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DELLA
REAL CASA DI SAVOIA

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In reference to the Premiss

1. (*On the XIII constitutional disposition*) – Beginning with the consideration that the House of Savoy has enjoyed a "lasting recognition from the Republic at constitutional level" by means of the well known transitory XIII disposition, we could easily arrive at the erroneous conclusion that this recognition goes far beyond the effects of the sanction expressly indicated in the (inequitable) norm. Incredibly enough, it is held that the Republic has thereby turned the Italian Royal Family into a "lasting" institution.
In the text the disposition refers to the ex-King of Italy and not, as is said in the note, "to the Kings of Italy". This would refer explicitly to Vittorio Emanuele III and Umberto II, the only kings which the new institutional regime considered (as well it might from a legal viewpoint) as "ex-Kings" and their male descendents. If it is true that the norms probably intended to strike at their successors and legitimate pretenders to the Crown, the fact remains that it expressly (and clumsily) struck at "descendents" and not at "successors".
Amedeo of Savoy was interned by the Germans in a Nazi concentration camp (a position no less uncomfortable than exile !). Not because he was a distant relation of the King (though less distant than King Carlo Alberto from King Carlo Felice, whom he succeeded to the Crown) but because he undoubtedly belonged to the Royal House of Savoy.

(O*n the present notion of the Royal Family*) – It is perfectly clear that the Royal Family did not continue to be royal through indirect recognition from the Republic. It continued through its history and organization as apolitical community under the direction of the Head of the House (O. Ranelletti, *Istituzioni di diritto pubblico* [Institutions of Public Law] Padua 1934, p. 174). Its lasting existence had been permitted and strengthened by the fact that King Umberto II did not recognize the Republic and had called the referendum on institutions, but contested (and with good reason) the results. As well as the personal authority of the constitutional sovereign, Umberto II was universally esteemed for his behaviour during and after his position as Head of State.
The legal irrelevance of the monarchic order and of the Royal House of Savoy in the Republic ought not be confused with the much mentioned "void of law" or system.

2. (On the present nature of the Order of S. Maurizio) -From the consideration that the centuries-old dynastic Orders are upheld by papal recognition, we pass on the somewhat less persuasive consideration that the Orders of SS. Maurizio e Lazzaro – after the secularization effected by Vittorio Emanuele II (the Father of His Country) and the recent distortions on the part of Vittorio Emanuele – have once again enjoyed the former recognition of the Popes. On this I would have the gravest doubts.

On the Prince's marriage without prior royal consent

1. (*On the affiliation of the dynastic norms to a specific legal system completely independent of the Albertine Statute, which could not be and never have been repealed*) – It is very true that a norm must belong to an apposite legal system, but it is certainly wrong to suppose that the royal consent does not. In fact it belongs to the internal code of law of the House of Savoy (O. RANELLETTI, *Istituzioni di diritto pubblico,* [Institutions of Public Law] cit.) which has held fast and unchanged on this point, and never repealed by the Albertine Statute of 1848,as has been attested by the most eminent constitutionalists of the monarchical period with their profound knowledge of the Statute (for all, F. RACIOPPI and I. BRUNELLI, *Commenti allo Statuto del Regno* [Commentary of the Statute of the Kingdom], vol. 1, UTET, Turin 1909, p. 728. Here it is written that according to the public law of the time, the substantial validity of the pre-existing norm "in our day, unless an explicit disposition of abrogation intervenes, it must always be presumed, otherwise it cannot be reconciled with the dispositions emanated thereafter", adding *ad abundantiam*, "In fact abrogation cannot be presumed, even with the acts of régimes no longer in power"). Not only were the norms governing royal consent to marriage not explicitly repealed but they were adopted into the Civil Codes of 1865 and 1942, and finally confirmed by the last king of that Dynasty, who also wrote to that effect. This is certainly, and definitely, attested by Umberto's letters to his son, which have now been published.

2. (*On the technical meaning of the "Salic law"*) – The reference to the Salic Law did not abrogate the customary norm as formally defined by King Vittorio Amedeo III of Savoy in his Royal Patents of 1780. This has a range of specific application of its own, but makes no claim to overvalue the principle of succession by the first born male. With the consensus of scholars of the monarchical epoch, it indicates "a body of laws and customs" adhered to by the Dynasty as their own laws. In the passing of time, the Salic Law has assumed the force of a conventional phrase to indicate a custom of the Savoy dynasty (since the 13th century) to refer to a "method for excluding women from succession to the Throne" (op. ult. cit. p. 155). This ruling is only explicitly confirmed by the Statute in so far as it concerns the constitutional connection with succession to the Crown (S. ROMANO, *Corso di diritto costituzionale* [A Course in Constitutional Law], Padua, 1943, p. 211) but holds firm and unaltered the other norms and customs compatible with the above principle, among which is the royal prerogative of prior consent to the marriage of princes and princesses of the House.
In any case, these rules are well known and observed – with some variations – among all the reigning and ex-reigning Houses which are fortunately still in existence. They are not simply statements from the lips of jolly eager to invent a new king for their own agenda.

3. (*On royal consent in particular*) – On the basis of the norm – also commonly called royal prerogative since it refers solely to the Head of the House (unlike some other monarchies which require the consent of Parliament as well) and confirms the survival of the internal laws of the House after 1848 – the King was the arbiter who, in all discretion, decided on the compatibility of the marriage project: but once this was denied, or failed to obtain his consent, it would not have been possible, even for the King, to prevent the logical consequences of exclusion from the Dynasty; especially in the case of an unequal marriage. To have a clear understanding of this, one need only read N.2 in the Royal Patents of 1780 of King Vittorio Amedeo III of Savoy, according to which: "If in the fulfilment of this obligation (i.e. the request for prior consent to marriage) there is, in addition, the quality of a marriage contracted with a person of inferior condition and status, both the contractors and the descendents of such a marriage must consider themselves unconditionally destitute of such goods and rights which derive from the Crown and their hopes to succeed to them; as well as all honours and prerogatives deriving from the Family." From the text one clearly gathers that, without prior consent, the consequences of contracting marriage with a person of inferior condition mean exclusion from the Royal Family, and this occurs *ipso iure*, i.e. automatically, with no necessity for judgement or further provision.

In order to readmit Vittorio Emanuele of Savoy (something which Umberto II never thought of doing) the King would have had to violate the automatic redefinition of the Dynastic system of the Family, and put into operation a process which would do damage to the legitimate successors to the Throne who had done nothing to have themselves proposed in the place of their automatically destitute relative owing to his choice in marriage and thus breaking with his Family.

(O*n the division of competences*) – One can only regret to see that a supposition has emerged – rather an “absurd” one – on the competence to judge such questions in civil or ecclesiastical courts. Neither of these can have any bearing on the case, mostly because “civil validity” is beyond discussion. It is the existence of a civil matrimonial tie in common law or marriage or that of a religious tie with civil effects (some people pretend not to understand this); but the quality of the “marriage of princes and princesses” required for permanence and participation in the Royal Family (of bride and groom and their eventual offspring) is something which is particularly necessary for the male members in order to fill and to hold the place assigned them by law in the dynastic succession.

(*The different effects of the nullity of civil and religious marriage on the marriage of princes*) – Civil and ecclesiastical courts can indeed pass judgements on a prince’s marriage, reaching a declaration of nullity for the causes which they are competent to judge; and the eventual sentence will dissolve the marriage in all effects, including the dynastic. But of course the invalidity of a prince’s marriage will have no effect on the civil or religious tie. Here we are presented with two legal aspects, the relevancy of which lies in their differences. And they are not all that hard to understand if the situation is considered without preconceptions or distortions.

4. In particular it does not get us very far to assert the non-existence of a form and a precise procedure. In fact, the consent, granted or withheld, produces a consequence out of all proportion to the ineffectiveness of the substantial norm. Actually a legally written form of civil status is requested by law, and requires the document in question to be exhibited at the state registry office before the celebration of the marriage. Moreover in the absence of this document the refusal must be presumed; while the formalities performed during the ritual are still more precise, including the Ceremonial code which constitutes a source of norms on a footing with the others.

5. (*On the non-existence of forms of non-ritual consent*) – The institution of “tacit” prior consent is pure fantasy. It is gets us no further to attempt to define “prior” consent as “subsequent” consent. Nor does the formulation of the norm imply any further activity by the King in the cases where he withholds consent. It is evident that the automatic nature of the legal consequences in regard to a state of a marriage (previously held to be) incompatible with membership in the Royal Family concerns someone with no knowledge of the principle prerogative of its Head. It is only too obvious that the royal prerogative is actionable before and during the phase of celebration and could never, for any reason whatever, be thought to intervene at a later stage.

6. (*On the necessity of the Royal Letters Patent*) – It is easy to see that the speeches the King made in public – incidentally, for reasons altogether different from what some people like to suppose – have no legal relevance in this field. The king granted a title of nobility without following it up with the Letters Patent. In this case he granted a title that has no connection with the traditions of the House of Savoy as the reigning House of Italy, since it was a title that does not belong to the Family investitures, which testifies to the non-belonging of the bestowed to the Family. The title of Venice had been coined by Napoleon for his own step-son (who was not a Bonaparte) and had never been part of the traditions of the House of Savoy. It has now been granted to King Umberto’s grandson and there is a certain coherence with the precedent since Emanuele Filiberto of Savoy was born of a marriage (civilly and religiously valid, but) “unequal” and lacking the Royal consent; “di Savoia” is therefore no more then a surname.

7. (*On the unaccountable supposition that King Umberto II could be reproved*) – The supposition attributed to the thoughts of the King, who acted rather differently from the way Vittorio Emanuele's supporters would have liked him to (though on the basis of what logical and legal criteria remains a mystery) and was therefore charged with incorrect behaviour (just as action had already been taken to reprimand the rascally attempt to dethrone him on the part of his son Vittorio Emanuele), all this also gets us nowhere. Perhaps, with some previous knowledge of King Umberto's letters did someone attempt to outpace events and play safe by preventively attacking the deceased sovereign?
Of course one can only hope this was not the case. However as the present considerations draw to a close our logical conclusion seems to come to this: it is quite right and proper that each of us hold his own convictions, personal likings, elective affinities, etc. Yet it does not seem possible, with all due legal argument, to credit Vittorio Emanuele as Heir to the Savoy Dynasty and of the last King of Italy.

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