



UFFICIO STUDI  
DELLA  
REAL CASA DI SAVOIA

## *The Royal Patents*

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From the Letters Patent of 7-13-20 September 1780 of King Amedeo III, who was an absolute King and therefore subscribed the Act in the fullness of legitimate power:

Act I: «It will not be lawful for Princes of the Blood to contract marriage without first obtaining Our permission, or that of Our successors; should any of these fail to comply with this indispensable duty, he shall be subject to provisions which We or Our royal successors judge suitable to the case.»

Act II: «If he fails to fulfil this obligation and in addition contracts marriage with a person of inferior condition and status, both the contractors and the descendants of such a marriage will unconditionally find themselves destitute of the goods and rights deriving from the Crown, as well as the right to succeed to them, including all honours and prerogatives of the Family.»

Act III: «However in cases where the repercussions of this singular circumstance determines Us, or Our royal successors to allow him to contract this unequal marriage, then in this case We reserve the sovereign authority to prescribe the effects on him, and the conditions and cautions which he is bound to observe.» (This is exactly what King Vittorio Amedeo III did the following October with a Regio Biglietto in the case of the marriage of Prince Tommaso Ilarione of Savoia Carignano, personally authorizing the marriage).

Again, from the Royal Edict of 17 July 1782, by the same Vittorio Amedeo III:

Art. X: «For the good of the State the marriages of the Princes of Our Crown and the good of the State, cannot therefore take place without Our permission, or that of the Royal successors; and should one of the said Princes fail to fulfil this indispensable duty, he shall be subject to those provisions which, upon the occurrence of such a case, shall be ordered by Us and by Our Royal successors, also in conformity with Our Patents of 13 September 1780, together with the reserve to accompany the permission with such conditions as shall be judged suitable and convenient.»

Here it is also fitting to recall the opinion of some Italian jurists who dealt with this question during the constitutional regime.

MORELLI (*The King*, 1899, p. 257 ff) reminds us that in all monarchical constitutions, especially in Germany, marriage of princes must be with equals for the children to succeed to the throne, although in the past this principle has not been absolutely or generally observed. He states that the

Italian constitution (i.e. the Statute) has not imposed the offspring of an equal marriage as a prerequisite for succession to the throne; but it is his opinion that «in the succession to the royal office only those born of a marriage which corresponds to social consciousness and the honour and interest of the State has the right to concur»; and mentions that some foreign constitutions impose the consent of the legislative Houses for the marriages of Kings and Princes, at the same time expressing the hope that this principle will be established in Italy for the Kings.

According to MICELI (*Constitutional Law*, 1913, p.486): «...only children born of a marriage considered legitimate according to the principals of public law can be considered as legitimate descendants for succession to the throne». In this case, for the marriage to be legitimate, it is necessary: I) that it takes place with the King's consent in conformity with the disposition of art. 69 of the Civil Code (today art. 92); II) that it is not contracted with a person of inferior condition, i.e. not belonging to the category of Princes of reigning (or ex-reigning) Families. This was laid down in the Royal Patent of 13 September 1780 and the Royal Biglietto [State Document] of 28 October of the same year. These dispositions are still in force, since they were not abrogated by later laws or decrees. It is understood that here the law undertakes an inquiry into the preservation of the high level of prestige of the Head of State».

CROSA (*The Monarchy in Italian Public Law*, 1922, p. 20): «The succession (to the Throne) is not upheld by the common principles of civil law. What is legally possessed of all rights is the legitimate succession from a recognized marriage between Princes», adding in a note that «under art. 69 CC, the King's authorization is obligatory for the validity of a marriage between Princes».

PRESUTTI (*Constitutional Law*, 1915, p. 298) contests that the marriage should be in conformity with the above mentioned Patent but based on further regulation of the material on the part of the Civil Code (and not the operation of the Statute, or else of an abstract declaration of the principle of equality; moreover it is considerably less radically stated than in the current Constitution). But Presutti goes on to ask: what are the norms that must be applied to the King, if the Statute regulates the succession according to the Salic Law that refers to marriages between contractors of princely status; and the plebiscites of the provinces of Naples and Sicily (21 October 1860) that also recall the legitimate succession of King Vittorio Emanuele? In this case Presutti holds that «the dispositions of 1780 are still valid».

#### Art. 92 of the Civil Code

Finally it should be borne in mind how art. 92 of the current Civil Code, the final manifestation of a compilation of norms by a Sovereign of the House of Savoy since it was approved by the Royal Decree of 16 March 1942 – disposes in the opening sentence: «The consent of the King Emperor is necessary for the validity of the marriages of Royal Princes and Princesses». (Obviously a previous consent because the institution implies it by its very nature, and also because it would run counter to the institutional principles of the Monarchy, which unquestionably remove the power from anyone, be it the King himself, to designate himself as Head of State or bring influence to bear on the designation itself, altering an order of succession that is already consolidated, in line with the fore-mentioned Regia Patente, by the choice of a spouse, theoretically less than regular, made by one or other in the line of succession. In this regard it is useful to bear in mind that in March 1873 – the 13<sup>th</sup> I think – written permission was requested by Prince Oddone, his younger brother, and by the Princes of the House of Genoa for the reintegration of the first Duke of Aosta in the order of succession to the Throne which he had left in order to accept the Crown of Spain, and re-entered under the conditions of the foresaid consents after abdicating from the Spanish Throne.

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