiquity, New York 1975, 162–163; P. Culham, "The Lex Oppia," Latomus 1982, 786–793, esp. 792–793.

10 Gardner, Women, 171–175. See also Evans, 73–75; Sirks, 291–293.

11 Cic. *rep.* 3,17: The daughter of P. Crassus could still inherit 100.000.000 sesterces. Gardner, Women, 173.

12 Evans, 73–74.

13 Gardner, Women, 174; Evans, 73. Second clause of second set of pontifical rules (IIb) on obligation to perform *sacra* (Cic. *leg.* 2,48-49) held that the largest legacy should not exceed the part left to all heirs or heir. The clause of the *lex Voconia* had identical intent by giving the pontifical rule a civil law sanction. Discussion in Sirks, 274–276, 289. Hence the sole daughter's share was diminished by introduction of *extraneus* male heir from 1/1 to 1/2, two daughters' shares from 1/2 to 1/3, three daughters' shares from 1/3 to 1/4, etc. The law was not unjust because the sole daughter could not be instituted as *heir* but because her share was unduly diminished to half.

14 J. Crook, "Intestacy in Roman Society," PCPhS 19 (1973) 44; E. Champlin, Final Judgments: Duty and Emotion in Roman Wills, 200 B.C.-A.D. 250, Cambridge 1991, 46 against D. Daube, "The preponderance of intestacy at Rome," Tulane Law Rewiev 39 (1965) 253 ff. However, see P. Voci, "Linee storiche del diritto ereditario romano I. Dalle origini ai Severi," ANRW II.14 (1982) 395 concerning the Early Republic. The

law did not try to control women's wealth, and barring women from the right of intestate succession would not have made the case much stronger.[15] Rather the suggested goals of delimiting female wealth must have been the consequences, rather than the causes of the legislation in question. This applies also to Gardner's reasonable view, according to which the *lex Voconia* was enacted to secure sufficient financial backing for the purposes of male public life.[16] Evans' theory of the *lex Voconia* as an early predecessor of *collatio dotis* puts too much weight on dowries and their values.[17] Moreover, no plausible reason can be produced to explain why the restriction – in Evans' theory – was confined only to the wealthiest class, since the same problems would surely have concerned the next class below.[18]

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theory of strengthening agnatic tutelage by encouraging intestacies is truly misguided. For bibliography and discussion: Vigneron, 143–144; Gardner, Women, 174.

15 Both Gardner and Evans argue that to truly cut women out of property it would have been necessary to exclude them from intestate succession: Gardner, Women, 174; Evans, 75–76. The *Voconiana ratio* indeed had this effect but in practice the easier testation and revision of wills due to *testamentum per aes et libram* must have reduced the effects of intestate succession to minimum.

16 Gardner, Women, 175–176.

17 Evans, 78–83. In my opinion Evans fails to prove that elite fathers provided their daughters with richest dowries possible. Even if the values of dowries were increased due to lucrative warfare, so were the values of the estates. The relative size of dowries in times of the *lex Voconia* was probably roughly the same that remained the experience during the Principate, usually less than 10 percent of the whole estate in the upper-classes: R. P. Saller, "Roman dowry and the devolution of property in the Principate," CQ 34 (1984) 119. See also S. Treggiari, Roman Marriage: *Iusti Coniuges* from the Time of Cicero to the Times of Ulpian, Cambridge 1991, 363.

18 Other attempts to explain the restriction to first census class are hardly acceptable: Pomeroy's suggestion that the *lex Voconia* prevented large fortunes from escaping *tributum* is ingenious but not convincing: S. B. Pomeroy, "The relationship of the married woman to her blood relatives in Rome," Ancient society 7 (1976) 222; Crook, "Women," 66. Mitchell goes astray suggesting obscurely that law was meant to secure the existence of persons bound to obligations towards state according to their registration in the first census class, which finds no support in the sources: R. E. Mitchell, Patricians and Plebeians: The Origin of the Roman State, Ithaca and London 1990, 250. I am aware of the forthcoming publication of a monograph by T. Van der Meer, Made for Men: A Study of the Origins and the Influence on Roman Society of the *lex Voconia* (169 BC).

It is not until recently that the similarities between pontifical *ius sacrum* and the clauses of the *lex Voconia* have been fully appreciated. Sirks' assertion that the primary concern was the continuation of *sacra pro familia* reveals the essential aspect of the *lex Voconia.*[19] However, to fully understand the legislation in question due attention must be paid to the political and social background of the legislation, the hereditary nature of Roman aristocracy, the struggle of the orders and the changing testamentary practice and ideology.[20] Even if it is difficult to define the actual content of the Voconian law or to be sure that nothing relevant is omitted, some facts about content and context can be deduced from the sources and these allow, or urge, crucial questions to be asked. Why was the law confined only to the uppermost census class? Why were the actual effects of the law restricted in practice to daughters without surviving brothers? What motivation was there behind the exclusion of women and restriction of legacies? It is my aim to demonstrate that the *lex Voconia* was intended to protect and maintain the Roman hereditary aristocracy. The law was promoted by the need to make aristocratic *patresfamiliarum* fulfil their obligations towards their legally defined *familiae*, and the actual enactment resulted from combination of conflicting ideologies of succession and current political situation at Rome.

Unfortunately it did not come out to be available for consideration in this paper.

19 Sirks, 274–276, 293–296. This is already implicit in Crook's statement that the *lex Voconia* "was concerned with instituting women as *heirs*:" J. Crook, "Intestacy in Roman Society," PCPhS 19 (1973) 43.

20 According to Sirks the pontiffs wanted the *sacrae pro familia* to be performed by male *sui heredes* because *extraneus* heirs might feel themselves less obliged to maintain the family tradition. It was also desirable not to let *sacrae* to devolve on women because their *familiae* could not be perpetuated. The fundamental merit of Sirks theory is the emphasis on importance of having male *heres* to perpetuate the *sacra pro familia.* Nevertheless, Sirks fails completely to appreciate the fact, explicitly attested by Gaius (*inst.* 2,226), that the actual problem behind the restriction on legacies in Voconian law was the desertion of wills by instituted heirs because of lavish legacies, or *inane nomen heredis.* Moreover, Sirks' allusion to "reference group for the rest of Roman society" hardly explains why the transmission of *sacrae* was perhaps "not considered important enough for this lower classes," 293. Sirks mentions growing disregard of social rules but without definition and due consideration of the prevailing testamentary practice, 293. Yet Sirks does not pay any attention to the effects of *sine manu* marriage, the financial consequences of the law, or the actual situation that provoked the law and motives of its supporters. In all, Sirks' article has its merit but calls for further study.

Right down from The Twelve Tables Roman civil law was dominated by agnatic principles emphasising the importance of male lineage.[21] The Roman *familia* that was transmitted by succession was seen as a unity of individuals by name, estate and sacral tradition, all under the absolute control of the oldest living male ascendant, the *paterfamilias* – Cicero's remarks imply that this conception of inheritance still had acceptance in the last century of the Republic.[22] The most important factor here is that at birth children always belonged legally to the *familia* of their father.[23] Consequently only males could transmit the family name, *dignitas* and rites since any child born to a daughter belonged to the *familia* of her husband, the son-in-law, and took the *nomen* and *sacra* of his *familia*.[24] In this respect it did not make any difference whether marriage was *cum manu* or *sine manu*, it was only necessary to have a male heir to continue the agnatic *familia* and its traditions, continuance of which was the original purpose of Roman wills.[25]

The testamentary dispositions of Scipios' show that it was probably already customary before the time of the *lex Voconia* to institute sons as heirs and to give daughters their shares by way of a legacy after

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21 J. Crook, "Women," 59; Gardner, Women, 163. On the agnatic structure of Roman society: J. Gardner, *Being a Roman Citizen,* London 1993, 82–83.

22 Cic. *dom.* 13,35: *hereditates nominis, pecuniae, sacrorum secutae sunt.* See also Festus (Lindsay p. 370): *olim sacra non solum publica curiosissime administrabant, sed etiam privata: relictusque heres sic (ut) pecuniae, etiam sacrorum erat; ut ea diligentissime administrare esset necessarium*; Liv. 45,40,7; Plin. *paneg.* 37,2; Vopisc. *Aurelian.* 14,7; Voci, 396–401. On the concept of *familia*: R. P. Saller, "Familia, Domus & Roman Conception of the Family," Phoenix 38 (1984) 337–342.

23 Gai. *inst.* 1,55–6; Treggiari, 43.

24 F. Schulz, Classical Roman Law, Oxford 1954, 221; Gardner, Women, 169. Dig. 50,16,195,5 (Ulp.): *Mulier autem familiae suae et caput et finis est*; M. Corbier, "Divorce and Adoption as Roman Familial Strategies," in B. Rawson (ed.), Marriage, Divorce and Children in Ancient Rome, Oxford 1991, 53. According to Seneca son provided father with *domus ac familiae perpetuitas*: Sen. *benef.* 3,33,4; Saller, "Familia," 343. Practical reasons also favoured male heirs because the administration of the inheritance likely required public activities that were considered unsuitable for women or required male litigant.

25 Voci, 396–401.

disinheriting them, if these were not already given in a dowry.[26] The preference for instituting male descendants, or adoptive sons, as heirs to continue their *familiae* appears to be a consistent strategy during the Republic.[27] This is also emphasised by the civil law rules that required sons to be legally disinherited by name while a *ceteri* clause sufficed for daughters.[28] Romans did not employ primogeniture as a common strategy of succession which, given the fact that property was allowed to devolve equally on sons and daughters on intestacy, suggests that financial discrimination against daughters in Roman society was not expected.[29] The legacy was not necessarily a financially discriminative form of bequest; on the contrary it provided the legatee with pure and unburdened benefit.[30] In all, there was nothing revolutionary in excluding women from the title of

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26 Polyb. 31,22, 26–28; G. Boyer, "Le droit successoral romain dans les oeuvres de Polybe," RIDA 4 (1950) 169–187; See also S. Dixon, "Polybius on Roman Women and Property," AJPh 106 (1987) 147–170; Crook, "Women," 64; Sirks, 291.

27 I. Shatzman, Senatorial Wealth and Roman Politics, Bruxelles 1975, 50–53. On adopting male heirs: M. Humbert, Le remariage à Rome: Étude l'histoire juridique et sociale, Milan 1972, 95; Corbier, 63–67; Sirks, 280–281; J. Gardner, Family and *Familia* in Roman Law and Life, Oxford 1998, 114–132, 200–202. Naming sons as heirs and disinheriting daughters continued to be the standard practice during the Principate, however daughters were commonly preferred to all other heirs than sons: Champlin, 120. *Laudatio Turiae* inscribed c. 40 BC is one of the first cases for daughter being named heir in her father's will untouched by the *lex Voconia*: CIL VI, 1527. Still it is impossible to know if the father was registered in the first census class, that is doubtful.

28 It was apparently common for fathers to name son or sons as heirs and then let all others, including daughters and wives *in manu*, to be disinherited. There is no controversy in assigning *ceteri* clause to the origin of *testamentum per aes et libram*, however Voci, 411–412.

29 On primogeniture: Champlin, 111–112; A. Arjava, Women and Law in Late Antiquity, Helsinki 1996, 62 n. 117. The principle of equality is emphasised in the later development of the law of inheritance as daughters and sons had similar rights of *bonorum possessio contra tabulas* and *querela inofficiosi testamenti*. K. Hopkins, Death and Renewal, Cambridge 1983, 76–78; Saller, *Patriarchy,* 164. Sirks downplays the equality by "lack of precision in the early rules," 295.

30 Schulz, Classical, 215.

heir, which indeed had no intent of financial discrimination against daughters.[31]

But in whose interests was it to promote agnatic succession through the male line? As Gardner puts it "the priorities of the Roman man in the street were not bound up with preserving the *familia*, but doing best for his family."[32] It was the concern of the Roman hereditary aristocracy, originally of patrician families.[33] The origin and the qualification of the patriciate is heavily disputed, but one can safely state that patrician families formed an exclusive order that was above all characterised by religious capacity and succession to it.[34] The cornerstone of the patrician privileges was the exclusive right of their magistrates and priests to order public *auspicia*.[35] By the closing of the patriciate during the fifth century patricians managed to practically monopolise for themselves the sacral priesthoods as well as

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31 Simply custom was turned to law, or *ius* was declared in a *lex*: P. Stein, Regulae Iuris, Edinburgh 1966, 9–19, 24. On discrimination: Crook, "Women," 64, 77; Crook, "Intestacy," 43. Champlin, 113–120 is too pessimistic in regard to financial discrimination of daughters. Further discussion and counter-arguments in forthcoming: J. Pölönen, "Division of Wealth Between Men and Women In Roman Succession (c. 50 BC –AD 250).

32 Gardner, *Family*, 4.

33 On hereditary nature of Roman aristocracy: Voci, 419; H. H. Scullard, Roman Politics 220–150 B.C., second edition, Oxford 1973 (1951), 8–12; Hopkins, 36ff; T. J. Cornell, The Beginnings of Rome: Italy and Rome from the Bronze Age to the Punic Wars (c. 1000–264 BC), London and New York 1995, 9–10, 108.

34 E. S. Staveley, "The Nature and Aims of the Patriciate," Historia 32 (1983) 24–57; Cornell, 242–268, 327–340. See also P. C. Ranouil, Recherches sur la Patriciat: 509–366 av.J.-C., Paris 1976; J.–C. Richard, Les Origines de la plèbe romaine. Essai sur la formation du dualisme patricio-plébéien, Paris 1978; Mitchell, Patricians, 70–76, 101–102 prompts the religious character of patricians and in his view *patres* were, in the first place, priests.

35 J. Linderski, "The Auspices and the Struggle of the Orders," in W. Eder (ed.), Staat und Staatlichkeit in der frühen römischen Republik, Stuttgart 1990, 34–48, esp. 41, 47; Staveley, 38–39; G. Wissowa, Religion und Kultus der Römer, Munich 1912, 454. On difference between public and private auspices, the latter of which was open to plebeians: Linderski, "The Auspices," 47; P. Catalano, Contributi allo studio del diritto augurale, vol.1, Torino 1960, 199 ff, 451 ff.

sacral and political magistracies.[36] When oppressed by plebeian demands for the rights to consulship and intermarriage in 445 BC the patricians' only counter-argument was the plebeians' lack of (public) auspices.[37] The legal distinction between the two groups is clearly attested by the procedures of *transitio ad plebem* and *patrem* that remained in use until the end of the Republic.[38] The required knowledge of the sacral tradition was transmitted within the patrician *familiae* and the religious offices, and according to Mitchell the consequent seats in the senate, were hereditary. The claim and access to the patrician privileges was strictly controlled by the vote of *patres* in *comitia calata*, presided over by supreme pontiff, on adoptions, admissions to patrician status and wills, that determined the succession to *familiae* and *sacrae*.[39]

In the Rome of the Twelve Tables wills were made either *comitiis calatis* or *in procinctu,* however only in case there was no (male) *sui heredes*. A more flexible, and more private, form of will also emerged through *mancipatio familiae*, already recognised in the Twelve Tables, which eventually developed to *testamentum per aes et libram*. The first two disappeared from use sometime during the Republic.[40] The *mancipatio*

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36 "La serrata del patriziato" was coined by G. De Sanctis, Storia dei Romani I, (Turin 1907) 2nd ed. Firenze 1960, 234. The result was formation of new exclusive caste of patricians: Staveley, 41.

37 Liv. 4,6,2; See also 4,2,5-7; 6,41,4-6; 10,8,9; Messala in Gell. 13,15.

38 Zon. 7,15,9; Cic. *dom.* 14,37; Botsford, 162–165. The *transitio ad plebem* required *detestatio sacrorum* by which a person renounced his participation in the *sacra* of his original *familia*: A. Berger, Encyclopedic Dictionary of Roman Law, Philadelphia 1953, 434.

39 The discussion on hereditary nature of religious offices and priesthood, their transmission in *familiae*, and the supervision by *comitia calata* and *pontifex maximus* can be found in Mitchell, Patricians, 83–113. The sacral, private and public law was developed by pontiffs and this was exclusively the domain of Roman (patrician) aristocracy: Schulz, History, 6–8, 11–12, 19–21. On *comitia calata* see also Botsford, 152–167. On entering *sacrae* of other *familia*: Wissowa, 401–402.

40 Gaius *inst.* 2,101–103; Gell. 15,27,3 (Labeo); Voci, 394–395, 402–404; Schulz, Classical, 240–241; W. W. Buckland, A Text-book of Roman Law from Augustus to Justinian (3rd ed. rev. P. Stein), Cambridge 1963, 288–285. *Testamentum in procinctu* fell out of use probably during the last two centuries of the Republic: Cic. *nat. deor.* 2,9; Cic. *de orat.* 1,228.

familiae was not strictly speaking a *testamentum* but a legal action to convey person's property after his death through trusted friend (*familiae emptor*) to the desired recipients. The *familiae emptor* was not *heres*, nor were the recipients *heredes*, the act involved only property, not the *nomen* and *sacra* that were left to *proximi adgnati* or *gentiles* by intestate succession.[41] Why the separation of property and family tradition? The actual *testamenta* could be ratified only in *comitia calata* twice a year or in a battle line. The action was created to allow persons making an early death but having no male *sui heredes* and no valid will at least to distribute their property to whom ever they wished.[42] The two forms of will remained in use, while *mancipatio familiae* was only emergency action, at least until the third century.

Later in the Republic the *mancipatio familiae* was assimilated to *testamentum comitiis calatis* with identical *institutio heredis*, and was transformed to the standard *testamentum per aes et libram*, according to Schulz, sometime during the second century.[43] It is, however, likely that the *mancipatio familiae* had attracted popularity beyond emergency situations by the middle of the third century because of the possibilities to guide property separately from *sacra*. This is implied by the decision of *pontifex maximus* Tiberius Coruncanius, admitted to the pontifical college in 254 BC, that *sacra* should go together with property.[44] Obviously the old cumbersome *testamentum comitiis calatis* became obsolete when the transmission of both the property and *sacra*, or the *institutio heredis*, was made possible

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41 The *familiae emptor* only *heredis locum optinebat*: Gaius *inst.* 2,103–104; Schulz, Classical, 241–242; Voci 403. According to Voci this process marks the initial separation of property and family tradition: Voci, 404. Gardner, *Family*, 201 correctly points out that will by *mancipatio* was originally introduced to "provide for the transmission of patrimonies when there were no *sui heredes*..."

42 Gaius *inst.* 2,102: *Accessit deinde tertium genus testamenti, quod per aes et libram agitur: qui enim neque calatis comitiis neque in procinctu testamentum faceret, is, si subita morte urguebatur, amico familiam suam, id est patrimonium suum, mancipio dabat eumque rogabat, quid cuique post mortem suam dari vellet.*

43 Schulz, Classical, 242–243. The process is described in Gai. *inst.* 2,103–105.

44 Cic. *leg.* 2,52: *placuit...eos, qui tantundem caperent, quantum omnes heredes, sacris alligari*; 2,47–53; Voci, 407. The *hereditas sine sacris* became common proverb: Festus (Lindsay p. 370); Plaut. *Capt.* 775; *Trin.* 484. The decree of Coruncanius was probably motivated by growing tendency to leave agnates with empty name of heir when no (male) *sui heredes* existed.

by *testamentum per aes et libram*.[45] The enactment of the *lex Furia* sometime between 204–169 BC implies a date at the end of the third or at the beginning of the second century.[46] The new will was a private act of civil law and no vote of the assembly was required, consequently fathers were free to institute as heirs whomever they wished, even others than *sui heredes*, without control by the *comitia calata*.[47]

Gaius saw the *lex Voconia* as a part of a legislation that was carried out to encourage named *heredes* to accept inheritances by preventing testators from using up their estates by legacies and manumissions of slaves.[48] The original problem was that in the old days testators were allowed to use up their whole estate through legacies and grants of freedom, so the named *heres* was left with the empty name of heir (*inane nomen*

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45 During the third century emerged the secular science of law in side of pontifical law: Schulz, History, 8–11. In less than two hundred years the profane branch of law became so alien to the sacral that P. Mucius Scaevola, consul of 133 BC. and a father of *pontifex maximus* of 82 BC, stated "*pontificem bonum neminem esse, nisi qui ius civile cognosset.*" Cic. *leg.* 2,47. On Scaevolae: W. Kunkel, Herkunft und soziale Stellung der römischen Juristen, Graz 1967, 18, 12. Cicero immediately continues explaining how small part of the civil law is of interest to the pontiffs, however it remained their duty to make sure that the memory of rites should not die out at the death of the *paterfamilias*. The secularisation of the law seem to match with the accession of plebeians to the college of pontiffs in 300 BC. The first plebeian *pontifex maximus*, Ti. Coruncanius (cos. 280, pont. max. 254: Kunkel, 7.), is credited in later tradition with democratisation of the law: Cic. *de orat.* 3.33.133–134; Dig. 1,2,2,35 (Pomp.). Schulz takes pains to undermine the importance of Coruncanius but his arguments are hardly decisive, History, 10. The first jurists to write legal treatise other than collections of *formulae* was Sex. Aelius Paetus Catus of plebeian origin: Dig. 1,2,2,38; Schulz, History, 35.

46 Rotondi, 282–283. In times of the Twelve Tables the separatation of the whole estate from the heirship and *sacra* was apparently rare. The legislation to prevent *inane nomen heredis* indicates that the dispersal of property separately from heirship was made possible in larger scale by institutionalisation of *testamentum per aes et libram*, hence at the time of the *lex Furia* the problem had to be dealt with.

47 Sirks, 288 however assuming that *institutio heredis* was possible by *macipatio familiae*.

48 Gaius *inst.* 2,224–228: *ex qua lege plane quidem aliquid utique heredes habere videbantur; sed tamen fere vitium simile nascebatur. nam in multas legatariorum personas distributo patrimonio poterat testator adeo heredi minimum relinquere, ut non expediret heredi huius lucri gratia totius hereditatis onera sustinere*. Just. *inst.* 2,22, pr.

heredis).[49] The obvious result of this was that the named heirs did not take up their inheritances and consequently, so Gaius says, many people died intestate.[50] After the *mancipatio familiae* had been turned *to testamentum per aes et libram* it was still possible to divert property from *sacra* by legacies but it was tied to leaving a valid will with obligatory *institutio heredis* instead of "selling" the *familia* and dying intestate. While Coruncanius postulated that all those who received as much as heirs should be bound to perform family rites, the *lex Voconia*, after the new form of will was institutionalised, forbade that any one should receive by legacy as much as the heirs did. Therefore the rites were bound to property and property together with rites to the title of heir.

The *lex Voconia* itself implies that women were instituted as heirs already by the time of its promulgation, something very unlikely to happen under the supervision of *patres*. Cicero, who implies that both young and mature women – obviously daughters and wives – were instituted as heirs before the *lex Voconia*, seems to give reliable confirmation.[51] Obviously some fathers registered in the first census class actually began to institute their daughters as heirs against the traditional orthodoxy when they had no surviving sons.[52] Others apparently opted to use devices of *ius civile* to

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49 Gaius *inst.* 2,224. Gaius traces this idea back to a statement in the Twelve Tables: *uti legassit suae rei, ita ius esto.* Nevertheless, this clause does not concern the actual wills ratified in *comitia calata* or *in procinctu*, it recognises the possibility of *mancipatio familiae* as an emergency procedure: A. Watson, Rome of the XII Tables: Persons and Property, Princeton 1975, 52–61. This is also suggested by the term *legassit* that also later denoted gifts out of *hereditas*.

50 Gaius *inst.* 2,224: *Sed olim quidem licebat totum patrimonium legatis atque libertatibus erogare nec quicquam heredi relinquere praeterquam inane nomen heredis...qua de causa, qui scripti heredes erant, ab hereditate se abstinebant, et idcirco plerique intestati moriebantur.* This passage must relate to the standard *testamentum per aes et libram* because of the presumed institution of heirs and their capacity to refuse, that were impossible in the original *mancipatio familiae.*

51 According to Cicero the *lex Voconia hereditatem ademit nulli neque virgini neque mulieris: sanxit in posterum, qui post eos censores census esset, ne quis heredem virginem neve mulierem faceret.* Cic. *Verr.* 2,1,107. Repetition of *virgines* and *mulieres* may hint to the actual wording of the law.

52 To this same general direction points the possibility provided for fathers to oust agnatic relatives from their daughters' properties by giving them fiduciary tutors in a

circumvent *ius sacrum* in order to provide sufficiently for their daughters without incurring rites.[53] The introduction of new values to Roman aristocracy from the fourth century onwards can be partly explained by formation of patricio-plebeian nobility. It can, of course, only be speculated in what way the growing influx of new men influenced the ideology of the patrician aristocracy and eventually the patricio-plebeian elite, however at least something can be said about the values of conservative patricians.[54]

The conventional *manus* marriage by *confarreatio*, restricted to patricians, was required from people, and their parents, for being eligible as major *flamines* and *rex sacrorum*, and according to Linderski, this probably concerned all the religious privileges.[55] The rule of *trinoctium* already present in the XII Tables prevented wife from entering *manus* of her husband by *usus* that resulted in marriage without *manus* – obviously the earliest form of *sine manu* marriage – that was applied to mixed marriages between patricians and plebeians to prevent contamination of patrician *familiae* and *auspicia*.[56] It was indeed the *confarreatio* and *auspices* that

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will: Gaius *inst.* 2,122; 1,144–146; Gardner, Women, 14–22.

53 Cic. *leg.* 2,48–53. Discussion on the tricks: Sirks, 276 n. 18.

54 On formation of the nobility: K.-J. Hölkeskamp, Die Entstehung der Nobilität, Stuttgart 1987, 241–258; Ferenczy, 47–66; Cornell, 339–344. As soon as the influential plebeian families were admitted to power-sharing with patricians they also adopted the patrician policy of isolation from "lower" plebeians, and eventually established their own noble consular lineages. Cicero complains that due *to neglegentia nobilitatis auguri disciplina omissa veritas auspiciorum spreta est, species tantum retenta*: Cic. *nat deor.* 2,3,9. *Leges Liciniae Sextiae* of 367 BC and *Lex Ogulnia* of 300 BC admitted plebeians to colleges *of duumviri sacris faciundis*, pontiffs and augurs: Rotondi, 216–220, 236; Cornell, 333–344. On the concept, origin, influx and influence of *novi homines* see T. P. Wisemann, New Men in the Roman Senate 139 B.C.-A.D. 14, Oxford 1971, esp. 107 ff.; Scullard, 11–12.

55 Gaius *inst.* 1,112: *Nam flamines maiores, id est Diales, Martiales, Quirinales, item reges sacrorum, nisi ex farreatis nati non leguntur; ac ne ipsi quidem sine confarreatione sacerdotium habere possunt.* J. Linderski, "Religious Aspects of the Conflict of the Orders: The Case of *confarreatio*," in K. Raaflaub (ed.), Social Struggles in Archaic Rome, Berkeley 1986, 246; Staveley, 36–37; Treggiari, 21–24.

56 Linderski, "Religious," 259–261, 259: "Livy (10.23) under the year 295 illustrates the tendency of patricians to avoid *manus* when marrying their daughters into plebeian families." On *trinoctium* in XII Tables: Watson, Rome, 17. The most famous attempt to

created the exclusive patrician order in the first place.[57] The *confarreatio* ceremony, like *testamentum comitiis calatis*, was supervised by *pontifex maximus* and thus provided another form of control on accession to patrician *familiae*.[58] Therefore it can be concluded that the *manus* marriage by *confarreatio* represented the true patrician tradition while *sine manu* marriage was not a possible option for patricians intending to continue their exclusive sacral tradition.[59] The *conventio in manum* allowed divorces only in exceptional cases, hence the famous divorce c. 230 BC of plebeian consul Sp. Carvilius Ruga and consequent introduction of *actio rei uxoriae* indicate the new conception of the marriage among the nobility.[60] The wife who married *sine manu* could not participate in the *sacra* of her husband; hence the popularity of *sine manu* marriage and the decline of *sacra* were closely related issues. Moreover, it was possible for husbands to institute their wives as heirs by *testamentum per aes et libram*.[61]

The actual need to protect the continuity of the old values, that had foundation in patrician tradition, became current due to the ongoing political oppression of patrician families and the threat to the survival of their privileges. Yet there can be detected a general expression of conservative ideology against the liberal values of the day, not to forget that religion was

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prevent contamination of the patrician lineages was the ban of intermarriage added to the Twelve Tables during the second year of the decemvirate, however it was soon repelled by *lex Canuleia* in 445 BC: Cornell, 245.

57 P. Noailles, Fas et Ius: Etudes de droit romaine, Paris 1948, 32. For discussion see Linderski, "Religious," 249–252.

58 Linderski, "Religious," 250 n. 20; Mitchell, Patricians, 87.

59 Linderski, "The Auspices," 48.

60 Gell. 4,3,2; Watson, Rome, 31–33; Treggiari, 435–482; F. Münzer, RE III.2 (1952) 1630–1631 s.v. 10) Sp. Carvilius Maximus Ruga; J. Gardner, "Recovery of Dowry in Roman Law," CQ 35 (1985) 449–453. During the Late Republic divorces became notoriously frequent. According to Bradley's study at least one half of the consular families between 80 and 50 BC were influenced by divorces and remarriages: K. R. Bradley, "Remarriage and the Structure of the Upper-Class Roman Family," in B. Rawson (ed.), Marriage, Divorce and Children in Ancient Rome, Oxford 1991, 83.

61 Among the earliest cases is Dig. 32,1,29,1 (Labeo) that reports wife instituted as heir to a share equal to the smallest portion among other heirs that indeed may reflect the rule of the *lex Voconia*.

still taken seriously.[62] The patricians began to lose their dominance and privileges from the fourth century onwards which is best demonstrated by the increasing number of curule magistrates and senators from plebeian families – in 179 BC the Senate consisted of 88 patricians and 216 plebeians.[63] Nevertheless, until the very end of the Republic the patricians retained for themselves the exclusive control of *auctoritas patrum* and *interregnum*, both guarded by their privileged *auspicia*.[64] The narrowing group of patricians was able to retain for themselves the other post of yearly consul until 172 BC when for the first time both consuls were elected from plebeian families (M. Popilius Laenas and P. Aelius Ligus).[65] According to Scullard, the hitherto unprecedented plebeian domination continued until 169 BC when a conservative counteraction was launched by the nobility. The total loss of the consulship for the first time must have provoked some thought of loss among the patricians and made them concerned about their future – after all the auspical continuity from Romulus was at stake.[66] The moment was suitable for conservative legislation.

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62 Discussion on religious duty: Gai. *inst.* 2,55; Sirks, 274, 290.

63 Scullard, 9 n. 3–6.

64 Linderski, "The Auspices," 42, on patrician priesthoods 47. Still in the third century AD only senators descended from *patriciis et consulibus usque ad omnes illustres viros* were entitled to deliver speeches in the senate: Dig. 1.9.12 (Ulp.).

65 Liv. 41,28,3; Scullard, 192–195: in 172 all praetors and curule aediles were also plebeians. Although law allowed the colleges of consul and censor to be filled exclusively by plebeians, the circumstances occurred not until 172 BC and 131 BC respectively. R. Develin, "The Integration of the Plebeians into the Political Order after 336 B.C.," in K. Raaflaub (ed.), Social Struggles in Archaic Rome, Berkeley 1986, 327–328.

66 Develin, 328, 352 undermines the events of year 172. The demographic trend certainly favoured the growth of plebeian domination, however this did not reduce the patrician's concern for their privileges and tradition, indeed it stresses the need to prevent patrician families from coming to an end: Cic. *Flacc.* 106; Tac. *ann.* 2,37. The date of termination for the struggle can in constitutional sense be put to 287 BC (*lex Hortensia*), however, as von Ungern-Sternberg reasonably estimates, "the conflict of the Orders", as to describe the "permanent antagonism within republican society and constitution", "really ended only when the Empire was established": J. von Ungern-Sternberg, "The End of the Conflict of the Orders," in K. Raaflaub (ed.), Social Struggles in Archaic Rome, Berkeley 1986, 375–377. On auspical continuity: Linderski, "The Auspices," 43.

The above line of thought may find support from the sole surviving contemporary source, the Cato's speech. The passage was selected by Gellius only for the use of the term *servus recepticius*, hence it is very likely that what we have is only one aspect pursued by Cato in his speech. Cato does not attack the wealth of women but their quality of possession over it during the marriage. In traditional *manus* marriage all the property including the dowry that a woman brought with her was automatically transferred to the *potestas* of the husband. But to his audience Cato depicts the monstrous results of the liberal *sine manu* marriage. The wife brings in a large dowry that is not transferred to the *potestas* of the husband but retained partly in the wife's possession. Having the *dominium* she lets the husband have access to her property only against a loan, and when a quarrel, or divorce, occurs the husband chased by *servus recepticius* of the wife must return the loan, as well as the dowry. The clauses of the *lex Voconia*, as far as they are known, do not concern marriages as such, but for the conservative aristocracy it must have worked as most fruitful provocation towards support of the old values.

In all, at the eve of the *lex Voconia* the Roman society had come to a point where Roman fathers had to confront conflicting ideologies: on the one hand the Roman father was a *paterfamilias* of his agnatic *familia*, on the other he was the father of his cognatic family.[67] The law was needed to secure the succession through males by *testamentum per aes et libram* which was of private and public interest to any *paterfamilias* claiming status or privilege from the *nomen*, *sacra* and *dignitas* of his ancestors, and wanted to see this tradition to be continued and transmitted in the agnatic line by his descendants. The most traditional quarter was formed by patricians who through family trees going back to Regal period and beyond claimed habitual access and exclusive rights to many sacral and secular offices and priesthoods, not to mention senate, and considered themselves as the only true source of public *auspicia*. Somewhat similar motives may have been shared by some *patresfamiliarum* of the plebeian noble families that had established themselves in sacral and secular offices open to plebeians, and had interest in preserving their private *sacra* and *auspices* of their family

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67 The interaction of legal and social conception of the Roman family if admirably discussed by Gardner in: Family and *Familiae* in Roman Law and Life.

lineages. The most important security for the perpetuation of *familiae* was the protection of the succession by males. This matter was left open to fathers to decide by *testamentum per aes et libram*, hence the control earlier practised by *comitia calata* had to be forced upon the new form of will by law.[68] The most effective way to guarantee the succession through males among the hereditary aristocracy was to force fathers of first census class to disinherit their daughters, or in other words, to exclude them from the title of heir. There was absolutely no reason to extend this command to *infra classem*.

Normally sons continued the tradition as *heredes* and daughters received their shares by dowries and legacies – there was no conflict of obligation and emotion. Nevertheless, approximately 20 percent of the Roman fathers died without surviving sons.[69] A conservative *paterfamilias* would have considered his brothers, nephews, trusted friends or adoptive sons as those to take up his *familia* and duty to uphold its traditions. The surviving daughters who as *sui heredes* had rights from the estate equally with sons created conflicting sentiments. A father would therefore opt not to name a male heir at all and institute his daughter, or to compromise by instituting an *extraneus* male as heir but charge him to pay out to daughters their shares by legacies, which in a dutiful father's will could comprise even the whole estate.[70] Another hazard occurred if a father died without any

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68 Formal statute, *plebiscitum* (Liv. *perioch.* 41), was needed bacause *institutio heredis* was now purely a matter of civil law which had become totally alienated from *ius sacrorum* (see above n. 45). Sirks' suggestion that formal statute was needed to stop a development made possible by civil law tricks is wrong, 294. The civil legislation in Rome was always passed in an assembly that convened inside the *pomerium*, originally in *comitia curiata* and later in *concilium plebis*: K. Sandberg, "The *Concilium Plebis* as a Legislative Body During the Republic," in U. Paananen (ed.), Senatus Populusque Romanus: Studies in Roman Republican Legislation, Helsinki 1993, 81–88. Moreover, after the formation of patricio-plebeian nobility the tribunate lost its revolutionary nature and the office was indeed often held by members of the nobility: E. Ferenczy, From the Patrician State to the Patricio-Plebeian State, Amsterdam 1976, 64 with n. 106. Therefore the passing of conservative *lex Voconia* in *concilium plebis* by *tribunus plebis* in 169 BC was not extraordinary.

69 Hopkins, 97–100; Champlin, 106.

70 This is what actually happened to P. Sextilius Rufus who was asked to pass on the whole estate to testator's daughter: Cic. *fin.* 2,55. The case is common example of ways

children and wanted to leave his property to his wife. In my opinion, there hardly can be established any other motive behind the dispersal of the estates in such quantity that needed to be checked by extensive legislation against the *inane nomen heredis*.[71] A will which did not provide heir with sufficient share of the property ran a serious risk of becoming deserted and invalidated, and consequently the estate would have devolved on *sui heres* daughters according to the rules of intestate succession.[72] As a result the *familia* would have had no male successor which was again strongly against the interests of the *patresfamiliarum* and the continuity of the *familia*. Hence, the two clauses of the *lex Voconia* created a double check on cases where fathers died without *sui heredes* other than daughters: it was obligatory to name a male heir and to provide him with a portion similar to that of *sui heres* – a situation that corresponds quite closely with position of *adrogatus* by *testamentum comitiis calatis*.[73]

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to circumvent the *lex Voconia*: Evans, 76 with references. It is however probable that simply the pre-Voconian practice of charging *extraneus* heir to give bulk of the property to surviving daughters continued after the *lex Voconia* according to the decemviral principle that testator's wishes in regard to his property were to be respected.

71 If fathers had sons, there hardly was any common and general reason for robbing them from their paternal property after institution as heirs in the extent suggested by the legislation to prevent heirs from rejecting wills. Otherwise one must expect that it became common practice to spread the estates out of *familia* in huge quantity, i.e. giving out more than half shares of the estates. More likely the so-called dispersal was caused by the legacies to daughters and wives. According to Champlin the bequest to friends and servants were usually only of marginal importance compared to the total value of the estate: Champlin, chapter 7. On legacies see also A. Wallace-Hadrill, "Family and Inheritance in the Augustan Marriage Laws," PCPS 207 1981, 67. Hence I am not convinced by Gardner's discussion as a general explanation for the dispersal of estates and the legislation to prevent it, Family, 214–216.

72 Daughters could indeed perform *sacra familia* but only as long as they remained *sui iuris*, in any case they could not perpetuate their *familiae*: O. de Cazanove, "L'incapacité sacrificielle des femmes à Rome. À propos de Plutarque, *Quaest.Rom.*85," Phoenix 41 (1987) 167; Sirks, 287.

73 By its outcome my theory comes close to Gardner who stresses the need to secure resources for the male public life. There is, however, sharp difference in motive and range of effect. In Gardner's opinion the law seem to be overall solution to the financial problems of the young nobles, in my view it was enacted with aim of forcing fathers to fulfil their agnatic obligations to maintain hereditary aristocratic *familiae*, and financially

Moreover, in order to secure the continuity of the rites and auspices without contamination, it was advantageous to make sure that noble *patres-familiarum* who had no natural male successor were practically forced to choose heirs from the surplus sons of other noble *familiae*.[74] This was apparently a common interest and based on the presumption that fathers, if forced to select a male heir, were likely to choose from close relatives or other noble families according to their status and capacity to uphold the traditions. At the same time the law discouraged blending of the ranks, and prevented any possibility of access by outsiders to the noble or patrician *familiae*. If there were no available *familiae* in the hands of sole surviving daughters, there would be no claims to its credits by their husbands. For the same purpose, supposing subsequent remarriage, husbands were prevented from considering their *sine manu* wives as potential heirs of their *familiae*.[75]

The *Voconiana ratio* fits well in to the Voconian ideology, however it represents a compromise between the father's obligation and emotion: instead of cutting all women out of intestate succession the unfortunate consequences of intestacy were limited to the nearest female kin.[76] It was only towards the end of the Republic that noble aristocracy more and more came to see their lineages perpetuated through daughters and their

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it concerned only cases where no sons survived. The financial aspect of inheritance is of course not to be undermined because membership in rank needed to be re-established every genereation by sufficient possessions: R. P. Saller, "Roman Heirship Strategies in Principle and in Practice," in D. I. Kertzer – R. P. Saller (ed.), The Family in Italy: From Antiquity to the Present, New Heaven and London 1991, 26. Nevertheless the *lex Voconia* was not an attempt to solve that problem.

74 Families having no surviving sons provided potential source of resources to other upper class families with surplus sons: Hopkins, 74.

75 Treggiari, 366 correctly points out that "the law encouraged the idea that property should stay, as far as possible, in the lineage where it originated." The same holds true for *sacrae*: Cic. *leg.* 2,47. Sirks, 287, points out that *coemptio* removed a *sui iuris* woman from the *sacra* of her original *familia*, however failing to consider that women retained their *sui iuris* status in *sine manu* marriage.

76 In intestate succession the *sacra* and property could not be separated and therefore it was felt preferable to allow estate to pass on to daughters and sisters instead of cutting them out only to guide *sacra* to male heirs. The *Voconiana ratio* is a good demonstration of the feeling that regarding to property nearest female kin were thought to deserve equally from paternal property with their male counterparts.

children.[77] Similarly daughters became increasingly eligible to be named as their fathers' sole heirs when there were no surviving sons, a feature well established in the legal texts of the Late Principate.[78] The end of the Republic can in general be described as a transition period in mentalities from *agnatio* to *cognatio* – in due course *familia* and ancestry lost significance in the society and politics of the Empire.[79] The *lex Voconia* was still discussed in Cicero's days but as in pre-Voconian experience, in law and social sentiment the daughter was thought to deserve her due share of the patrimony.[80]

Summary

The *Lex Voconia* was a product of a conflicting conception of the duties of Roman males as *patresfamiliarum* of their agnatic *familiae* and as fathers of their cognatic families. Institutionalisation of *testamentum per aes et libram* likely at the end of the third century BC made it possible for fathers to institute heirs without supervision of *comitia calata* and proper observation of *ius sacrum*. When fathers had no surviving male *sui heredes* they began to institute their daughters without male co-heirs or provide them with due legacies from the instituted *extraneus* male heirs. In latter case the heirs were likely to desert the wills and both ways the *familiae* were at risk of coming to an end. This was strongly against the interests of Roman

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77 Saller, "Familia," 348–349. See note 43 for examples – from the late Republic onwards – on children adapting the name of both father and mother.

78 Dig. 32,1,38,4 (Scaev.); 23,3,85 (Scaev.); 32,1,97 (Paul.); 31,1,89,1 (Scaev.); 31,1,77,24 (Pap.); 34,9,16,1 (Pap.); 34,4,30,3 (Scaev.); 23,4,22 (Iul.); 34,2,16 (Scaev.); 32,1,38,4 (Scaev.); 35,2,22,pr (Paul.); 34,1,18 (Scaev.); 31,1,34,7 (Mod.)?; 36,1,80,6 (Scaev.); 31,1,88,9 (Scaev.); 36,1,46,1 (Marc.); 36,1,80,8 (Scaev.); 36,1,23,4 (Ulp.); 32,1,38,2 (Scaev.); 34,3,28,9 (Scaev.); 32,1,39,2 (Scaev.). See also land-transfers illustrated by brick stamps where daughters frequently appear to have received the whole *figlinae* or shared them with sons: P. Setälä, Private Domini in the Roman Brick Stamps in the Empire, Helsinki 1977, 232 ff.; Treggiari, 383.

79 Crook, "Women," 58; Saller, "Familia," 349–355.

80 Cic. *Verr.* 2,1,104: *Faciebat omnia cum pupilla, legis aequitas, voluntas patris, edicta praetorum, consuetudo iuris eius quod erat tum cum Asellus est mortuus.*

hereditary aristocracy. The *Lex Voconia* prevented the institution of daughters as heirs by excluding women from the title of heir and provided *extraneus* heirs with sufficient benefit that was supposed to secure the transmission of *sacrae* and the continuation of agnatic *familiae.*

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