



STUDIES OFFICE
OF THE
ROYAL HOUSE OF SAVOY

Norms governing marriages in the House of Savoy

THE ROYAL PATENTS of 13 September 1780, of King Vittorio Amedeo III

Art. 1 It shall not be permissible for Princes of the Blood to contract marriage without previously obtaining Our approval, or that of our royal successors, and should any of the foresaid fail in this indispensable duty he will be subject to such provisions deemed appropriate in his case by Us and by the foresaid royal successors (1).

Art. 2 If in the fulfilment of this duty a marriage should be contracted with a person of inferior condition and status, both the contractors and the descendents of the marriage will unfailingly become destitute of such goods and rights as derive from the Crown, and the right to succeed as such, likewise to any honours and prerogatives of the Family (2).

Art. 3 If, in the event however consideration of some singular circumstance should persuade Us, or Our royal successors, to permit an unequal marriage to take place, in this case we reserve the sovereign authority to prescribe conditions for such effects and cautions which must be observed (3).

(1) Art. 1 states the principle of the necessity that marriages of Princes of the House must be previously authorized by the king. In this case, non-observance of «the indispensable duty» will mean that, as a penalty, the normal effects of a Prince's marriage will not be disposed, but only those of a lesser sort, or even such adverse effects shall be established by the king and his successors.

(2) Art. 2 describes a particular and more serious case in point: that of the violation of prior consent combined with the circumstance of marriage with a woman of inferior condition. In this case the penalty, established as the loss of quality as prince of the royal House, will occur automatically, and without the need for the king to issue further provision. Therefore from the moment of the violation «both the contractors and descendents of such a marriage must, beyond all doubt, consider themselves destitute of rank and the dynastic rights» of succession.

(3) Art. 3 concerns an exceptional hypothesis not intended as a generalization, which came into being by an appropriate royal decree in favour of Prince Eugenio di Carignano, and applied «solely for his person».

The ROYAL EDICT of 16 July 1782, of King Vittorio Amedeo III

Art. 10 For the good of the State the marriages of Princes of Our Crown cannot therefore be contracted without Our permission, or that of the royal successors; should any of the Princes fail to observe this indispensable duty, he will be subject to those provisions which, in the eventuality of the case, shall be ordered solely by Ourselves or by Our royal successors;

also in accord with the Royal Patents of 13 September 1780, and also with the reservation of accompanying the permission with such conditions as are judged fitting and the appropriate (1).

(1) This norm for the Princes of the Royal House repeats the content of the Royal Patents of 1780, which refers to, and expressly confirms, the much wider context of marriage both for subjects and the nobility.

The ALBERTINE STATUTE OF 1848

Premise:

With the correctness of a King and affection of a Father, today We hereby carry out what we announced to Our beloved subjects in Our proclamation of 8 February last, with which we wished, amid the extraordinary events which surrounded Our country, to show how Our trust in them had deepened in view of the seriousness of the circumstances and how, by simply taking advice from the stirring of Our heart, Our firm intention was to yoke their destinies to the movement of the times, and to the interests and dignity of the Nation.

Considering the broad and powerful representative institutions contained in the present Fundamental Statute as the safest means for doubling with ties of everlasting affection which secure our Crown to Italy and a people who have given Us so many demonstrations of faith, obedience and love, we have determined to sanction and enact it, in the trust that God will bless Our pure intention, and that the free, strong and happy Nation, shall ever prove more worthy of its ancient fame, and deserving of a glorious future. Therefore to Our certain knowledge and Royal Authority – upon the advice of Our council, We have ordered, and We do order through the force of the Statute and the fundamental, perpetual and irrevocable Law of the Monarchy, as follows:

Art. 1 (Omission)

Art. 2 The State is upheld by Representative Monarchical Government. The Throne is inherited in accordance with the Salic law (1).

Art. 6 The King appoints all officers of State, and issues the decrees and regulations for the executors of the laws, neither suspending their observance nor exempting them.

Art. 7 Only the King sanctions and enacts the laws.

Art. 8 The King may grant grace and commute penalties.

Art. 21 The law provides for an annual assignment to the Prince who is successor to the throne once he has reached his majority, and also before this on the occasion of his marriage; a Civil List for the Princes of the Family and the Blood Royal under the foresaid conditions; the dowries of the Princesses; and the dowry of the Queens.

Art. 38 The acts legally confirming the births, deaths and marriages of the Members of the Royal Family are presented to the Senate who then order them to be deposited in its Archives.

Art. 81 Any law which runs counter to the present Statute is abrogated (2).

(1) Succession to the Throne is always in accordance with the law and never testamentary. It occurs (*ope legis*) at the death of the King «without the requirement of explicit accep-

tance». Moreover «the powers of the new king do not derive from those of his predecessor, but directly from the constitution» (O. RANELLETTI, *Istituzioni di diritto pubblico* [Institutions of Public Law] 1934, p. 160).

Salic law is «a conventional phrase» which excludes the succession of women and assigns the throne to «the nearest male relative in direct line of descent»; in the case where there is no direct male descendent, or else one who has been destituted, the throne passes to the «nearest male relative in the collateral line» (O. RANELLETTI, *ivi*).

- (2) A passage from F. RACIOPPI, I. BRUNELLI, *Commento allo Statuto del Regno* [Commentary on the Statute of the Kingdom]. With preface by Luigi Luzzati, Professor at the University of Rome, Vol. III. UTET, Turin 1909.

Art. 81. «Any law that runs counter to the Statute is abrogated.»

*§ 853, p. 726 – In the terms of article 5 of the dispositions which premises our Civil Code: «Laws are only abrogated by subsequent laws through the express declaration of the legislator, or by the incompatibility of the new disposition with the preceding ones, or else where the law governs all the material previously disposed under the preceding law». This is more of a truth than a legal principle.

*§ 854 – « (...) Given that the disposition in question possesses the formal requisites which are required for its existence and validity according to the public law of the time, its substantial validity in our own times is always to be presumed – unless either an explicit disposition of abrogation should intervene, or else an obvious irreconcilability with dispositions enacted thereafter; but this must be proved each and every time and, as always, the burden of proof will fall upon the interested party».

THE CIVIL LAW OF THE KINGDOM OF ITALY OF 1865

Art. 69 (Omission). For the validity of marriages of royal princes and princesses the consent of the king is required. (D.S. Sovereign Acts, 7 April 1829, 12 March 1836) (1).

Art. 81 Unless the consent of the ascendants is given personally before the civil official, it must be established by an authentic act containing the precise indication both of the bridegroom to whom the consent is granted, and his spouse.

- (1) N. 2 of art. 69 substantially reproduces the content of art. 10 of the royal edict of 16 July 1782 of King Vittorio Amedeo III, which in turn refers to the dynastic law of 13 September 1780, which in n. 2 (marriage entirely lacking in royal consent contracted with a person of unequal rank) establishes that the sanction occurs automatically. With the refusal to grant previous consent on the part of the King, «no resort to any further authority may be admitted». (O. RANELLETTI, p. 175).

On the other hand an act of amendment may not be presumed, and certainly not tacitly. Consideration should be given to the case of the first Duke of Aosta, who had abdicated as King of Spain, and who was in the line of succession to the Throne of Italy. Here it was necessary to seek (13 March 1873) written consent from the Princes of the Savoy-Genoa line who had succeeded him.

CIVIL CODE OF THE KINGDOM OF ITALY OF 1942

Art. 92 For the validity of the marriages of Royal Princes and Princesses the consent of the King Emperor is required (1).

- (1) In a slightly different formulation this reproduces art. 69 of the previous code.