

4.

THE UNITED TRIBUNAL OF ROMA

TEXT OF THE CERTIFICATION OF AN EXPERT LEGAL OPINION

In the year one thousand nine hundred and forty-nine, today on the fourteenth of the month of December.

In the Chancery of the aforementioned Tribunal. Before me the Chancellor Aldo Colacione, the legal expert Sigr. Professor Temistocle Bertucci appeared who has requested that he be allowed to swear under oath a legal opinion drawn up by him on behalf of Prince Don Francesco Mario Paternò Castello of the Dukes of Carcaci, Prince of Emmanuel. I the Chancellor in compliance with the request and mindful of the dictates of the Law have administered the certification of the opinion on the formula as sworn by repeating the words: I SWEAR TO HAVE CARRIED OUT THE TASK ENTRUSTED TO ME WITH THE SOLE AIM OF REVEALING THE TRUTH TO THE JUDGES.

The said document being the text of the opinion is composed of eighteen numbered sides on the last of which is written three lines below which the expert has signed and I the Chancellor have countersigned. In respect of which the present text is certified and signed.

The Expert

Temistocle Bertucci

(signed)

The Chancellor

Aldo Colacione

(signed)

LEGAL OPINION

On behalf of His Most Serene Highness Don Francesco Mario Paternò Castello of the Dukes of Carcaci, Prince of Emmanuel and of the Princess Donna Eleanora Paternò Castello, Princess of Emmanuel Guttadauro, resident in Syracuse, Piazza Archimede 14.

Writer : Professor Temistocle Bertucci, legal expert, heraldic historian, Member of the Council of the History of the Fatherland for Naples and the Marches, Member and Dean of the Pontifical Academy of Arcadia (Temisto Itacense), resident in Rome, Via le Liegi 6.

PREAMBLE

The last Sovereign of the Two Sicilies, King Francesco the Second di Borbone, while defending his rights in Gaeta wished by a number of decrees which he signed in that fortress to give comfort to the family of Paternò Castello e Guttadauro of the Dukes of Carcaci in the person of Don Mario, being the maternal grandfather of my client Don Francesco by a special decree which it is useful to relate in his interest :

FRANCESCO II by the grace of God King of the Kingdom of the Two Sicilies, of Jerusalem etc., Duke of Parma, Piacenza, Castro etc., etc., Hereditary Grand Prince of Tuscany etc., etc., etc.

In view of the documents which have been presented to Us by Our beloved subject Don Mario Paternò Castello e Guttadauro of the Dukes of Carcaci, son of Don Giovanni and of the late Donna Eleanora Guttadauro Princess of Emmanuel-Reburdone, by whom have descended to him the rights in respect of the heraldic patrimony of the House of Guttadauro and those of the Order of the Collar of the House of Paternò dedicated to Saint Agatha, Virgin and Martyr of Catania, founded by his Ancestors who reigned over the Balearic Islands and Ibiza.

On the proposal of Our Minister and Secretary of State for Justice;

We have decreed and We do so decree as follows :

Article 1 – We recognise as inherent in Don Mario Paternò Castello e Guttadauro of the Dukes of Carcaci the right to noble titles, being part of the heraldic patrimony of the House of Guttadauro, with the transmission in perpetuity of the said titles in the order of primogeniture among the legitimate descendants, always excluding bastards just as those legitimated or otherwise by a marriage subsequent to their birth. In the event of a vacancy or other impediment in the male descendence the aforesaid rights will descend to the first male child of the first daughter provided both are born of legitimate marriage and so on in this order; by a collateral descent to the fourth degree. We recognise him moreover as Head of the Dynastic Order of the Collar dedicated to Saint Agatha, Virgin and Martyr, the indisputable patrimony of the Most Serene House of Paternò with the title and rank of Sovereign Grand Master with the faculty to bestow honours and confer chivalric ranks and noble titles predicated on a family name, on predicates in the Balearic Islands once the Royal Domain of his ancestors and also on the Palace of Paternò.

To ensure the continuity of the Grand Magistracy among his legitimate descendants We wish heirs who have not contracted marriage by the age of fifty to be debarred from the succession to every right and claim; only in such case, they revert, in the absence of direct and immediate male descendent as has been required by decree to the legitimate sons of legitimate daughters in the order of primogeniture so that the Chivalric Order may remain always in the House of Paternò. In the event that transmission in the female line must also be excluded by reason of some inappropriate marriage, the Grand Magistracy will pass to the branch of the Paternò most closely

related to the last Sovereign Grand Master, always respecting in its transmission that which We in Our wisdom have resolved to arrange.

Article 2 – Wishing moreover to give to Our beloved subject Don Mario Paternò Castello e Guttadauro of Carcaci in the City of Catania a particular attestation of Our Sovereign satisfaction, not least for the many and constant proofs of his faithfulness and his sincere attachment to Our Royal Throne which is adorned by his precious qualities and in consideration of the ancient nobility of his family We have resolved to bestow on him the title of Prince of Val d’Emmanuel in the locality of Pedagaggi, once fief of the Guttadauro, in the region of Francofonte, transmissible by special permission to legitimate children both male and female born of legitimate marriage and thus in perpetuity in the order of male primogeniture among their legitimate descendants and in collateral lines to the fourth degree, according to the laws of the Kingdom, commanding also that the legitimate holders of the title combine with their arms the noble arms of Guttadauro being nine gouttes Or on an Azure field.

Article 3 – Our Minister and Secretary of State for Justice is responsible for the execution of this present Decree.

Given in Gaeta on the 16th September 1860

Signed : FRANCESCO

The Minister and Secretary of State for Justice,

Signed : Knight Grand Cross Pietro C. Uloa

THE PATERNÒ

The Golden Book of the Italian Nobility, on page 510 of its Volume V, relates thus : A Sicilian family descended from the Infant Don Pietro of Aragon Count of Ayerbe and Zenia, son of the King Don James the Conqueror and of Donna Theresa de Vidaure, his third wife, called upon to succeed to the throne by his father’s testament (Montpellier, the 26th August 1272). One of his sons Don Miguel, being in rebellion against his cousin Don Alfonso the King of Aragon, was deprived of the paternal lordships and acquired in 1287 the Castle of Paternoy from which his descendants have taken their name. Many branches of the family sprang up in Spain, one of which was moved to Sicily by John known as the Elder towards the middle of the 14th Century. They have provided in Sicily four Presidents of the Realm and a great number of Vicars General, captains in arms in times of war, a Viceroy in Tripoli and one in Malta, a Grand Chancellor and various chamberlains to the King of Naples and to the Roman Church archbishops, bishops; bailiffs and grand priors of the Order of Jerusalem and knights of all the Military Orders of Spain and the Two Sicilies.

The distinguished historian Filadelfo Mugnos, with the permission of his superiors as was necessary at that time, published in 1600 his precious text entitled : On the Glories of the Lords Paternò. Beginning with their Norman origins, he tells how a

Paternò, after sustained struggles with the Angevins, escaped to Aragon, from whose King he thereafter received the Kingdom of Minorca. John (of the Kings of Minorca) came to Sicily, where he found a legacy of the powerful but now extinct Paternò and he re-established the House.

In the mid-1700s when in Sicily everyone began to cultivate a passion of archaeology, they discovered various stones and inscriptions which bore witness to the existence of a Gens Paterna in Sicily in Roman times. Father Lupi in his book “Epitaphium Severae Martyris”, Chapter II, a study of the catacombs of Rome, discovered a quantity of references to Paternò on which he discoursed in many publications as to whether they belonged to the Gens Julia or the Gens Nonia, or even Ovinia. The Prince of Biscari discovered other stones in Catania on which they spoke of the Paternò as Consuls and Praetors. The Prince of Torremuzza wrote on the Gens Paterna; as did also the Abbé Sestini in “Letters written from Sicily” (Florence, 1779-84) and “A Description of the Museum of H.E. the Prince of Biscari” (Florence, 1776, and Livorno, 1787); and Count Caetani, the custodian of the antiquities of the Biscari museum; and Lombardo-Buda, the librarian of the Prince of Biscari, also wrote a paper on the subject. Fleetwood in his “Inscript. Antiq. Sylloge. Scaliger” (page 229) refers to the Gens Julia Paterna which moved from Rome to Gaul. The Gens Paternò of Sicily and Naples must have lived in Rome in the early years of the Roman Empire and divided into two branches, the one in Gaul and the other in Sicily. At the time of the Norman conquest the branch in Gaul came to re-ally itself with that in Sicily.

In Aragon a family of Paternoy flourished from 1300 to 1600. This family of Royal blood moved to Sicily in the second half of the 13th Century and there put down roots (Fernando Paternò in the Raddusi Codices). One Giacinto Paternò y Miravella Gravina y Jurado in the document admitting him to the Order of Alcàntara (1617) demonstrated his descent from the House of Paternoy (State Archives, Madrid – Proofs of Alcàntara, N^o. 147).

The geographic map of the said islands, in annexe to this document, is illustrative of the Royal Sovereignty of the Paternò over the Balearic Islands and Ibiza. On the right of it are depicted the armorial bearings of the King of Spain between the Kingdoms of Valencia and Catalonia and on the left (that is the left and right of the map and not of the person looking at it) are the historic arms of the Paternò, Sovereigns of the said islands, which are those of Aragon crossed by an azure bendlet (Annexe A).

Besides, the Sovereign of the Two Sicilies Francesco the Second di Borbone in his Decree given in the Preamble on the first page of the present document records that the Paternò were rulers and even Sovereigns over the Balearic Islands and Ibiza.

At this point it is legitimate to ask if Francesco the Second, who was in a state of war in Gaeta in defence of his rights, could issue Sovereign acts such as those which bestow nobiliary titles (Article 2 of the Sovereign Decree cited – Prince of Emmanuel)

and which recognise the Sovereign rights of the Paternò, just as those to bestow chivalric ranks in their Dynastic Order of the Collar dedicated to the Virgin of Catania Saint Agatha and nobiliary titles on a family name, on predicates in the Balearic Islands and on the Palace of Paternò.

THUS

The question which the undersigned expert has asked himself and which could be authoritatively addressed by a learned magistrate warrants legal debate, in so far as it contains an elegant question of personal and international rights.

Francesco II di Borbone was KING at Gaeta in full possession of his powers. Abandoning the capital of Naples (see : R De Cesare “The End of a Kingdom – Naples & Sicily”, Part II, The Reign of Francesco II, Città di Castello, 1900, pp.373-374), from where was made the Royal Proclamation by Francesco II :”The war approaches the walls of the city of Naples and with inexpressible sorrow I leave with a part of the army, taking myself there where the defence of my rights calls me. I call on the honour and civic duty of the Mayor of Naples and of the Commandant of the City Guard of that city to spare this beloved fatherland the horrors of internal disorders and the disasters of civil war; if necessary I allow them all that is required and more to ensure this.” On the 6th September in a Proclamation signed Francesco and countersigned Giacomo De Martino, the King said inter alia :”We retain all Our titles and privileges which arise from indisputable and hallowed rights of succession and from treaties and We solemnly declare all events and acts to the contrary to be entirely without value and effect.”

The Roman judiciary in a judgement of the 10th September 1948, Section VII of the United Tribunal, No. 23.828/48 R.G. 5.143 bis, in total agreement with my own legal opinion on the subject, stated: “In respect of all the arguments on the continuation of the privileges of Sovereign families (Families long since deprived of their Thrones and inheritance) it is to be noted that the so called royal privilege is the personal privilege jure sanguinis of the ruling King or Prince alone and which is transmitted to his successors by the event of the coronation or investiture and also when through adverse circumstances they are deprived of their territorial possessions. A territorial possession does not constitute an essential element to be able to confer a title or a noble chivalric rank in so far as the Sovereign or the descendent of a Sovereign may also confer a noble title predicated on a family name.”

In respect of the titles conferred by Francesco II in Gaeta the same magistrate said in the judgement under reference : “The former Sovereign of the Kingdom of the Two Sicilies H.M. Francesco II bestowed in Gaeta (the last stronghold of resistance) noble titles after the defeat of the forces of Garibaldi at Caiazzo in the euphoria of unexpected victory. The distinguished Raffaele De Cesare in his admirable work “The End of a Kingdom – Naples and Sicily” remarks “The Ambassador of Spain

who represented also the Duke of Parma at the Court of Francesco II, Don Salvatore Bermúdez de Castro, obtained from the King at Gaeta by a Decree of the 8th September 1860 the title of Prince of Santa Lucia, which he transmitted in his Will to his own illegitimate daughter. Such a Will lodged with the Spanish Consul in Rome was exhibited in certified copy to the College of Arms on the 3rd July 1886. The College of Arms by a Royal Decree of the 19th December 1886 recognised the Bourbon title of Princess of Santa Lucia of Donna Maria Salvatora Bermúdez, who married the younger son of a noble Spanish family and who today is the owner of the Villa Farnesina.”

So Francesco II was still in possession of his throne. The difference of residence could not and cannot interfere with the validity of a sovereign document which may be signed even on board a ship.

Even according to the most damned theories the Decree of Francesco II given on the first page of this present report bears the date of the 16th September 1860, while the surrender of Gaeta (the Abdication) bears the date of the 13th February 1861. But even after this date (see the judgement of the Roman magistrate under reference) : For the last Bourbon King of the Two Sicilies the matter remains very open and debatable whether he abdicated or not, but even were this to be the case, in leaving his territorial domains he carried with him the privileges inherent in his blood which he is permitted legitimately to exercise and to transmit to his descendants. The abdication does not entail nor even can it damage the source of the honours which is indisputably attached to the person of Royal blood whether or not on the Throne of a State.

The Order of the Collar of Saint Agatha of Paternò constitutes a most ancient element of the patrimony of the princely Family of Paternò also mentioned in the Decree of Francesco II, given on page one and following of this document, with all its sovereign privileges, also in the publication (Annexe B) of Francesco Paternò Castello e Sammartino Duke of Carcaci with the title “The Order of the Collar, Patrimony of the Most Serene Royal House of Paternò” (Catania, University Press, 1851).

Without transcribing all at length that the Most Serene Lord has learnedly explained in this publication of about one hundred years ago, it is right to read this same pamphlet which is supported by successive decisions of recognition of the Bourbons of the sovereignty of the Paternò, the erstwhile sovereigns of the Balearic Islands and of Ibiza with all the rights which arise there from and not excluding that of creating nobles and knights, such as is inherent in the Anointing of a Lord were he on a territorial throne.

This pamphlet (Annexe B) is intended as and integral and inseparable part of this present opinion.

The Statutes that the Most Serene Family of Paternò wished to decree in the year 1855 were as follows :

The Order of the Collar or of Saint Agatha is re-established on the foundation of the SOCIEDAD DE SANTHA AGATHA INSTITUITA DA SOVRANI BALEARIDI.

In remembrance of the Sicilian Saint and the grand collar of King Cypres of Paternoy with the motto "Post Tenebras Spero Lucem" the supreme rank will be reserved for Sovereigns, Cardinals and all legitimate male children of the Dynasty of Paternò.

The Grand Master of the Order is a descendant of Don Francesco Paternò Castello Duke of Carcaci.

The spouses of the Most Serene Paternò by right wear the Collar of the Order without specific conferment. Thus those not of the Family of Paternò upon whom the Collar is bestowed become thereby OUR COUSINS.

The Grand Master with the style of His Serene Highness is the Supreme Head of the Order and he alone may amend or add to the present Statutes.

He has the absolute and incontestable Sovereign power to confer ranks within the Order and hereditary noble titles on men and women in whom he finds favour, predicated either on a family name or on the Balearic Islands and Ibiza, the former kingdom of his ancestors.

The ranks of the Order are as follows : Knight of Justice, Knight of Grace, Grand Cross of Justice, Grand Cross of Grace, Collar. The Order may equally be conferred on ladies. For the Category of Justice four quarters of nobility must be proven unless the Grand Master wishes *motu proprio* or confer this category with total or partial exemption on exceptionally eminent persons according to his own judgement. The insignia of the Order are based on the Arms of the House of Paternò or more precisely : Or over four Pales Gules a Bendlet Azure.

For the Category of Grace the said insignia have as supporters two Lions rampant resting on ears of Corn Or. For the Category of Justice in addition to the supporters given above there will be two Swords in saltire behind the shield with points in base. The ribbon of the Order is crimson red watered silk bordered with gold.

In all matters concerning withdrawal of a conferment the Sovereign Grand Master may act according to his own discretion or may call upon the indisputable opinion of a Court of Honour.

Given the passage of time there are proposed the following Statutes which Prince Don Francesco Mario Paternò Castello of the Dukes of Carcaci, Prince of Emanuel, may if it please accept at the conclusion of this present opinion.

STATUTES

The Order of the Collar of Saint Agatha of Paternò is a noble Order of Chivalry independent of any territorial power.

Article One – The Order being dynastic, it constitutes an inalienable family inheritance in the terms and context of Article 42 of the Constitution of the Republic.

Article Two – The Order is part of the private Patrimony of the House of Paternò with succession opportunely established by Royal Decree of His August Majesty Francesco II King of the Two Sicilies on the 16th September 1860 in Gaeta.

Article Three – The Prince Grand Master to whom is given ex officio the style of His Most Serene Highness may at his discretion confer titles, as a result of the aforesaid Royal Decree and of the Sovereignty exercised by His Ancestors over the Balearic Islands and Ibiza, predicated on a family name or on localities in the aforesaid islands.

The titles thus bestowed by him shall be transmitted according to Lombard or Frankish right.

Article Four – Nobiliary ranks which the Grand Master may confer are those of Noble, Hereditary Knight, Viscount, Baron, Count, Marquis and Duke. Such titles may also be predicated upon the Palace of Paternò.

Article Five – The ranks of the Order of the Collar are as follows : Category of Justice (two hundred years of nobility unless by motu proprio) Knights and Dames, Second Class; Knights Grand Cross and Dames, First Class; category of Grace – Knights, Commanders, Grand Officers (which for ladies correspond with the following ranks : Dames of the Fourth, Third, Second and First Classes).

The Collar is a rank without Category. It is exclusively reserved for members of Sovereign House, Cardinals and exceptionally Heads of State elected by suffrage. All members of the House of Paternò Castello are jure sanguinis distinguished with the Collar.

The insignia of the Order remain in substance those in the former Statutes, whether it be nobiliary or chivalric, the Prince Grand Master shall provide at his pleasure by Decree as on decorations and uniforms for those decorated.

The Grand Master at his discretion wherever he sees fit may call upon the services of persons expert in matters chivalric or nobiliary or other, for the decisions which he chooses to take.

Having seen and approved the above.

The Prince Grand Master of the Order

The Grand Master will augment his own arms with the Collar of the Order.

Rome, the 14th December 1949.

The Chancellor
(signed & sealed)

The Legal Expert
(signed)