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The so-called Edict No. 1 of the *soi-disant* King of Italy, Vittorio Emanuele IV, dated Geneva, 15 December 1969 (cf. photocopy of the text published in Speroni's book), was inspired by a *ratio* that was not only deficient in any kind of legal logic, but one which tends to confirm principles that seem to be in total contrast to the consistent and absolutely equable interpretation of the provisions of the Albertine Statute, to which, in fact, it refers.

Quite apart from the inconclusive and incongruous references to legislative texts of the 19th century contained in articles 1 and 2 of the Edict, which have no bearing whatever on its main objective, what emerges, at a single glance, as abnormal – it might even be defined as 'a legal monstrosity' – is that it reveals a presumptuous (as well as bizarre) legal action concerning the succession to the Throne, which could not possibly find a minimum of support from any known ruling in either constitutional or dynastic-common law.

However this was by no means evident regarding the situation considered in article 3. It may well be that the prevailing constitutional doctrine (for all these see Paladini) tends to maintain that through the Edict-law of 25 June 1944, No. 151 – issued by the Luogotenente Generale of the King, appointed as such in the Royal Edict of 5 June 1944 No. 140, but later to become "Luogotenente Generale of the Kingdom" by article 4 of the same Royal Edict No. 151 – a "provisional constitution" of the State of Italy was provided. It is likewise undeniable that this implicitly constituted a violation of the Albertine Statute which established the "perpetual and irrevocable law of the Monarchy". It is true to say there was often talk of a discrepancy between the monarchical legal system and the "provisional" one which was later [1948] to become "republican". Under the powers of the 1848 Statute some Authors maintained that, in its entirety, the basic Charter of the Kingdom – in a purely formal sense – could not be modified, since on granting the Statute, King Carlo Alberto had divested the Crown of every power of the kind; at the same time he had not transferred these powers to any other organ (and particularly not to Parliament) since it was expressly intended to be "unmodifiable". In the light of these observations, it is all too 'convenient' to admit the fact – from an abstract legal point of view – that the Luogotenente had exercised a power beyond the prerogatives of the Crown, even if He were titular, by means of definite and irrevocable proxy, of all the sovereign powers of which the King, his father, had divested himself.

This kind of behaviour which however was neither in accordance with art. 2 of the Statute (which in fact is silent on the question and simply confirms that "the Throne is hereditary in accordance with the Salic law") nor in step with the constitutional customs of the Savoy Monarchy (which implicitly refer to the "Salic law" in the most generalized terms) was enough to exclude the Prince of Piedmont from succession to the Throne of Italy when it became vacant (death or abdication of King Vittorio Emanauele III, being the only hypothesis admitted by the measures in force at the time). There was in fact one significant example – in the 19th century – when the Prince of Carignano, Carlo Alberto, who was appointed Regent of the Kingdom of Sardinia by King Vittorio Emanuele I upon his abdication, had granted a constitution in which a considerable part of the powers of the Crown had been surrendered. As we know, King Carlo Felice expressed his intention of excluding the Prince from the line of succession to the Throne, replacing him with the Prince's young son, Vittorio Emanuele, who on the death of the Sovereign, was to come to the Throne under a Regent appointed by Carlo Felice himself. Moreover when this proposal was put before the Powers at the Congress of Verona (1822) it met with opposition from the Emperor of Austria, Franz I, on the grounds that it would have constituted a breach of principle in regard to the legal rights of Monarchy which the Holy Alliance was championing; so nothing came of it. It sheds light on the important fact that even behaviour considered "highly reprehensible" because

detrimental to the prerogatives of the Crown, such as the granting of the Constitution, still did not have the power to modify, *ipso iure,* the line of succession to the Throne, since this required an *ad hoc* positive Royal resolution.

None of this however occurred in the case of the Prince of Piedmont. With the abdication of Vittorio Emanuele III on 9 May 1946, the Prince became, *ipso iure*, King of Italy in accordance with article 2 of the Statute and the dynastic norms of the Royal House of Savoy. Moreover it is worth observing – *ad abundantiam* – that King Vittorio Emanuele III expressly designated his son Umberto as his successor, freely demonstrating his refusal to exclude the Heir to the Throne from the succession. But even if it were admitted (and not granted) that, on the basis of a hypothetical provision, Umberto II was excluded from the succession with the consequent transfer of the Crown to the Prince of Naples – following his grandfather's abdication – it is perfectly clear, in accordance with the Statute which remained in force, that the way should then have been open for a Regency which – excluding the father for the above reasons and with the implicit consequence that a "Queen Mother" could not exist, then, in the sense of art. 12 of the text in question, the Crown would have passed to the Prince who was his [i.e. the King as minor] next of kin in order of succession to the Throne; in more concrete terms, this was the Duke of Aosta and, on his death, would pass to the Duke of Genoa, until the Sovereign attained the age of majority (18 years).

Moreover articles 4 and 6 of the Edict in question do not appear to have overlooked the fact that Umberto II came to the Throne in accordance with art. 2 of the Statute at the moment of Vittorio Emanuele's abdication, notwithstanding his conduct mentioned in the preceding article 3 (violation of the Albertine Statute); in fact it refers to events following his coming to the Throne (relinquishment of the oath of fidelity of the Armed Forces, etc.). Even admitting that the Heir to the Throne could be positively excluded from the succession by a ruling of the King, this certainly could not be valid in the case of a reigning Sovereign. According to the unanimous provisions of the old constitutional doctrine the status of king ended solely with his death or abdication. Not even some physical impossibility of his reigning could occasion any loss of rights in his status as King; all it did was to present a hypothesis whereby steps could be taken towards establishing a Regency.

But what is absolutely inadmissible is to qualify the dissolution of the oath of fidelity as a sort of implicit abdication. As we know, the unanimous doctrine laid down that any renunciation of the Throne must always be expressed in unequivocal terms (both Carlo Alberto and Vittorio Emanuele III used an act of notary) since the mere hypothesis of tacit abdication was feasible only in the case where the Prince called to succeed – and therefore *de iure* king already – could, of his own free will, refuse to swear the mandatory oath in accordance with the Statute. In fact none of this ever took place. What is more, if there had been an abdication (with the consequent passing of the Crown to the Prince of Naples) – which nobody could claim had happened – the necessity would once more arise, the new king being a minor, of resort to a Regency, according to the procedure provided by the appropriate norms contained in the Statute. But this did not happen either. Yet another demonstration, albeit indirect, of the scarce foundations of the principles declared in Edict No. 1. Nor could it be objected that a Regency refers exclusively to the King (and not to the Pretender to the Throne) because this was contradicted by fairly recent and enlightening precedent: on the death of the Emperor Charles I of Austria, his widow, the Empress Zita, assumed the Regency during the minority of the Archduke Otto of Hapsburg, he being, in all formal respects, the Pretender to the two Crowns of Austria and Hungary.

30 March 2005
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