

A contrary opinion

Faithful to its vocation of providing the public with information, as recently mentioned by “Il Meridiano”, Tricolore draws the reader’s attention to a personal opinion on the much talked of controversy waging in the House of Savoy as a consequence of the “dynastic coup” attempted by the Duca d’Aosta on 7 August 2006.

“Tricolore stands before the public as an organ of information, not disinformation, so I trust it will publish my observations on the interview given by Dr Sergio Pellecchi, who qualifies himself as President of the Council of Senators of the Kingdom.

To begin with, and apart from all other considerations, one needs to make quite clear that the Council presided by Pellecchi – of whose existence I, as a monarchist of long standing, knew nothing whatever, and not only because it remained silent when the dynastic question cropped up - is a private association and nothing more. Actually it could not be anything else, though he appears to claim the contrary in his article.

Having said this, one can certainly see that Amedeo of Savoy’s good right is firmly founded on tradition and on the dynastic laws of the House. These laws which were never abrogated were referred to and also explained by King Umberto II, who brought them to mind and notified their content in some letters (25 January 1960 and 25 July 1963) which, given the importance of the argument contained in them, he preserved in his archive. In so doing he took good care that they were confirmed in handwriting with the words “read and noted (!)” on the part of his son, Vittorio Emanuele of Savoy, to whom they were addressed. If anyone should protest a lack of faith in the King’s words he should beware of being taken in by the words of others. In fact the force of a tradition lies in its constant repetition, and certainly not in its changeability. To attribute to it a place “modified by some situation or time” amounts to saying that a written norm, which might prove uncomfortable for someone, can be nullified. This is a fair indication that “something important is wrong” with the legal culture of the writer. And that ‘something’ has much to do with the habit of cooking up a minestrone of the dynastic laws of the House, the fundamental laws of the Statute and the ordinary laws which conform to the statutory principles.

Indeed the complex of Civil Code, the Penal Code, the Civil and Penal Procedure, and all the various laws in force during the Kingdom, form the legal system of the State, and this also occurs with the Republic, where the constitution with its 39 articles does not govern, nor can it govern, all the matters in which the authority of the State finds expression.

But the most interesting thing, and which Pellecchi seems not to know, is that the dynastic laws stand apart from the State legal system and have a life of their own, in part, even though the State may refer to them, acknowledge them or else make reference to them. The “salic” succession, to which the State refers, indicates a complex of dynastic laws which are indeed automatic but by non means reduced to an animal level. It deals with the succession of persons who, as such and by obligation, possess the requirements: among these, being of sound mind (there are instances of princes excluded for this reason), or not falling foul of the law (a special hypothesis of personal unworthiness, e.g. an attempt on the life of the king etc.) or contracting marriage without the sovereign’s previous consent. It might be as well to notice that for this last requirement, in the case of marriage with a person of unsuitable rank, the provision states the sanction of instant and automatic loss of every dynastic right. The king can deny or concede prior consent. But once denied his power can go no further.

The web spun to confuse our ideas is the one orchestrated to claim, on no foundation whatever, that the Albertine Statute abolished the dynastic laws; in particular the requirement of the king’s prior consent to a marriage because it is contrary to the Statute, and that only afterwards during the fascist interval, did it surface in the Civil Code of 1942 art 92, and much later done away with by

the Republican Constitution. Now this is nothing but a whole parade of historical and legal errors. Historical because the Royal Consent already formed part of the Civil Code of 1865, art. 69; i.e. long before 1942. This means that it was part of a Code which existed as an explanation of the Statute to which it conforms. Needless to say, since the Code did not abrogate the Family norm on Royal Consent, the Republican constitution did not abrogate it either for the simple reason that it was not concerned with the marriages of the Royal Family which continued to preserve their own internal system regardless of the Republic upon which their legitimacy no longer depended.

All this is obvious to experts in the field, and not only to them.

Yet quite well qualified people have fallen into error and put forward observations which lead us nowhere: And they remain as such in spite of the qualifications of those who pronounce them. The Civil Code of 1865 introduced obligatory civil marriage and removed the civil side from religious marriage which then remained permissible as a sort of matrimonial conscience. Thus it becomes obvious that the article 69 of that Code did not refer to the religious bond but only to the marriage bond that was relevant to the State. This meant that while in the past only the religious marriage celebrated against the king's consent would involve the consequences laid down in the royal patents of 1780, i.e. the loss of dynastic rights, after 1865 this would have had no dynastic consequence in that it was relevant only in regard to the religious aspect. However with the Concordat of 1929, once the religious ceremony was registered it acquired civil effects, and there was a return to the former law in the sense that the religious marriage (with civil effects) would produce an invalid civil bond with consequences at dynastic level, since it lacked the requirements of the princely marriage that were necessary to preserve and transmit the dynastic role. Now none of this had anything to do with the Pope, or with the Republic, but only with the Royal House of Savoy.

It is almost superfluous to note that the form of consent was laid down precisely by the law, and that this could be neither tacit nor implied, much less a consent given thereafter.

These are concepts expressed by university professors, most of them writing in the monarchical period, but no less authoritative than the one cited by Pellicci. They also have the advantage of being entirely in agreement with what King Umberto II wrote and confirmed in the dispositions of his last will. For, as pre-announced in his letters, he ruled out his son, Vittorio Emanuele, from the larger share which would otherwise have been his as Heir to the throne. Everything stated here can be found in the published documents, and open to consultation by anyone on the website: www.realcasadisavoia.it

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We take note of your observations, my dear Avvocato, reminding our readers however that an opinion opposed to yours has been expressed not only by the President of the Council of Senators of the Kingdom, but also by qualified jurists and the Study Centre of the CMI who have produced three documents with substantial argumentation of a legal and practical character. I am at the disposal of anyone interested at the following internet address:

<http://www.tricolore-italia.com/pdf/cmi/CMI-CentroStudi-Duca.pdf>

<http://www.tricolore-italia.com/pdf/cmi-CentroStudi-Duca-strument-211206.pdf>

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For a closer understanding of topics connected with the Council of Senators of the Kingdom:

<http://www.tricolore-italia.com/pdf/spec/Tricolore-n149-Speciale-Consulta.pdf>