



# Creation of Order of Chivalry

*Salvatore Ferdinando Antonio Caputo*

## PREFACE

Knights come in many historical forms besides the traditional Knight in shining armor such as the legend of King Arthur invokes. There are the Samurai, the Mongol, the Moors, the Normans, the Templars, the Hospitaliers, the Saracens, the Teutonic, the Lakota, the Centurions just to name a very few. Likewise today the Modern Knight comes from a great variety of Cultures, Professions and Faiths.

A knight was a "gentleman soldier or member of the warrior class of the Middle Ages in Europe. In other Indo-European languages, cognates of *cavalier* or *rider* French *chevalier* and German *Ritter*) suggesting a connection to the knight's mode of transport. Since antiquity a position of honor and prestige has been held by mounted warriors such as the Greek *hippeus* and the Roman *eques*, and knighthood in the Middle Ages was inextricably linked with horsemanship.

Some orders of knighthood, such as the Knights Templar, have themselves become the stuff of legend; others have disappeared into obscurity. Today, a number of orders of knighthood continue to exist in several countries, such as the English Order of the Garter, the Swedish Royal Order of the Seraphim, and the Royal Norwegian Order of St. Olav. Each of these orders has its own criteria for eligibility, but knighthood is generally granted by a head of state to selected persons to recognize some meritorious achievement.

In the Legion of Honor, democracy became a part of the new chivalry. No longer was this limited to men of noble birth, as in the past, who received favors from their king. The Order of Merit was the new society's way of recognizing citizens of merit. The head of state be he King or President could now bestow honors upon their citizenry.

The Code of Chivalry continued to influence social behavior long after the actual knighthood ceased to exist, influencing for example 19th century Victorian perceptions of how a "gentleman" ought to behave.

The authenticity or legitimacy of an order of chivalry and knighthood stems from its *fons honorum* (fount of honor). To be considered as legitimate, such an order must not only have a *fons honorum*, but that *fons honorum* must meet certain criteria in order to have the historical authority to "make knights" as it were.

In actuality most of the old orders are in fact revivals of previous orders, or were founded in the 19th and even 20th centuries. For example, the British *Order of St. John of Jerusalem Knights of Malta* was driven from Malta by Napoleon in the late 1700s only to splinter and reconstitute them in the 19th century. *The Order of St.*

*Lazarus* was abolished on July 31, 1791, by a decree of the National Assembly signed by the King of France, and was only revived in the early 20th century and was only officially granted its charter in 1888.

From the Middle Ages onwards, the Holy Roman Empire (HRE) was divided into about 300 entities each with practically sovereign rights, which were represented in the imperial parliament (Reichstag), and some 1500 minor lordships that had no other sovereign than the emperor.

The territories of the Imperial Knights (Reichsritterschaft) were immediately depending from the emperor (as kind of a protector). The Imperial Knights were divided into several chapters (Kreise): Swabia, Franconia, Rhenish, Alsatian chapter, the chapters were divided into cantons (Kantone).

In addition, there were many ecclesiastical institutions with limited sovereignty within the secular territories; they practiced jurisdiction and collected taxes in their small territories.

In the Italian peninsula coexists four different sovereign states, that is, the Italian Republic, the State of Vatican City, the Republic of San Marino and the Sovereign Military Order of Malta. The honors awarded by these three institutions, together with the Orders of the House of Savoy and the Houses of pre-unification states are part of the chivalrous and noble heritage of the Italians and represent the only legitimate Chivalric Orders historically and legally.

Centuries after the American and French revolutions, a global market flourishes in false titles of nobility and self-styled orders of chivalry. This occurrence is because it provide to a general common desire to feel virtuous about oneself, a sense of well-being dependent on the drive to assert one's distinctiveness and the yearning for recognition.

In the United States, as in other republics, the government awards decorations for valor and meritorious service but has no legal provision for orders of knighthood as such. Chivalric bodies are treated as private associations, registered as such with the state in which they have headquarters. The most sought-after status for American groups is that of a non-profit, tax-exempt charitable institution. Such status ignores whether or not a body is an authentic chivalrous order. In these circumstances it is easy to see why there has been indiscriminate use and abuse of the term, order of knighthood.

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## WHO IS A KNIGHT?



For some time there has ranged within the confraternity community a debate concerning who is and who is not a real knight. Without question, those British Knights of the Garter and their brethren have inherited the title in an indisputable tradition extending unbroken back to Edward III in the 14th century. When the Queen of England confers a knighthood, it is in recognition of deeds done in service of Crown and Commonwealth.

The Knights of Saint John also have an intact lineage, running all the way back to the 12th century. The various modern fraternal organizations based on the Templar romance have a more debatable connection. Then there are the Knights of Columbus and similar organizations lies yet another tradition now more than thirty years old.

A Knight of Saint John, a Templar and the Knight of Columbus are members of close fraternal organizations whose aims are to achieve good works in the world and to provide an internally consistent system of values based on core religious beliefs common to most of the world's population.

Lastly, many smaller groups use the concept of knighthood to inspire their members in some way and to build better people. In every instance the an accolade of knighthood now has little to do with the feudal structure and everything to do with a recognition of a particular kind of individual who has built their renown in the context of doing right.

### **Contested Orders**

Not every decoration or organization which resembles an order of knighthood is intended to be one. The American Legion of Merit, for example, has ranks similar to those of an order of chivalry, but it is not a knighthood. Members of the Society of the Cincinnati, a private organization founded in the United States, wear a distinctive medal but do not claim to be knights. Britain's prestigious Order of the Companions of Honor is not an order of knighthood.

### **Revived extinct orders**

These usually describe themselves as "military and Hospitaller" and are given out by private individuals. The names of such bodies tend to be those of orders that

once existed under the authority or protection of the Papacy or another sovereign ruler but no longer do so.

The phenomenon is even more serious considering that these initiatives, which are cleverly placed under historical religious institutions, are seen by most people, not as private bodies, which they in fact are, but as coming under aegis of the Church and the Holy See.

### **Dynastic Orders**

Dubious dynastic orders and questionable private initiatives. Those originating such so-called orders may obtain, in an effort to acquire a semblance of respectability, the spiritual support and patronage of the Patriarch of an autocephalous Eastern Church. In addition to making unjustifiable historical claims about their origins, their promoters invariably assume bogus titles of nobility ostensibly showing them to be the heads of former reigning houses and thus genuine fountains of honor.

### **"Self-styled" orders**

"Self-styled" orders are legion; some are imitations of extinct orders of knighthood, or even existing ones, created by self-appointed "princes" or "grand masters". What the leaders of these "self-styled" orders lack is the legal right of *fons honorum*. Some organizations have provided a false *fons honorum* to satisfy the need. In these cases, the founder or patron of the "order" has essentially assumed a false title of nobility in addition to assuming some sort of sovereignty, current or former.

The founders of such "Orders" are hoping to satisfy the ambitions of those anxious for recognition but whose personal standing or religious affiliation may have made them ineligible for membership in a genuine Order. Many of the members are sincere and respectable people deluded into believing that they were receiving a real "honor" and persuaded that, through their membership. The "self-styled orders" are membership organizations and have not been created by a State or a Monarch.

With few exceptions, self-styled orders began to rise in the middle of the eighteenth century, and they continue to emerge. Some are short-lived and only last a few decades. There are differing opinions about what principles or rules should be applied to distinguish an organization as a genuine *chivalric order* or a merely self-styled one.

## FALSE TITLES OF NOBILITY

False titles of nobility are supposed titles of nobility that have been fabricated and are not recognized by any government and were not so recognized in the past, even in countries in which titles of nobility once existed or still exist. They have received an increasing amount of press attention, as the number of schemes that attempt to sell these titles has increased. False titles are also sometimes connected to self-styled orders of chivalry.

All Royal and noble families became noble or royal at some point in the history. This came through various means, by peaceful purchase, by absolute force and by stratagem or trickery. Therefore, if a non-royal or non-noble person obtains a noble title, which was legally, officially and legitimately conveyed upon him or her and it was accepted and approved by the Sovereign Head of the appropriate family, then this person will be recognized as a noble or royal person of being the actual owner of a true and legitimate noble or royal title.

We remain stunned by the very large number of titles and honors which are reported on some Internet sites related to self-styled princes, descendants and pretenders. The profusion of principalities, dedications, decorations leaves most surprised by the fervid imagination of those who are fascinated by what they presume to be the monarchy and chivalry world than for the positions listed.

The alleged princes of today's list of imaginative titles that have been created by its imaginative ancestors, stirring and mixing which are often used without real titles used by the genuine ancient rulers of state to which they refer. Sometimes, unfortunately, you cannot even understand in which regions of the world are connected with the thrones of which is claimed to be the custodians, they do not report pedigrees or relationships; genealogies are sometimes broken and full of gaps that make them useless. And in general, even when apparently complete forms from father to son, a few precautions are sufficient for an expert to see if its names are fakes and added.

Furthermore, it is absurd to speak of "Royal House in exile" because no government has issued sentences against the presumed princes. And is even humorous to define as Ambassador or Consul General, these titles are reserved to State and not to individuals. Not even a real King, non Head State, could grant them. Giving and receiving designations of this kind, means to be completely ignorant of law, history and heraldry.

**A self-style prince claims that has recognitions from the Pope, Queen Elizabeth II or some other royal.**

Sovereignty is neither created by recognition nor destroyed by non recognition.” (The New Encyclopedia Britannica, edition 15, part 3, vol 17, 1981, p. 312) International law denies that diplomatic or political recognition confers sovereignty. Also, in the past many title holders purposely wrote letters to various royals and got them to write back using their titles. Practically all royals and most orders did not investigate the claims of those who join. Such letters are merely courtesies, courtesy letters, not certifications of fact. They do not make a claim true or false.

Many title holders, by getting so-called apostolic blessings from the Pope from various companies, who do not check anything out, but use whatever name or title you give them, thus making it look like the Pope has certified them as real. This same phony ploy was used with Queen Elizabeth II, who gets thousands of letters each day and tries to return every single letter. No one has time to check them out. They use the identifying information they are given to write back. Obviously, such a letter or blessing certificate is meaningless in terms of title, validity and authenticity.

In addition, self-styled princes love to honor each other thinking that somehow, this makes their claims real and genuine.

### **Changes of name**

Some companies purport to sell unsuspecting individuals a title when in fact they do no more than offer them the facility to change their name. Such an individual adopts the purported title, e.g. "Sir" or "Lord", as a forename rather than receiving any formal title. The [Identity and Passport Service](#) is aware of this scam and will place an official observation in the individual's passport stating that the purported title is a name rather than the person's title. In essence, such an individual becomes Mr. Sir John Smith or Mr. Lord John Smith, for example, as their title has in fact not changed at all.

The act of legally changing one's name to add a title by deed poll or some other method does not create a legitimate or authentic title. This is make believe or phony.

### **Become the Laird, Lord or Lady of Glencoe, etc.**

The purchase of land in Scotland is not sufficient, per se, to qualify anyone to legally use the title of Laird. The title 'Lord' is a 'Peerage title' (or a courtesy title of a Scottish 'Law Lord') and although it is true to say that the word Laird does derive from Lavert, which is the same root as the word Lord, a genuinely recognized Laird, is a member of the Nobilitas Minora, whereas those who are legally entitled to call themselves Lord, belong to the Nobilitas Majora, or the Peerage. The two terms are certainly not interchangeable.

A Lairdship is, in itself, a title which is linked to the Land, but for it to become a title and part of the name of the individual who owns the land, it is necessary to petition Scotland's supreme herald, the Lord Lyon King of Arms, for the title to be officially recognized. The Lord Lyon does not actually recognize anyone as a Laird

<http://www.scots-titles.com/fake-lairds-lords>

### **Title of Nobility from a Micronations**

No micronation has any real, genuine or authentic right to bestow titles of nobility or bestow knighthoods. They are fantasy countries. "These nations usually exist only on paper, on the Internet, or in the minds of their creators. "They have no recognized or actual authority.

### **Religious Organizations**

A new approach to the traffic in titles is for a religious or secular organization to claim that it can "restore " ancient titles of nobility or royalty for a modern person who might be in the "family line"--and, of course, an exchange of money is part of the "restoration." However, a religious organization cannot "rehabilitate" a secular title. Indeed, a secular organization, even a royal house, cannot "restore" a title over which it had no original control.

Moreover, one must also be very wary of any religious organization claiming to be a "church" and which claims authority to grant titles of royalty or nobility.

The scholar of the subject are well aware of this deplorable phenomenon, however, these "pseudo-orders" often take place abroad, outside the territory of the legitimate orders, so be cautious before joining these orders. We appeal especially to the young and unaware people, who with the desire to wear an evening ensigna, perhaps for parties or even if only content themselves by seeking or accepting nor truly beneficial pseudo-type decorations.

To add a few more considerations about the so-called independent Knightly Orders, because the intimate history of equestrian institutions can only be considered by recalling the *imprimatur* of the Holy See, even if this aegis, being an independent Order, and therefore autonomous from States and Nations, has no value except psychological.

Official Statement of the Holy See on Self-Styled Orders

<http://www.heraldica.org/topics/orders/popebg.htm>

### **Private Titles and Decorations**

Private titles, knighthoods and decorations received in a club, fraternity, church or other organization are not to be used in public or on the internet unless qualified as

private. Such titles, knighthoods and decorations are not genuine and authentic, outside of the organizations that made them, because they have nothing to do with the bona fide and real nobility or royalty.

### **Traditional leaders**

Traditional leaders are limited to a status of a recognized traditional leader of an indigenous people or a group of peoples. They still appear as Kings and Queens according to their traditions and as authorized by the said agreements. They are Honorary Kings so to speak and as such absolutely genuine. They still appear as Kings and Queens according to their traditions and as authorized by the said agreements.

Although the authorities tend to cooperate with these traditional leaderships, they are, in most cases, not a formal part of the hosting government system nor are they authorized to exercise any real governmental powers and traditional leaders are not subject to international law.

Traditional leaders grants honorific titles to persons working within the leadership, corresponding to the ancient governmental, noble and royal titles used in the kingdom when it was a de facto or de jure sovereign entity. These titles are purely honorific and must not be understood or even used as titles of nobility or Royalty under international law.

### **Honorific Titles**

Honorific titles are generally a sign of respect, and run the gamut from everyday life, clergy and the monarchy to military and academia. Such titles may or may not be tied to a person's achievements; some connote a rank the individual has reached in society or within his organization, while others recognize contributions a person has made to a particular field.

All major Universities and Religions today bestow Honorary Degrees upon the Rich and Famous for huge sums of money they donate or bring through their association with that organization. Rarely will these major groups give equally deserving persons of lesser means such recognition.

A university may bestow the Distinguished Professor title to full professors to recognize exceptional academic achievement in a field. It may be based on teaching, reputation or scholarly work.

Anyone that has bestowed upon them the Degree of Doctorate whether it is accredited, or honorary, has the right to use the title of Doctor before their name. They have the right to be addressed as such. They have the right to place the title on letterheads, cards, and any form of written correspondence. They have the privilege

of meritorious a Honorary Degrees are also bestowed on persons that, through Life experiences, deserve recognition. It is often not the title that matters so much as the individual's right to be recognized.

The military often bestows military titles to non-personnel who have distinguished themselves either within or beyond the military.

Other titles, while honorific, reflect a status a person has achieved within a certain field of work. A judge is referred to as "your honor" as a sign of respect. "Captain" is another example of an honorary title that relates to respect, such as the captain of an airplane.

### **Fons Honorum**

In recent decades a degree of confusion seems to have developed over whom may bestow honors; this is at least partly due to the emergence of hundreds of false orders.

Today the legitimate founts of honorum who may bestow knighthood are the lawful heads of existing states, heads of non-reigning royal (sovereign) dynasties recognized at the time of the Congress of Vienna in 1814 (hence the numerous German dynasties but not the many soi-disant "pretenders" to the long-vacant Throne of Constantinople), the Holy See (the Papacy), certain de jure governments in exile, a few Orthodox Christian patriarchs and bishops, and the grand masters of a few historical military-religious orders of chivalry (the Order of Malta most notably).

We should also observe that these institutions, when they belonged to the dynastic wealth of previously reigning families, were able to reaffirm their position not only historically but also legally.

In fact, international law recognizes the institution of pretender to the throne, which arises if the *debellatio* is missing, i.e. the loss of sovereignty by waiving right to one's functions and relative prerogatives involved with exercising power, because the sovereign, no matter how he is dethroned, maintains the right to certain manifestations of reigning power: thus sovereign titles are due to the sovereign as such and his descendants, and remain thus even when he has lost his sovereignty over land, because sovereignty belongs to the family wealth (even if it is deprived of the *jus gladii*, i.e. the right to obedience by the subjects; the *jus majestatis*, i.e. the right to respect and honors due his rank; and the *jus imperii*, i.e. the power of command).

This means that a sovereign could be dethroned and banished from the country, but he could never lose his native qualities: thus the pretender to the throne arises, who maintains intact all the sovereignty rights as long as their application does not

obstacle the changed juridical-institutional position, while the others are suspended. Among the conserved rights is the *jus honorum*, i.e. the right to grant noble titles and ranks of knightly orders possessed or inherited that are part of the personal and dynastic wealth of the lineage.

When a knightly order conforms to international law, it has the legitimate right to grant honors on a par with any national State.

### **Episcopal "fons honorum"**

The **temporal power** of the Popes is the political and governmental activity of the Popes of the Roman Catholic Church, as distinguished from their spiritual and pastoral activity, which is also called *eternal power*, to contrast it with the Church's *secular power*.

The temporal power was abolished by Napoleon Bonaparte, who dissolved the Papal States and incorporated Rome and Latium into his French Empire. The temporal power was restored by the Great Powers at the 1815 Congress of Vienna. The Napoleonic civil laws were abolished, and most civil servants were removed from office. Popular opposition to the reconstituted corrupt clerical government led to numerous revolts, which were suppressed by the intervention of the Austrian army.



When Pius IX was elected pope in 1846, one of his first acts was to grant an amnesty to more than 2,000 political prisoners. In November 1848, following the assassination of his minister Pellegrino Rossi, Pius IX fled Rome. During a political rally in February 1849, a young Roman priest, the Abbé Arduini, described the temporal power of the popes as a "*historical lie, a political imposture, and a religious immorality.*" [Jasper Ridley, *Garibaldi*, p. 268]. On 9 February 1849, the newly-elected Roman Assembly proclaimed the Roman Republic (19th century). Subsequently, the Constitution of the Roman Republic abolished the temporal power, although the independence of the pope as head of the Catholic Church was guaranteed by article 8 of the "Principi fondamentali." Religious freedom was guaranteed by article 7, while the death penalty was abolished by article 5, and free public education was provided by article 8 of the "Titolo I".

At the end of June 1849, the Roman Republic was crushed by 40,000 French troops sent by Louis Napoleon Bonaparte (later Napoleon III), at the urging of the

rabid ultramontane French clerical party. The temporal power was restored and propped up by a French garrison.

During the civil war of the Italian reunification in March 1861 the first Italian Parliament declared Rome the capital of the Kingdom of Italy. The Papal States were annexed to the Kingdom of Italy on 20 September 1870. The Pope became a prisoner in Rome.

For practical purposes, the temporal power of the popes ended on 20 September 1870, when the Italian Army breached the Aurelian Walls at Porta Pia and entered Rome. This completed the Risorgimento<sup>1</sup>.

Negotiations for the settlement of the Roman Question (The Roman Question (Italian: *La questione romana*) was a political dispute between the Italian Government and the Papacy from 1861 to 1929) began in 1926 between the government of Italy and the Holy See, and in 1929 they culminated in the agreements of the three Lateran Accords, signed for King Victor Emmanuel III of Italy by Prime Minister Benito Mussolini and for Pope Pius XI by Cardinal Secretary of State Pietro Gasparri. The agreements were signed in the Lateran Palace, hence the name by which they are known.

Formally, the temporal power ended in 1929 with the treaty between the Vatican State and Italy (Concordat)<sup>2</sup>, when the papacy accepted to have no more interests on Italy, its closest neighbor, and therefore on any other country. Of course, the influence of the Vatican still is relevant and evident, even now, and is mostly considered as a spiritual voice. Some small degree of temporal power persists in the formal government of the Vatican City as an independent state.

In 1929 the Lateran Treaties created the state of the Vatican City and guaranteed full and independent sovereignty to the Holy See. The Pope was pledged to perpetual neutrality in international relations and to abstention from mediation in a controversy unless specifically requested by all parties. The Concordat established Catholicism as the religion of Italy. The financial agreement was accepted as settlement of all the claims of the Holy See against Italy arising from the loss of temporal power in 1870.

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<sup>1</sup> **Italian unification** (Italian: *il Risorgimento*, meaning *The Resurgence*) was the political and social movement that agglomerated different states of the Italian peninsula into the single state of Italy in the 19th century. Despite a lack of consensus on the exact dates for the beginning and end of this period, many scholars agree that the process began in 1815 with the Congress of Vienna and the end of Napoleonic rule, and ended in 1870 with the Capture of Rome.

<sup>2</sup> The **Lateran Treaty** was one of the **Lateran Pacts of 1929** or **Lateran Accords**, agreements made in 1929 between the Kingdom of Italy and the Holy See, signed on February 11, 1929, and ratified by the Italian parliament on June 7, 1929, settling the "Roman Question". Italy was then under a Fascist government; the succeeding democratic governments have all upheld the treaty. In 1947, the Lateran Pacts were incorporated into the democratic Constitution of Italy

## WHO CAN BESTOW THE ACCOLATE OF KNIGHTHOOD?



Technically, the reigning monarch is the sovereign of the Order and is in charge of making all appointments. On a more practical level, though, the monarch receives counsel and recommendations from the Secretary of State for Defense and the Secretary of State for Foreign and Commonwealth Affairs.

Membership in the Order of the British Empire is available for all sorts of reasons, from superlative civil or military service to artistic achievement to charity work. The longtime senator, Ted Kennedy, earned this recognition in part for his work as a peace advocate in Northern Ireland. But what does it really mean to become a knight?

Since 1917, the British government has been awarding notable citizens with spots in the Most Excellent Order of the British Empire. Although the Order was originally meant to honor top-notch civilian and military behavior during war, it quickly expanded to include peacetime achievements as well.

The Order has five separate ranks: Knight Grand Cross (Dame Grand Cross for women), Knight Commander (Dame Commander), Commander, Officer, and Member. Achieving one of the first two ranks earns a person a slot in the knighthood, which means they can add "Sir" or "Dame" to their names. All

members of the Order of the British Empire can add the initials of their rank to the end of their names, though, which is why you sometimes read about celebrities with ranks following their names, like "Roger Daltrey, CBE." □

## Ceremony

The accolade is a ceremony to confer knighthood that may take many forms including, for example, the tapping of the flat side of a sword on the shoulders of a candidate or an embrace about the neck.

In the first example, the "knight-elect" kneels in front of the monarch on a knighting-stool when the ceremony is performed. First, the monarch lays the side of the sword's blade onto the accolade's right shoulder. They then raise the sword gently just up over the apprentice's head and places it then on his left shoulder. The new knight then stands up after being promoted, and the King or Queen presents him with the insignia of his new order. **Contrary to popular belief, the phrase "Arise, Sir ..." is not use.**

There is some disagreement amongst historians on the actual ceremony and in what time period certain methods could have been used. It could have been an embrace or a slight blow on the neck or cheek. In knighting his son Henry, with the ceremony of the *accolade*, history records that William the Conqueror<sup>3</sup> used the blow.

The blow, or *colée*, when first utilized was given with a naked fist. It was a forceful box on the ear or neck that one would remember. This was later substituted for by a gentle stroke with the flat part of the sword against the side of the neck. This then developed into the custom of tapping on either the right or left shoulder or both, which is still the tradition in Great Britain today.

An early Germanic coming-of-age ceremony, of presenting a youth with a weapon that was buckled on him, was elaborated in the 10th and 11th centuries as a sign that the minor had come of age. Initially this was a simple rite often performed on the battlefield, where writers of Romance enjoyed placing it. A panel in the Bayeux Tapestry shows the knighting of Harold by William of Normandy, but the specific gesture is not clearly represented. Another military knight (commander of an army), sufficiently impressed by a warrior's loyalty, would strike a fighting soldier on the head or his back and shoulder with his hand and announce that he was now

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<sup>3</sup> **William I** (Old Norman: *Williame I*; circa. 1028 – 9 September 1087), usually known as **William the Conqueror** and sometimes **William the Bastard**, was the first Norman King of England, reigning from 1066 until his death in 1087. Descended from Viking raiders, he had been Duke of Normandy since 1035 under the title of **William II**. After a long struggle to establish his power, by 1060 his hold on Normandy was secure, and he launched the Norman conquest of England in 1066. The rest of his life was marked by struggles to consolidate his hold over England and his continental lands and by difficulties with his eldest son.

an official knight. Some words that might be spoken at that moment were *Advances Chevalier au nom de Dieu*.

In medieval France, early ceremonies of the *adoubement* were purely secular and indicated a young noble gaining the right to govern a fief. Around 1200, these ceremonies began to include elements of Christian ritual (such as a night spent in prayers, prior to the rite).

The increasingly impressive ceremonies surrounding *adoubement* figured largely in the Romance literature, both in French and in Middle English, particularly those set in the Trojan War or around the legendary personage of Alexander the Great.

In the Netherlands the knights in the exclusive Military Order of William (the Dutch "Victoria Cross") are struck on both shoulders with the palm of the hand, first by the Dutch monarch (if present) then by the other knights. The new knight does not kneel.

Today, The Queen (and occasionally members of the Royal Family on her behalf) confers knighthood in Britain. The knight-elect can be knighted at a public Investiture or privately.

The ceremony is similar: after his name is announced, the knight-elect kneels on a knighting-stool in front of The Queen who then lays the sword blade on the knight's right and then left shoulder.

After he has been dubbed, the new knight stands up, and The Queen then invests the knight with the insignia of the Order to which he has been appointed (a star or badge, depending on the Order).

By tradition, clergy receiving a knighthood are not dubbed, as the use of a sword is thought inappropriate for their calling.

Over the centuries, knighthood has evolved: it is no longer awarded solely for military merit, it cannot be bought and it carries no military obligations to the Sovereign. However, knighthood remains as a form of recognition for significant contributions to national life. Recipients today range from actors to scientists, and from school head teachers to industrialists.

Foreign citizens occasionally receive honorary knighthoods; they are not dubbed, and they do not use the style 'Sir'. Such knighthoods are conferred by The Queen, on the advice of the Foreign and Commonwealth Office, on those who have made an important contribution to relations between their country and Britain. Foreign citizens with knighthoods include the former US Secretary of Defense Caspar

Weinberger, Chancellor Kohl, President Mitterrand and Mayor Giuliani of New York, Senator Ted Kennedy.

### **How to become a noble**

Perhaps you always have dreamed of putting "Sir" or "Lady" in front of your name. You may have dallied with the thought of accepting a knighthood, but perhaps you wanted a title that came with land or a seat in parliament. With the number of monarchies in the world dwindling, you will probably need to move and change your citizenship, if you are not already living under a monarchy. Since Senator Kennedy isn't a citizen of the realm, his knighthood is honorary. He's not allowed to call himself Sir Ted, although if he so chooses, he can write his name out as Edward Kennedy KBE.

Kennedy's still in good company, though, as a number of notable figures have received honorary knighthoods. Bono, Bill Gates, Steven Spielberg, and Rudy Giuliani can all append "KBE" to their names if they so desire. Also, if an honorary knight later becomes a citizen of the realm, the honor is usually made substantive, or "bumped up" into real knighthood. Irish-born BBC personality Terry Wogan received an honorary knighthood in 2005, and when he became a British citizen later that year, he could start making people call him Sir Terry Wogan.

The custom of granting noble titles began well before Medieval times when society had very definite lines separating poor commoners from richer landowners. Many kings and queens believed that by bestowing a title upon certain subjects, this act would make them owe lifelong allegiance to the monarchy. Titles of nobility bestowed ranged from Lord and Lady, Count and Countess to Baron and Baroness, and Viscount and Viscountess. But in the 21st century, having a noble title may seem impressive, but in reality nobility does not guarantee an individual any tangible benefits.



Prince Juan Carlos of Spain favors artists and politicians when he is granting titles of nobility, but you will have to become a citizen of Spain in order to qualify for the lofty recognition of being granted the titles of Baron or Duke.

Learn Spanish and move to Madrid. King Juan Carlos of Spain still has the power to grant titles of nobility, and historically, he has chosen prominent politicians and artists. Become a citizen of Spain and excel in the arts or work your way up through regional parliaments to the federal senate. If you make it to Prime Minister and the king likes you, you are likely to get a title like baron or higher. Don Adolfo Suárez y

González was granted the title of First Duke of Suarez in recognition of his service as prime minister.



Becoming a subject of the British Empire is the second route to nobility. Queen Elizabeth II of Great Britain made Margaret Thatcher a baroness when she served as prime minister, but Tony Blair was not offered a title. You might have a better chance of getting yourself adopted by a childless noble family, however noble titles distributed in the past quarter century have been very scarce.

What makes becoming a noble in the United Kingdom tricky is that Queen Elizabeth II is only in the habit of granting new knighthoods lately, and technically, that's not a title of nobility. The only British citizens to have been offered new titles of nobility in the past few decades were all prime ministers, and that's a longer, harder road with less likelihood of becoming a noble than in Spain.



Noble's titles are given by King Albert II of Belgium on an annual basis, but only to Belgian citizens. Albert is known for honoring people in a wide range of occupations who have distinguished themselves, including statesmen, businessmen, athletes, scientists and entertainers.

You will need to move to Brussels and learn French. You may eventually have to learn Dutch/Flemish as well because it is spoken by most Northern Belgians. Once you have the languages mastered, you will need to become a Belgian citizen.



If you are looking on a title of nobility in Norway, Sweden, Denmark or the Netherlands, you just have to fall in love with the right person, someone who already has a noble title because these countries are no longer granting new titles, whether you are a state citizen or not.

The internet is full with various companies purporting to offer noble titles for a price, which can run into the thousands of dollars, but not all of these enterprises are legitimate. Your vanity may get you a certificate along with a noble sounding title but not anything else. Such titles are worthless and are not internationally recognition. These titles are not legitimate or authentic title of nobility.

## **No International Body Exists**

Although not recognized by any international treaty, some independent organization exists that seeks to provide criteria against which to judge Orders of Chivalry or Nobility, though neither their decisions nor the criteria they employs to reach those decisions are universally accepted. These Organizations have no standing in international law and may not be acknowledged by any present government.

Since no qualified international body exists to lay down guidelines by which to judge the legitimacy of orders of knighthood, and so long as these render worthwhile and measurable service there is no reason why they should not be socially tolerated. So long, of course, as they do not make false claims about their origins, do not pretend to be what they are not, and do not violate the laws of the countries in which they operate.

Certain other organizations (such as the Augustan Society, which states publicly that it is not a chivalric order) that may appear to have a chivalric character, nevertheless carefully distinguish themselves from legitimate orders of chivalry, thus differentiating themselves from self-styled orders.

For example, the highest Order of Chivalry in the power of the Vatican to confer is the most distinguished and rare Papal Order of Christ, yet the Order of Christ is not "recognized" within the boundaries of Great Britain, which is not a Roman Catholic country does not recognize this distinguished Papal Order. Great Britain "recognizes" the Vatican as a City-State and has exchanged ambassadors.

The Prince of Monaco confers, from time to time, the Order of Grimaldi, a most coveted knighthood, yet the distinguished dynastic and rarely-conferred Order is not "recognized" by any government other than Monaco itself.

There are a number of orders of knighthood, such as the Knights of Columbus, which have no background in chivalry, but are nonetheless worthwhile organizations. These are usually fraternal organizations. People in these organizations can be called knights, but it is not quite the same thing as being granted a title by monarch or historical order of chivalry.

The Knights of Columbus is the world's largest Catholic fraternal service organization. Founded in the United States in 1882, it is named in honor of Christopher Columbus. There are more than 1.8 million members in 15,000 councils, with nearly 200 councils on college campuses.

The Constantinian Order is recognized as a non-profit charitable organization in several nations (for example in Italy, the United States, the United Kingdom and Switzerland). Such recognition does not constitute a juridical position regarding its

history or the headship of the royal family. Most nations do not take a strong official position regarding headship of a non-regnant dynasty after the exiled sovereign is deceased, especially if diplomatic relations exist with a successor state. Over the years, both Infante Carlos and Prince Ferdinando have bestowed the Order of Saint Januarius (San Gennaro) and the Collar of the Constantinian Order on various pretenders and exiled monarchs. King Umberto II of Italy accepted both distinguished orders from the Neapolitan (not the Spanish) grand master.

To discourse about Chivalry and Knightly Orders today could seem out of date and in contrast with current political, philosophical and social orientation – fed and developed in logic of demagogic egalitarianism – which wants to deny History and Traditions.

### **Knights are not just a thing of the past**

There are a number of chivalric Orders that exist today. The British monarchy still grants knighthoods, as does the Papacy and the Knights of Malta (Order of St. John).

The Sovereign Military Hospitaller Order of Saint John of Jerusalem of Rhodes and of Malta (Italian: Sovrano Militare Ordine Ospedaliero di San Giovanni di Gerusalemme di Rodi e di Malta), also known as the Sovereign Military Order of Malta (SMOM), Order of Malta or Knights of Malta, is a Roman Catholic lay religious order, traditionally of military, chivalrous, noble nature. It is the world's oldest surviving order of chivalry. The Sovereign Military Order of Malta is headquartered in Rome, Italy, and is widely considered a sovereign subject of international law.

It is evident in all the different clubs and societies that are formed to attempt to recreate knighthood. We also see the honor of knighthood being cheapened, by titles being bestowed on undeserving individuals. In the meantime the true knights go largely unobserved, and unappreciated.

The traditional role of the knight was to defend the defenseless, to be pious in worship and in dealings with others, and to maintain one's personal honor above all costs. Such knightly values might seem out of place in the 21<sup>st</sup> century, with so much emphasis on money and materialism but a few individuals still believe life is truly not worth living unless it serves a higher purpose.

### **Recommendation**

We recommend to pay attention to the alleged institutions that are nothing more than pseudo-chivalric orders, which also wish to qualify as: Order of Malta, S. Sepulchre, S. John, Kings, Ecumenical, etc. Just to mention that most imitations rage, to mislead the unwary and adepts, by creating confusion in relation to the

legitimate Sovereign Military Order of Malta (SMOM), the Equestrian Order of the Holy Sepulchre of Jerusalem, the Sacred Military Constantinian Ord of Saint George, etc.

### Genuine Orders



#### **The Sovereign Military Hospitaller Order of Saint John of Jerusalem of Rhodes and of Malta**

(Italian: *Sovrano Militare Ordine Ospedaliero di San Giovanni di Gerusalemme di Rodi e di Malta*), also known as the Sovereign Military Order of Malta (SMOM), Order of Malta or Knights of Malta, is a Roman Catholic lay religious order, traditionally of military, chivalrous, noble nature. It is the world's oldest surviving order of chivalry. The Sovereign Military Order of Malta is headquartered in Rome, Italy, and is widely considered a sovereign subject of international (Official Web site:

<http://www.orderofmalta.int/?lang=en>). (Drawing Coat of Arms with special permit of the Author: Mathieu CHAINE)

#### **The Equestrian Order of the Holy Sepulchre of Jerusalem**



(lat.: *Ordo Equestris Sancti Sepulcri Hierosolymitani*, **OESSH**) is a Roman Catholic order of knighthood under the protection of the pope. It traces its roots to Duke [Godfrey of Bouillon](#), principal leader of the [First Crusade](#). In 1496, Pope [Alexander VI](#) created the office of Grand Master of the Order, and the office vested in the papacy. The office of Grand Master remained vested in the papacy until 1949. Since then a cardinal has been grand master. The Pope is sovereign of the Order, and it enjoys the protection of the Holy See and has its legal seat at Vatican City. (Official Vatican Web site:

[http://www.vatican.va/roman\\_curia/institutions\\_connected/oessh/index\\_en.htm](http://www.vatican.va/roman_curia/institutions_connected/oessh/index_en.htm)

(Drawing Coat of Arms with special permit of the Author: Mathieu CHAINE)

## The Sacred Military Constantinian Order of Saint George



The Sacred Military Constantinian Order of Saint Georges a Roman Catholic order of chivalry. It was fictively established by [Constantine the Great](#), though in reality it was founded between 1520 and 1545 by two brothers of the [Angeli Comneni](#) family. Members of the Angeli Comneni family remained grand masters throughout the sixteenth and seventeenth centuries. In 1699 [Francesco Farnese, Duke of Parma](#) was recognized as [grand master](#).

In 1731, his son and successor, [Antonio Farnese, Duke of Parma](#), died without male heirs. He was succeeded by the first Bourbon grand master Charles, Duke of Parma (later King [Charles III of Spain](#)). Since that time members of the [House of Bourbon](#) have been grand masters of the order.

Web site: <http://www.borbone-due-sicilie.org/>

And <http://www.realcasadiborbone.it/>).

## The Order of Saints Maurice and Lazarus



The Order of Saints Maurice and Lazarus is an order of chivalry awarded by the [House of Savoy](#), the heads of which were formerly [Kings of Italy](#). The order was formed by a union of the original [Order of St Lazarus](#) and the Order of Saint Maurice in 1572. The generally-accepted Grand Master of the Order is [Vittorio Emanuele, Prince of Naples](#), the current head of the House of Savoy. In 2006, Vittorio Emanuele's cousin, Amedeo of Aosta, declared himself Head of the Savoy dynasty and thus Grand Master de jure. For this reason the grand magistracy is now contested.

(<http://www.chivalricorders.org/orders/italian/maurice.htm> see also:

<http://www.savoydelegation-usa.org/>).

## Nobiliary laws and Regulations

In some countries the nobility is a subject of public law (Belgium, Finland, Netherlands, and in Spain only regarding the titled nobility). In other countries this is not the case, and then the nobility may have organized itself in one or more associations in order to have an institution to handle nobiliary issues. It is therefore of the utmost importance for every noble family to define and clarify under which legislation, or under which set of rules or regulations whether codified or not, they are a subject.

Nobiliary law is a complex and multi-faceted subject. It is often necessary to do extensive research in order to establish which rules apply to a specific noble family. A starting place can be to collect relevant literature from (or about) the country where the family is known (or believed) to have been ennobled (or first recognized as noble).

Maybe the most important thing to remember about nobiliary law is that it is not the same as public law. It may well be possible, according to national legislation, for a non-noble person to assume a noble surname, but this does not make him member of the nobility. A person can only be a member of the nobility if they are so according to nobiliary law, whether this is in harmony with public law or not.

## ORDERS OF CHIVALRY



The first Orders of Chivalry were formed during the 12th Century. The first of these was the Military Order of Malta. From this Order, others were formed such as the Order of Saint John (Knights Hospitaller) in 1080, the Military Order of the Temple of Jerusalem (Knights Templar) in 1119, the Order of Saint Lazarus in 1100, and the Order of Saint Mary's Hospital in Jerusalem (Teutonic Knights) in 1190.

These orders were groups of Knights who banded together to create their own fraternal organization. These organizations were either sponsored by the Monarch of their home countries, or by the Pope (who is a sovereign power of himself). Each member of their organizations typically took vows and in essence became warrior monks.

In 1291, when the last stronghold of Christendom fell to the Arabs, the missions of the Orders of Chivalry became obsolete. They now had neither hospital to run, pilgrims to protect, or mission to achieve. Some Orders, like the Teutonic Knights, survived because they had already settled in Eastern Europe. Others, like the Knights Hospitaller, conquered Malta and became a naval power and continued to wage war against the Arabs and later the Turks. Yet others, like the Knights Templar, tried to make a transition to become bankers (they also tried to merge with the Order of Saint John). However, because of their wealth, the French Monarchy falsely accused them of heresy and successfully disbanded the Order in 1312.



The Templar's' existence was tied closely to the Crusades; when the Holy Land was lost, support for the Order faded. Rumors about the Templar's' secret initiation ceremony created mistrust, and King Philip IV of France, deeply in debt to the Order, took advantage of the situation. In 1307, many of the Order's members in France were arrested, tortured into giving false confessions, and then burned at the stake. Under pressure from King Philip, Pope Clement V disbanded the Order in 1312. The abrupt disappearance of a major part of the European infrastructure gave rise to speculation and legends, which have kept the "Templar" name alive into the modern day.

The Sovereign Military Order of St John of Jerusalem, of Rhodes and of Malta, also known as the Order of Malta, the Order of St John of Jerusalem, or simply the Hospitallers, is a unique international confraternity. It is the only organization currently recognized, albeit by a minority of states, as quasi-sovereign. The Order of Malta is now dedicated to medical and charitable activities. The Teutonic Order became a simple religious order in 1929. The Order of Saint Lazarus split into two factions with one being protected by the French Crown and one protected by the House of Savoyard. The French faction was abolished by Louis XVI in 1791. There are many organizations today that claim to be descended from each of these orders.



Between 1335 and 1400, there was a rise in Monarchical Orders of Chivalry. Some of these orders still exist today. For example the Order of the Garter is an Order of Chivalry created by the British Crown. Over time, with the development of new ways to wage war, the Knights profession transformed into the modern soldier. With new technologies and the need for vast numbers of highly trained soldiers, the title of Knight became primarily honorific by the mid 1500's. By this time, only the Order of the Garter in England, the Order of the Golden Fleece in Spain, the Order of Annunziata in Savoy, and the Order of Saint Michael in France remained.

Because knighthood was more of a professional association, knights were not necessarily nobles. The noble class and the knightly class began to merge in the 12th century. In the 13th century heredity enters into the knightly class, and more and more nobles were being knighted, to include royalty, for example [Louis VI](#). With heredity being a part of knighthood, a son of a knight automatically became a squire and eligible for knighthood. By the late 13th century, laws were also enacted which greatly imposed restrictions on who could become a knight, for example the

Parliament in Paris forbade a count from making un free men knights without the approval of the king. In England, anyone who held land in a knight's fee could pay a tax if they did not want to become a soldier. Also, as an interesting note, knighthood in England did not become a hereditary class, as in the rest of Europe.

**Chivalric orders** are orders of knights that were created by European monarchs in imitation of the military orders of the Crusades. After the crusades, the memory of these crusading military orders became idealized and romanticized, resulting in the late medieval notion of chivalry, and is reflected in the Arthurian romances of the time.

**Chivalric Terminology.** "The terms are often confused, and often needlessly distinguished. The term knighthood comes from the English word *knight* (from Old English *cniht*, boy, servant, cf. German *Knecht*) while *chivalry* comes from the French *chevalerie*, from *chevalier* or knight (Low Latin *caballus* for horse). In modern English, chivalry means the ideals, virtues, or characteristics of knights. The phrases "orders of chivalry" and "orders of knighthood" are essentially synonymous.

The German translation for "knight" is *Ritter* (literally, rider). The Latin term in the Middle Ages was *miles*, since a knight was by definition a professional soldier. In modern times, the Classical Latin term *equus* was preferred."

Chivalry was a feature of the High and later Middle Ages in Western Europe. While its roots stretch back to the 9th and 10th centuries, the system of chivalry flourished most vigorously in the 12th and 13th centuries before deteriorating at the end of the Middle Ages. However, the ideals of chivalry continued to influence models of behavior for gentlemen and the nobility during the Renaissance in the 16th century.

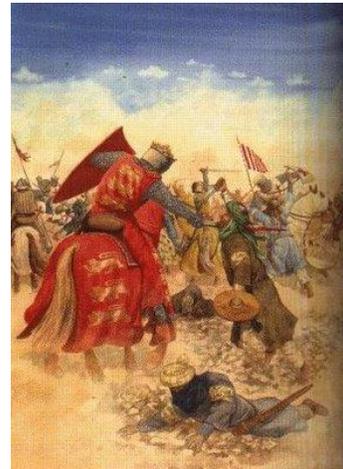
Chivalric ethics originated chiefly in France and Spain and spread rapidly to the rest of the Continent and to England. They represented a fusion of Christian and military concepts of morality and still form the basis of gentlemanly conduct. Noble youths became pages in the castles of other nobles at the age of 7; at 14 they trained as squires in the service of knights, learning horsemanship and military techniques, and were themselves knighted, usually at 21.

The ideal of militant knighthood was greatly enhanced by the Crusades. The monastic orders of knighthood, the Knights Templars and the Knights Hospitallers, produced soldiers sworn to uphold the Christian ideal. Besides the battlefield, the tournament was the chief arena in which the virtues of chivalry could be proved. The code of chivalrous conduct was worked out with great subtlety in the courts of love that flourished in France and in Flanders. There the most arduous questions of

love and honor were argued before the noble ladies who presided. The French military hero Pierre Terrail, seigneur de Bayard, was said to be the last embodiment of the ideals of chivalry.

### **Christianity and the Crusades**

The early Middle Ages had been a chaotic time in Europe. The Crusades were military expeditions undertaken by Christian knights to recapture from Muslim control the holy places of pilgrimage in Palestine, or the Holy Land. Although many knights enlisted in search of financial gain, military glory, and adventure, many were also moved by genuine religious enthusiasm. This enthusiasm was reflected in the founding of the military religious orders—the Knights Templar, the Teutonic Knights, and the Hospitallers. The members of these orders took religious vows and shared a common vision of recapturing the Holy Land for Christianity. These orders helped infuse chivalry with religious idealism.



The chief chivalric virtues were piety, honor, valor, courtesy, chastity, and loyalty. The knight's loyalty was due to the spiritual master, God; to the temporal master, the suzerain; and to the mistress of the heart, his sworn love. Love, in the chivalrous sense, was largely platonic; as a rule, only a virgin or another man's wife could be the chosen object of chivalrous love. With the cult of the Virgin Mary, the relegation of noblewomen to a pedestal reached its highest expression.

In practice, chivalric conduct was never free from corruption, increasingly evident in the later Middle Ages. Courtly love often deteriorated into promiscuity and adultery and pious militancy into barbarous warfare. Moreover, the chivalric duties were not owed to those outside the bounds of feudal obligation. The outward trappings of chivalry and knighthood declined in the 15th cent., by which time wars were fought for victory and individual valor was irrelevant. Artificial orders of chivalry, such as the Order of the Golden Fleece (1423), were created by rulers to promote loyalty; tournaments became ritualized, costly, and comparatively bloodless; the traditions of knighthood became obsolete.

**(Emperor Franz Joseph** in the robes of the Grand Master of the Most Illustrious Order of the Golden Fleece, one of the grandest orders of chivalry in the Empire and dedicated to St Maurice)

## The Legacy of Chivalry

In the 15th and 16th centuries, chivalric ideals and customs continued to survive among the European nobility. By this time their importance consisted largely of keeping alive the memory of the knight's warrior tradition and in serving as a mark of the nobility's social distinction. At the same time, literary figures throughout Europe began to utilize the code of chivalry to serve as a model for the nobility and gentlemen at court.

In Renaissance Italy, Baldassare Castiglione used his *Book of the Courtier*, published in 1528, to fashion his advice for men and women at court based on knightly etiquette. In the two centuries that followed, many writers fashioned similar advice for both courtiers and worldly gentlemen. By the beginning of the 19th century, the figure of the knight had become romanticized. Writers saw the knight as pioneering the concept of romantic love and representing the highest expression of Christian ideals and civility.

In the 19th century, romantic authors like Sir Walter Scott began to attribute modern manners to medieval knights. Their work shows the ongoing adaptation and vigor of the concept of chivalry, a concept that continued to undergo significant historical development long after the age of medieval knights had passed.

## Example of Chivalry

One of the greatest examples of chivalry in literature is Sir Gawain. He epitomizes the chivalric code. In the work, *Sir Gawain and the Green Knight*, Gawain received a test of his honor. In the midst of the New Year's celebration at King Arthur's Camelot, a man of mighty stature comes to challenge the Knights of the Round Table. This Green Knight comes to prove the honor and reputation of King Arthur's Court.



Medieval secular literature was primarily concerned with knighthood and chivalry. Two masterpieces of this literature are the *Chanson de Roland* (c.1098; see [Roland](#) and *Sir Gawain and the Green Knight*). Arthurian legend and the *chansons de geste* furnished bases for many later romances and epics. The work of Chrétien de Troyes and the *Roman de la Rose* also had tremendous influence on European literature. The endless chivalrous and pastoral romances, still widely read in the 16th cent., were satirized by Cervantes in *Don Quixote*. In the 19th cent., however, the Romantic Movement brought about a revival of chivalrous ideals and literature.

**Above: Louis XV, King of France from 1715 to 1774** King Louis XV of France (1710–1774) is shown wearing the royal robes. Around his neck are the collars and insignia of two orders of chivalry- the Spanish Order of the Golden Fleece, and the French Order of Saint-Louis. The white 8 pointed cross of the latter order was awarded to many Canadian soldiers during the French regime in Canada. (National Archives of Canada C604).

## **THE CRITERIA FOR ASSESSING THE VALIDITY OF ORDERS OF CHIVALRY**

According to the ancient teaching of the doctrine, the Sovereignty, in its full exercise, includes the explication of four fundamental rights:

1. JUS IMPERII, that is, the right to command;
2. JUS GLADII, that is, the right to impose obedience through command;
3. JUS MAJESTATIS, that is, the right to be honored and respected;
4. JUS HONORUM, that is, the right to award merit and virtue.

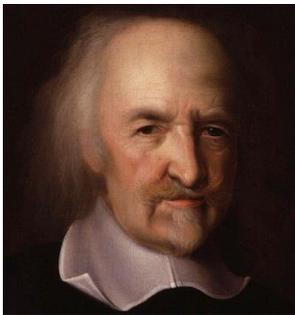
When a Monarch is turned out of the political domination of a territory, without him having made any act of abdication or of acquiescence of the new political order, he undergoes a “compression” of two of his rights (*jus imperii and jus gladii*), which he nevertheless preserves “in pectore and in potentia”, in his quality of claimant to the lost throne. On the contrary, he completely keeps the exercise of the other two rights (*jus majestatis and jus honorum*) which form his particular prerogative, called FONS HONORUM, deeply rooted in his sovereignty function, which explicates itself in the faculty to “create nobles and arm knights” in the Knight Orders of dynastic-familiar collation of his family.

This right is conveyed *jure sanguinis* to infinity, to one’s descendant, in the person of the “Chief of name and Arms of the Dynasty”, from which the principle of English public law “*Rex non moritur*” emanates, in the sense of a dynastic functional perpetuation of such Royal Prerogatives.

Historically, this is explained as the Monarch (absolute or constitutional Monarch) exerts a mandate “for grace of God”, bound to the theological principle “*omnis potestas a Deo*”. Because of its divine nature, this chrism can’t have any limits, as well as, likewise, the “Exiled Government” preserves the political mandate until it is revoked by a new free popular consultation.

The Monarch can lose “Prerogatives” only as consequence of a political capitulation, under the form of abdication, renounce, vassalage, acquiescence, all of which are called “*debellatio*”<sup>4</sup>.

Consequently, there follows a juridical distinction between “overthrown Monarchs” and “not overthrown Monarchs”, that is to say, between Monarchs who have accepted the new political Order, which involves the loss of any sovereign right of Pretension, and Monarchs who have suffered violent or fraudulent dethronement “*vim aut clam*”<sup>5</sup>: in this latter case, there is no loss of rights, on behalf of the fact that free consent is lacking, and as well as it happens in private law, violence, fraud and error impugns contract for nullity, In this sense, the doctrine, from the most ancient to the contemporary one, had expressed itself.



Formerly, the philosopher **Thomas Hobbes**, great follower of Bacon, asserted in his “Leviathan” (1651) that the Monarch, in losing the territory where he exerts the “*jus imperii*” and the “*jus gladii*”, preserves in full efficacy all the other rights related to his Sovereignty.

In fact, it is natural that the territory can’t be “subject”, but “object” of the Sovereignty, as the sovereign power is exerted upon it, therefore, being submitted to this power, the territory can’t be part of that same power.

The fact that the Sovereignty can be disjointed from the territory is confirmed by the juridical position of the S.M.O.M., of the Holy See since the 1870 “Concordat”, of the International Red Cross, of the Society of Nations, lately becomes United Nations.

During the seat of February, the 14th, 1951, Hon. Casinovo, in supporting the juridical position of the S.M.O.M. against the opinion of his opponent Hon. Nasi, in the Report to the law 3.3.1951 n. 178 at the Parliament, noticed:

"As far as the Sovereign Military Order of Malta is concerned, a juridical question has been raised, that is, whether the Sovereignty can exist without a territory on which it can be exerted. It seems to me that this problem can be nowadays considered as overcome because, actually, there are organs whose international

<sup>4</sup> *Debellatio*; complete subjection and incorporation in a foreign state; conquered people who dissolved leaving no one to assert their rights as a people; totality of military defeat (esp. by the extinction of functioning government structures)

<sup>5</sup> *Interdictum quod vi aut clam*” is a Latin term meaning, “interdict because of force or stealth”. It refers to an interdict issued against a person who forcibly or secretly changed a claimant’s property. The interdict also requires the defendant to restore the property to its previous condition.

juridical personality is not only acknowledged, but which also have a Sovereignty and do not exert any government on a territory, like, for instance, the International Red Cross and the United Nations.

There are therefore, with full acknowledgement in the international field, International Juridical Personalities, absolutely devoid of territory, as well as "Sovereign Orders", without subjects or territory."

Some authors have expressed themselves in conformity with the theories of Thomas Hobbes, like Savaron in the "Treaty of the sword", Gaufredus in "De bello loco", P. Onorato do Santa Maria in his "Historic and critic dissertation upon ancient and modern chivalry"; more recently, Santi Romano (Constitutional Law-Padua-Cedam-1932); Piero Chimienti (Constitutional Law-Turin-Utet-1933); Oreste Ranelletti (Institute of public law-Padua-Cedam-1934); Vincenzo Orsini (La giurisprudenza-Milan-Giuffrè-1936) Giovanbattista Cauca (It. Digest 1923) and Giorgio Cansacchi and Gorini Causa-University of Turin; Bascapè-University of the Holy Heart in Milan.

Bascapè asserts exactly:

"The princely Family once Sovereign preserves its dynastic character and it's Chief "preserves the title and the attributes of the last defeated Monarch, with the title of Claimant"."

Such principles are confirmed by opinions of famous jurists, as dr. Ercole Tantarri, once First President of the Court of Cassation, who was joined by prof. Leonardo Puglionisi, teacher of canon law at the University of Rome, and dr. Raimondo Jannitti-Piromallo, Section President of the Court of Cassation (Journal of Heraldic and Genealogy n. 7-12 Dec. 1954) who also writes: "The Sovereignty is a perpetual quality, indelibly connected and linked in the centuries to the whole descendance of the one who first conquered or claimed it, and fulfills itself in the physical person of the Chief of Name and Arms of the Dynasty, independently from any other consideration or inquiry of political, juridical, moral or social nature which might be made about him, and which, as History teaches, can't influence its Sovereign quality."

In the person of the defeated Monarch, beside the legitimate exercise of the Grand Mastership of his Knight Orders, there remains that special indelible quality that makes him "fons honorum".

That juridical concept refers to an old canon of nobility law, according to which nobility is a "quality" before than a "title". Therefore, even in the not acknowledgment of nobility titles on the part of the republican order; it remains an indelible historical reality.

## **Professor Emilio Furno**

Professor Emilio Furno an advocate in the Supreme Court of Appeal writes as follows “The Legitimacy of Non-National Orders”, *Rivista Penale*, No.1, January 1961, pp. 46-70:

“There are not a few judgments, civil and criminal, albeit some very recent, all of which tend as a rule to the acceptance of traditional principles re-enunciated not long since. The issue is that of innate nobility - *Jure sanguinis* - which looks into the prerogatives known as *jus majestatis* and *jus honorum* and which argues that the holder of such prerogatives is a subject of international law with all the logical consequences of that situation. That is to say, a deposed Sovereign may legitimately confer titles of nobility, with or without predicates, and the honorifics which pertain to his heraldic patrimony as head of his dynasty.

The qualities which render a deposed Sovereign a subject of international law are undeniable and in fact constitute an absolute personal right of which the subject may never divest himself and which needs no ratification or recognition on the part of any other authority whatsoever. A reigning Sovereign or Head of State may use the term recognition in order to demonstrate the existence of such a right, but the term would be a mere declaration and not a constitutive act.” (Furno, *op.cit.*). A notable example of this principle is that of the People’s Republic of China which for a considerable time was not recognized and therefore not admitted to the United Nations, but which nonetheless continued to exercise its functions as a sovereign state through both its internal and external organs.

The prerogatives which we are examining may be denied and a sovereign state within the limits of its own sphere of influence may prevent the exercise by a deposed Sovereign of his rights in the same way as it may paralyse the use of any right not provided in its own legislation. However such negating action does not go to the existence of such a right and bears only on its exercise (*op.cit.*)”

The author concludes:

“To sum up, therefore, the Italian judiciary, in those cases submitted to its jurisdiction, has confirmed the prerogatives *jure sanguinis* of a dethroned Sovereign without any vitiation of its effects, whereby in consequence it has explicitly recognized the right to confer titles of nobility and other honorifics relative to his dynastic heraldic patrimony. In particular it has defined the above mentioned honorifics, among which are those non-national Orders mentioned in Article 7 of the (Italian) Law of the 3rd. March 1951 which prohibits private persons from conferring honors. As to titles of nobility, while their bestowal is legitimate, it must be observed that they receive no protection whatsoever from Italian law,

which no longer recognizes statutory nobility, in accordance with the principles enshrined in the Constitution of the Republic. Thus, the concept of the usurpation of a nobiliary title fall outside of Italian legislation”.

However, the conferring of a title of nobility may be legitimized and validated by a decision of the judiciary (op.cit.) as has been done in the instance of the above-mentioned judgment of the District Court of Bari of 13th March 1952 in the case of the State vs. Umberto Zambrini. The study by Professor Furno may be complemented by researching the material in the pertinent study by Advocate G. Pensavalle de Cristoforo: “Questions on the deliberations of the Magistracy” (Secolo d’Italia, 28th February 1959) and in that by Professor Renato de Francesco: “The legitimacy and validity in Italy of non-national chivalric Orders” (Rome. 1959).

### **Prof. V. Powell-Smith**

Prof. V. Powell-Smith writes (Submission cit. and « The Criteria for Assessing the Validity of Orders of Chivalry « (Nobilitas », Malta, 1970):

“...there is no valid reason, legal or historical, to define Sovereign status by reference to 1814 or any date at all. The Congress of Vienna merely effected the settlement of Europe after the Napoleonic Wars, and nothing more. Changes in the political structure of Europe have occurred since the Congress of Vienna: for example, the establishment of the Balkan kingdoms and the unification of Italy and the sovereigns of these kingdoms acted as fontes honorum. The purpose of the Congress of Vienna was to reorganize the territorial boundaries of European states. Certain states, the existence of which had been effectively terminated the by Napoleonic settlement were not re-established but were integrated into larger units, the sovereign princes willingly accepting such an arrangement which retained their rights as princes but removed their former territorial rights (the case being of numerous small German principalities). The rights of fontes honorum not represented or discussed at the Congress (because they had no interest in its decisions which related to de facto territorial adjustments) could not have been affected by what was decided at the Congress or later arguments *ex silentio* on the question”.

### **Professor Dr. W. Baroni Santos,**

Doctor D'état (post-doctorate/ habilitation) from the University of Reims in France in his book "Treaty of Heraldry and Nobility Law" Volume II page 52:

"Neither the elapsed time, even for centuries, or non-use of the Acts of Sovereignty exercised by the Prince Pretender, Head of Name and Arms of his house, may be derogated, prescribed or canceled. He/she retains these rights until the end of

times 'ad *perpetuam rei tenendam*' which are inserted in the person of Prince Pretender."

### **Archbishop Iginio Eugenio Cardinale**

Eugenio Cardinale (born 14 October 1916 - died 24 March 1983) was a titular archbishop of Nafta, Tunisia and apostolic nuncio to Belgium and Luxembourg.

He was ordained a priest on 13 July 1941 and ordained bishop on 20 October 1963. He served as apostolic delegate to Great Britain in 1963-1969, and as nuncio to Belgium and Luxemburg in 1969-1983. He served as apostolic nuncio to the European Community 1970-1983. Since 1963, he bore the title of Titular Archbishop of Nepte (Nafta, Tunisia). He was the author of a book on Vatican honorary decoration: "*Orders of Knighthood, Awards and the Holy See*, 3rd edition, edited and revised by Peter Bander van Duren, 1985, Buckinghamshire)

"Dynastic orders of a reigning Royal House do not belong to the crown as Head of State, and a monarch who is forced into exile can take the Dynastic Orders with him or her and continue to bestow them, because they were originally instituted to reward personal services to the Head of the Dynasty or the Royal House (not to the kingdom as a nation necessarily). On his death, the grand-mastership normally passes to the heir". Archbishop H. E. (Hyginus Eugene, a Pope Pius XII's advisor) Cardinale, a foremost international and canon lawyer, always maintained and counseled the Holy See that a monarch, although may abdicate as sovereign of his country (renouncing the legal pretension over a throne) does not renounce the Grand-mastership (*jus majestatis*) or sovereignty over the dynastic orders of the knighthood (Fons Honorum – Fountain of Honors) and his possible renunciation of the grand-mastership is not binding on his legitimate heirs who have inherit rights of which they cannot be deprived. However, the renunciation is valid when made in accordance with Family or Dynastic Laws if there is no heir living who would otherwise have inherent rights" (Page 217).

"A sovereign in exile, and after him his legitimate heirs and successors as Head of the Dynasty or Grand Master, continue to enjoy the *ius collationis*, the right to confer honors, and therefore continue lawfully to bestow honors, provided the Order itself is extant. Unless the Order was given in perpetual trusteeship to the Dynasty by the Apostolic See, no authority can deprive them of the right to confer honors, since the prerogative belongs to them as a lawful personal property by *iure sanguinis* – right of blood and both its possession and exercise are inviolable." (Ibid. p. 218)

"A sovereign monarch can give or surrender a Dynastic Order to the Crown which is a separate legal entity, and with this act it belongs to the State, and then becomes a State Order in the sole possession of that State." (Ibid. p. 218)

## Prof. Noel Cox



Professor Noel Cox is Professor of Law and Head of Department of Law and Criminology, at Aberystwyth University, United Kingdom, the oldest law school in Wales. His major field of research interest is aspects of the Crown, State, and sovereignty. His work has been published in the USA, the UK, Canada, Australia, the Netherlands, Japan, New Zealand, and elsewhere.

Noel Cox writes (*The principles of international law governing the sovereign authority for the creation and administration of Orders of Chivalry*):

“Firstly, every sovereign prince (or, subject to their respective constitutions, the president or other official in a republican state) has the right to confer honours, in accordance with the constitutional framework of the state. These honours should be accorded appropriate recognition in all other countries under the usual rules of private international law.

Secondly, an exiled Sovereign retains the right to bestow honours, dynastic, state or whatever else they may be styled. This right extends to their lawful successors in title, even for several generations. Appointments may continue to be made, unless this has been expressly prohibited by the successor authorities of the state, or the Order has become obsolete. It also follows that an exiled or former Sovereign may continue to make appointments to an Order which is also governed by the new regime, thus creating a separate, though related, Order. Whilst an exiled Sovereign may in some circumstances establish a new Order of chivalry, he or she may only do so whilst they remain generally recognised by the international community as the *de jure* ruler of his country. His or her successors will not have this right to create new Orders, excepting in those rare instances where the son or further issue of an exiled Sovereign has been generally recognised by the international community as the rightful ruler of their country. Only *de jure* Sovereigns (including their republican equivalents) may create Orders of chivalry.

Thirdly, the international status of an Order of chivalry depends upon the municipal law of the country in which it was created. There can be no international Orders as such, shorn of dependence upon the municipal laws of a state. Principles four, five and six together indicate that sovereign Orders are not generally possible, with recognition however being extended to the Sovereign Military Order of Malta. The Order of Malta depends upon its own unique history, and, at least in part, its recognition by the Holy See and by secular princes. Any pretended “sovereign” Order is nothing more than a voluntary society or association, and members should not wear any insignia or use any styles or titles to which they may be entitled outside the private functions of such groups”.

## What is « *fons honorum* »?

The **fount of honor** (Latin: *fons honorum*) refers to a person, who, by virtue of his or her official position, has the exclusive right of conferring legitimate titles of nobility and orders of chivalry to other persons.

During the High Middle Ages, European knights were essentially armored, mounted warriors; it was common practice for knight commanders to confer knighthoods upon their finest soldiers, who in turn had the right to confer knighthood on others upon attaining command. For most of the Middle Ages, it was possible for private individuals to form orders of chivalry. The oldest existing order of chivalry, the Sovereign Military Order of Malta, was formed as a private organization which later received official sanction from church and state.

The 13th century witnessed the trend of monarchs, beginning with Emperor Frederick II (as King of Sicily) in 1231, to reserve the right of *fons honorum* to themselves, gradually abrogating the right of knights to elevate their esquires to knighthood. After the end of feudalism and the rise of the nation-states, orders and knighthoods, along with titles of nobility (in the case of monarchies), became the domain for the monarchs (heads of state) to reward their loyal subjects (citizens) – in other words, the heads of state became their nations' "*fountains of honor*".

Many of the old-style military knights resented what they considered to be royal encroachment on their independence. The late British social anthropologist, Julian A. Pitt-Rivers, noted that "while the sovereign is the 'fount of honor' in one sense, he is also the enemy of honor in another, since he claims to arbitrate in regard to it." By the early thirteenth century, when an unknown author composed *L'Histoire de Guillaume le Marechal* (a verse biography of William Marshal, 1st Earl of Pembroke, often regarded as the greatest medieval English knight)) Richard W. Kaeuper notes that "the author bemoans the fact that, in his day, the spirit of chivalry has been imprisoned; the life of the knight errant, he charges, has been reduced to that of the litigant in courts."

### Legality of honor

The question whether an order is a legitimate Chivalric order or a self-styled order coincides with the *fons honorum*. A legitimate fount of honor is a person or entity that held sovereignty when the order was established. The Official Website of the British Monarchy states: "As the 'fountain of honour' in the United Kingdom, The Queen has the sole right of conferring all titles of honour, including life peerages, knighthoods and gallantry awards."

The Papal Orders of Chivalry comprise eight orders awarded by the Pope. An additional eleven orders are under their jurisdiction or protection. According to Catholic Encyclopedia, "...the reigning emperor in his lifetime is alone the fount of honor..." "The Holy See is the sovereign authority and the Pope, as Bishop of Rome is its highest executive, affording to them the equivalent role of Emperor"

### **Modern application**

Official orders are conferred with the sanction of a sovereign state. Ultimately, it is the authority of the state, whether exercised by a reigning monarch or the president of a republic that distinguishes orders of chivalry from private organizations. Private individuals, whether commoners, knights, or noblemen, no longer have the right to confer titles of nobility, knighthood or orders of chivalry upon others.

In the United Kingdom, where the fount of honor is the monarch, currently Queen Elizabeth II, some private societies (such as the Royal Humane Society) have permissions from the monarch to award medals which may be worn by those in uniform provided the private society's medal is worn on the right-side rather than the usual left. In the United Kingdom it is the authority of the monarch that confers honours and peerages not the authority of the state. In France, however, with very few exceptions, non-government orders and medals are not allowed to be worn at all. In Spain the fount of honor is King Juan Carlos as the head of state.

In practice the « *ius honorum* » (right to grant honors, notably nobility) is materialized in a « *fons honorum* ». In the monarchies it's confided to the Sovereign on hereditary basis, as emperor, king, prince, grand duke, etc... In case of deposition, the deposed sovereign or a pretender to the throne who succeeds him by hereditary right (*ius sanguinis*) stays possessor of *fons honorum*. Although in general unknown, presidents of republics are also possessors of *fons honorum* for the time of their mandate. In the officially democratic systems of government, it is the people themselves who are truly sovereign and who possess *ius honorum*, the right to grant honors which are granted in their name by a *fons honorum* which is confided to a constitutional sovereign or a president of a republic.

What is "*fons honorum*" (fount of honor – right to grant honors)? The extent and contents of *fons honorum* (according to particular traditions, epochs, places and customs, include honorary distinctions of merit or other titles. This encompasses orders of knighthood, nobility, titles of nobility linked or not to a peerage, noble titles devoid of nobility *stricto sensu*, recognized coat of arms, etc...

Republics generally abstain from granting nobility and titles of nobility. Nevertheless there are several remarkable exceptions in the instances of the ancient republics of Bologna, Genoa, Florence, Venice, and also today the « Republic of San Marino » of which the Head of State has always retained the

prerogative of granting titles of nobility. But that is a dormant right. Likewise sometimes the French Republic exceptionally recognizes titles of nobility, and might decide as all republics to grant nobility, as the Republic of San Marino in the XXth century, but today dormant in the XXIth century.

The Sovereign was and is the first and most exclusive right and honor (*quod principi placuit legis habet valorem*), and all highest powers are centered in this figure. These are also called the “prerogatives of the crown” and can be summarized as follows:

- a) *Jus imperii, i.e. power of command;*
- b) *Jus gladii, i.e., right to obedience by his subjects;*
- c) *Jus majestatis, i.e., right to receive defense and honors;*
- d) *Jus honorum, i.e., right to award, grant honors, noble and knightly dignities, or to invest others with the power to grant said honors.*

In current public law, sovereignty lies with the State or, as we all know, with the people legally organized to govern a land. By saying people, we mean “all” the people, in the same way it is organized in nature with the various classes being distinct from each other, each one formed of groups of similar, able or unable, gregarious or leaders, favored or frowned upon by fortune or society.

The concession of a noble title in Italy is not a prerogative of the State today, but is for virtue of the merits recognized of the person by the prerogatives and discretion of the pretender prince to the throne.

The recognition is granted to people who have distinguished themselves for their actions in favor of the Sovereign House, for independent valorous or charitable deeds, and for the recognition of private or public good deeds, which have touched the sensitivity of the Pretender Prince, and do not depend on the relationships with the public or the country the person belongs to.

This concept has always been taken on by the ex-reigning Houses who have lost their throne further to final occupation of the territory: in this case, as the situation of *debellatio* is not applied, the figure of the Pretender Prince to the throne has emerged.

The Sovereign abandons the country, but he does not lose his rights to sovereignty, or to be precise, he conserves intact certain prerogatives, which he can still exercise, while others are suspended. Without doubt, among the prerogatives he conserves intact there is *Jus honorum*, the right to grant noble titles and honors in knightly orders that are part of the wealth of the Crown.

If a current noble title is deserved and born well, it is equal to those received in past centuries, as anything is current in the moment it is acquired: this noble title is emanated by the Sovereign prerogative (*rex nobilem tantum facere potest*), and the Sovereign is in the position of an “object” faced with a “subject”; therefore the noble title does not have “antique” origins but “dative”. Its use and transmission are governed by the investiture deed through the “Letters Patent”.

Therefore a Princely House, previously Sovereign, is always considered a Dynasty and the current Head of Name and Arms conserves the titles, prerogatives, and dues of the last dethroned sovereign, with the name of Pretender Prince, previously Royal Highness, Imperial Highness, or Serene Highness.

In the XIV transitory disposition of the Italian Constitution, noble titles have never been abolished, simply they are not recognized, but the fact they are not recognized just means that republicans are not interested in titles, that they are private wealth before being historic. The Constitutional Assembly could not deprive citizens of an inborn right, because it would be the same as if a law were approved in the future that cancelled certain surnames.

Therefore the ordinary Magistracy is the only authority which, regarding the safeguard of the most jealously kept and delicate of human rights – our name – has the task and power to ascertain the legal noble *status* of a person, and declare the right to include the *status* in the surname, as established by the XIV transitory and final disposition of the Constitutional Decree.

The International Arbitration Tribunal, established under Italian and International law, issues a sentence ascertaining the right to noble titles, predicates and legitimacy of the noble coat of arms.

The sentence issued by the International Arbitration Tribunal is a first-degree sentence under Italian law, once an execution decree has been issued by the President of an ordinary tribunal, pursuant to art. 825 of the Italian Civil Procedure Code. The extract of the sentence and the decree by the president of the ordinary tribunal are published in the Official Gazette.

This sentence is irrevocable under Italian Law, and can be executed, within the limits established by international law, within those States that signed the New York Convention on 10th June 1958. Likewise the sentence establishes that on the confirmation and baptism certificates, the title and predicate can be included.

A noble who wishes to freely use his title, has no need to be recognized and, less still, to be registered in the Gold Book or other “Official” Lists of Italian nobility. The fact the person is not registered does not mean he cannot continue to use his

title, as long as it is true, thus reaching a clear distinction between “existing title” and “recognized title”.

What counts is the effective concession of the title and legal possession by the person or family; possession which must be proved by historic, genealogical, legal and canon documentation. The person must possess the appointment deed (letters patent and decree) that proves the claimed right to nobility, so that he does not need to be recognized and, less still, to be registered in the various lists.

Noble titles granted by the Head of Name and Arms of a Dynasty, to be received and born, do not require any registration in the registers of the ex-Heraldic Consulta, nor in the various Official Lists, or lists in the current Gold Books held by private associations (The Heraldic Council), as those noted pursuant to the Order of the Italian Nobiliary State refer exclusively to titles granted or recognized by the Savoy Family and subsequently those by the Vatican, recognized further to the Agreement of 11th February 1929.

## **PUBLIC OR PRIVATE "FONS HONORUM"**

In actual practice in the XXith century there exist several classes of public or private « *fons honorum* » with an extent more or less important according their legality or their legitimacy. Let us examine the prerogatives of *fons honorum* only from the point of view of a right to grant nobility and titles of nobility:

-*Fons honorum* of first class: reigning sovereign of a State whose Constitution sanctions the power to ennoble and to confer a title, without ever granting special privileges to those entitled in democracy.

-*Fons honorum* of 2d class: a deposed sovereign after a change of constitution or revolution etc...without abdication.

-*Fons honorum* of 3d class or private *fons honorum*: whereby a pretender to the succession to the throne of a State before 1814 (Congress of Vienna) under an absolute monarchy when the sovereigns, had a *fons honorum iure sanguinis*, or the pretender to a throne after 1814, heir to a deposed sovereign.

-*Fons honorum* of 4th class : an hereditary and aristocratic association or society, one or the other private or recognized (*de jure* or *de facto*) by the State when it's a matter of a republic or a monarchy not foreseeing or no longer granting titles of nobility by the Head of the State and refuses to grant or allow foreign titles to its citizens, without specifically forbidding the granting of such titles by aristocratic groups within the country in the name of the people, who always implicitly possess

the *ius honorum* that it delegates explicitly or implicitly, with or without recognition of the State. The level of legality and /or legitimacy is evidently linked to the national Constitution, at the status of Head of State: or of ancient monarch, or of pretender, or finally at the nature and content of the *fons honorum*. The Republic of the United States of America abstains to confer or recognize nobility and noble titles coming from foreign sovereigns or powers.

### **There was and there are still Republics conferring nobility and titles of nobility**

The United States of America refuses to grant titles of nobility and forbid to its fellows citizens to accept titles from abroad. But nevertheless there is an American *Fons honorum sui generis* which is not linked to the United States of America as a nation state. We find it in the National Official Peerage Registry which is the product of an American nonprofit association « The United States Presidents Center, Inc. ». The customary basis and especially its legal claim for this particular *fons honorum* take one's inspiration broadly from the ancient Republic of San Marino.

This Republic of San Marino has granted nobility and titles of nobility since the XVIIth century. Its *fons honorum* emanates from the people of San Marino themselves represented by its representatives in the Council of Sixty (or Grand General Council) which is a higher expression of Executive Power.

This Sovereign Council confides its *Fons Honorum* to the two Captains Regents and the Congress of State said also the Council of the Twelve which is the Government. So the noble honors of San Marino come really from the nation. These titles of nobility are granted only to non-citizen foreigners for services rendered. They are symbolically attached to precise places, villages or towns of the territory without being linked to any property ownership. That resembles the British system of peerage, and to a lesser degree the French system, generally accompanied by a genuine property.

### **Now we find here below the American Constitutional basis.**

The American system of honors is relatively close to this model in many aspects. First let us note that in the United States of America, the Constitution completely denies to the nation state any rights to grant titles of nobility and furthermore forbids its citizens from accepting any titles of nobility from any foreign sovereigns or powers.

The article 1, section 9, clause 8 of the American Constitution stipulates *that « No title of Nobility shall be granted by the United States , and no person holding any Office or profit or Trust under them, shall, without the consent of Congress , accept and retain any present, pension, office or emolument of any kind*

*whatever, from any emperor, king, prince or foreign power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them, or either of them. »*

The article 1, section 10, confirms: « *No state shall...grant any title of nobility. »*

Now let us see an element of the legal doctrine:

*« The TONA (Titles of Nobility amendment) does not say anything about domestic titles of nobility- only those which might be issued by foreign powers. Even if it might be seriously contended that attorneys and others hold special « honours » or privileges by virtue of their positions, the language of this proposed amendment probably would not apply if such titles were to be issued by federal or states governments ». (Congress, and most state legislatures, are otherwise precluded from issuing domestic titles of nobility, as Article I, Section 9, clause 8 , of the original Constitution makes clear).*

Let us examine the consequences. The article 1, section 9, clause 8 and 10 of the American Constitution forbids to the United States (and evidently the states of the Federation) to grant notably titles of nobility, and forbids also to the American citizens from accepting or bearing such titles coming from foreign sovereigns or powers except for the permission of the Congress, which is never given. The sanction is heavy : the loss of citizenship.

It's important to define with precision what we comprehend by « title of nobility». At the time « under the English law » the nobility is strictly defined and verifiable. As the Blackstone's explanation in 1760, the usual noble titles in use were limited to duke, marquis, earl, viscount and baron. It's significant to see the definition to exclude royal titles of king or prince as well as lower titles such as knight which are not hereditary. We see also, that the title of squire or esquire is excluded.

See Blackstone quoted by Carlton F.W. LARSON, *Titles of nobility, Hereditary privilege, and the unconstitutionally of legacy presences in public school admissions* , article in Washington Law Review, Vol.84, n°6, 2006, pp. 1376 -1440.

[Carlton F. W. Larson](#) . University of California, Davis - School of Law [Washington University Law Review, Vol. 84, No. 6, 2006 UC Davis Legal Studies Research Paper No. 122](#)

### **Abstract:**

This Article argues that legacy preferences in public university admissions violate the Constitution's prohibition on titles of nobility. Examining considerable evidence from the late eighteenth century, the Article argues that the Nobility Clauses were not limited to the prohibition of certain distinctive titles, such as "duke" or "earl," but had a substantive content that included a prohibition on all

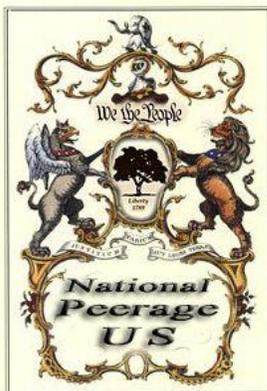
hereditary privileges with respect to state institutions. The Article places special emphasis on the dispute surrounding the formation of the Society of the Cincinnati, a hereditary organization formed by officers of the Continental Army. This Society was repeatedly denounced by prominent Americans as a violation of the Articles of Confederation's prohibition on titles of nobility. This interpretation of the Nobility Clauses as a prohibition on hereditary privilege was echoed during the ratification of the Constitution and the post-ratification period.

This Article also sets forth a framework for building a modern jurisprudence under the Nobility Clauses and concludes that legacy preferences are blatantly inconsistent with the Constitution's prohibition on hereditary privilege. Indeed, the closest analogues to such preferences in American law are the notorious "grandfather clauses" of the Jim Crow South, under which access to the ballot was predicated upon the status of one's ancestors. The Article considers a variety of counterarguments supporting the practice of legacy preferences and concludes that none of them are sufficient to surmount the Nobility Clauses' prohibition of hereditary privilege.

On the other hand according the well-known juridical adage: « what isn't forbidden is allowed ». So, for instance, in the USA nothing prevents the *creare motu proprio* for oneself and to bear titles of nobility. It is evidently a lie of the higher ridicule. It would be moreover punishable if this title serves evidently to commit swindles. But more seriously it is not forbidden, and it is therefore permitted to all American association legally constituted to be erected in private *fons honorum* (of 4<sup>th</sup> class) and to grant titles of nobility.

## **The United States of America accepts *de facto* American nobiliary honours from private sources.**

### **O.N.P.R.**



The Official National Peerage Registry (ONPR) under the nonprofit running "The United States Presidents Center, Inc." deals of these questions. It's a fully self-governing and independent organization which isn't associated with any local or foreign government. It considers that "from time immemorial, ancient or modern, the titles of nobility were taken unilaterally, and by this very fact acquired by a self-proclaimed authority, or given by those whose on their own authority seize of the power to act so." This article will demonstrate that there are a great deal other reasons less summary to award an authentic *fons honorum* to the Official

National Peerage. This one is inspired partly by a prestigious American order, The Order or Society of Cincinnatus.

### The Order of Cincinnatus



[The Order or Society of Cincinnatus](#) makes use of a private “*fons honorum*” prestigious and respected. It was instituted the 10 of May 1783 by the officers of the American Army presided by no less than General George Washington. In 1783, two years after the end of hostilities of the War of Independence, a group of ancient officers founded a private organization entitled the Order of Cincinnatus. This name comes from the famous Roman general Cincinnatus who returned to his farm and to his plough when war finished.

The Order gathers so at the origin the companions of Washington and Lafayette and their descendants because the Order is hereditary. The title of member of the Order was limited to the men who were been officers of the Continental Army and the Navy for a specific period of time, although the Order had also the power to elect members *honoris causa*. The Society was divided in local societies (including a French section) in every American states. It greeted also French officers who had served during the Revolution. In the course of the centuries the goal of the Order was to retain a memorial of the War of Independence which was born the Nation.

(Picture above: Baron von Steuben)

Another goal was to promote the fraternity, the friendship and the mutual aid among the ancient officers. In practice it was an American order of hereditary knighthood which abstained to say its name. The Order had two remarkable characteristics. First the members borne as a chain an azure ribbon with a white border which was suspended a golden eagle wearing on the heart a locket with the image of Cincinnatus. This sort of emblem was typical similar to that worn by British nobility, particularly baronets. Then it's the particularity that people become member on hereditary account in the lineage of the elder at each generation following the rules of the primogeniture. For lack the title was passed on the eldest son of the closer collateral branch of the eldest branch. The first member admitted might be an officer of the Continental Army or of the Navy if it had served as far the end of the War of Independence with honor and a minimum of three years of service. It was the same for the officers of the French allied forces in the regiments of Rochambeau and De Grave. The order admits also new American or foreign member's *honoris causa*. The Executive Federal Power wasn't invest in the Society. But in 1890 the U.S. Congress voted a law permitting military hereditary members of the United States of America to wear on their uniform the emblem of

the Order of Cincinnatus and other military hereditary organizations, if there are ex officio members of these association or brotherhoods, on the occasion of ceremonies also official. (See the Act of Sept.25, 1890-26, Stat.681) it's a recognition de facto At the time of Independence, Count of Mirabeau considered that the formation of the Order of Cincinnatus was "...the creation of an actual patriciate or of a military nobility."

### **The American hereditary societies**

From XVIIIth to XXIth century a part of the people of the United States of America aspires with an underlying manner to have grow within a specific nobility and aristocracy. We find clearly the trace of them in these prestigious 200 hereditary societies which were born from 1637 ( for instance the first society " Ancient and Honorable Artillery Company of Massachusetts") in passing Hob QHh g by the prestigious Order of Cincinnatus ( 1783) which followed the Declaration of Independence the 4 of July 1776. And finally we see the birth of the Official National Peerage Registry the 20<sup>th</sup> of July 2006 which confers unofficially the nobility and titles of nobility on the sons of America and on their foreign friends.

All these societies are generally founded to commemorate important historical and patriotic events, and also to do the memorial of American wars, victories and acts of heroism. They remind also to do the founders of the country which the pioneers at the basis of the birth of many American states. Finally people finds there genealogical societies gathering together particularly the descendants of a great deal of American personalities.

These societies are all formed by hereditary members in direct line or for want collateral line passing on the quality of member more often by the men and the rule of the primogeniture, as in the European nobility, and sometimes also by the women at the manner of the lineages of the participate of the Ancient Continent. Let us add generally the members *honoris causa* distinguished for one reason or other. It's really a nobility and aristocracy de facto that the Legislative Federal Power has besides recognized in 1890 (Act of Sept.25, 1890- 26 Stat. 681) permitting at the American servicemen to wear on their uniform the emblems of the Order of Cincinnatus or other hereditary military organizations on the occasion of ceremonies as for as they are ex officio members of these organizations. If the State authorizes its servicemen to wear the hereditary distinctions, it's a fortiori a recognition de facto of these societies not only for the servicemen but also for the civilians for which it's self evident because it's no authorization to ask.

### **The House of Lords**

Likewise the titles conferred by the House of Lords of the National Peerage Registry on no account hereditary privileges. In fact this hereditary society is

widely open to all persons of American nationality fulfilling the required conditions. It's really the American nationality or for want of all foreigners friends of the U.S.A., adhering to the aristocratic ideal but also democratic of the Society, and having proved it's attachment to the country with possible familial connections for the foreigners.

In fact, writes the Official National Peerage, "...in all time, modern and ancient, all original Titles of Nobility were unilaterally seized and thereby acquired with self-proclaimed authority, or issued by those who unilaterally seized the authority to do so." In other words from time immemorial appeared *fontes honorum* spontaneous, as notably the Order of Cincinnatus which confers hereditary honors The Official National Peerage Registry pursues underlining that "... no political power, waiver of law, or special privilege of any kinds is hereby granted or conveyed except the moral, ethical, social, aesthetic, and philosophical status which may naturally and rightfully accrue to a genuine, legal and hereditary Title of Nobility."

### **The legitimacy of the private *Fons honorum* of the Official National Peerage Registry**

The O.N.P.R. is certainly removed from the classical "*fons honorum*" (*fontes honorum* as plural). Nevertheless it is possible to speak of the *fons honorum* of the ONPR. as a lesser but still authentic "*fons*". "The sole legal, official absolute authority to issue legal Tiles of Nobility within the borders of the United States of America shall hereby reside with the undersigned representatives of the Official National Peerage Registry. " (ONPR status) More precisely this organization possess actually an House of Lords currently composed of the first three founding members identified as the Lords Chancellors. The *fons honorum de facto* of the institution is in their hands. They decide who is admitted to the new American Aristocracy through the ONPR. The letters patent begin by the words: "We , the People...", the first words of the Constitution of the United States of America. So we understand clearly that the *ius honorum*, or right to grant honors, symbolically belongs to the American People. It is in that right that this House of Lords acts. Thereby they confer and register nobility accompanied by a hereditary title of baronet, baron, count or earl, marquis and duke with a peerage associated with a land of the United States of America, the more often symbolically honored by the title, without any transfer of property.

### **The Aristocracy at the service of the People**

This *fons honorum* takes root first in the American People. But for the People there exists several legitimate ways to delegate power, both unofficially and officially. The most wide spread is situated evidently in the democratic system. But so everywhere the democracy in the U.S.A. is also supported in subject manner by an aristocracy which possesses a real unofficial power, supported by the customs and also

sometimes official founded on laws. For instance the military academies of officers as West Point opened by priority to the children of veterans. In the USA also the aristocracy at the service of everybody is the power of the best. To a certain extent it's de facto complementary of the principal and official power of the sovereign People.

The aristocrats from America or anywhere else justify their power in the final instance at the service of the sovereign People. They are the best because they possess intensely the quality and the excellence. They belong to the elite in the noble sense of the term. In fact the only sense of the aristocracy is to be at the service of the people. It doesn't betray the fundamental principle of the equality of all at the level of the right. The equality isn't the uniformity and it's obvious that differences exist amongst the men. It's normal that the excellence and the rendered services were rewarded. So, for instance, to create a *fons honorum* is fully pertinent to honor the best and to thank them for the rendered services by titles of nobility.

### **The full legitimacy of the private *Fons Honorum* of the ONPR**

The House of Lords of the ONPR is thus composed of the three founding dukes. These Lords Chancellors are agents in name of the people of an unofficial and customary incipient *fons honorum* in the legal and definitive absence of a completely different *nobiliary fons honorum* that would otherwise emanate from the federal United State of America or from the fifty states that now comprise that Union. The legitimacy of the ONPR is founded on both the American right of association and also on international nobiliary customs and laws, particularly Western Europe and British, without any neglect of the Constitution of the United States of America.

### **The profile of the ONPR *fons honorum***

By way of conclusion we can now sketch the profile of the principal private *fons honorum* of the United States of America in nobiliary matters.

1° The *ius honorum* is the legal and / or customary right to confer nobility and titles of nobility or nobiliary. It is the privilege of the American People, at least symbolical.

2° For want of any other institution, the Official National Peerage Registry (ONPR) has become the holder of the principal American private *fons honorum*. It is a direct product of the nonprofit association: "The United States Presidents Center" (U.S.P.C. or The Center), 3 Coburn Hill, POB 65, Warren Center –PA18851/USA.

3° The responsibility of this private *fons honorum* is confided to the House of Lords of the ONPR. It is the responsibility of its Lords Chancellors (or the three duke founders in 2006).

4° These three lords coming from the new American aristocracy collegially confer the nobility and titles of nobility as “domestic titles”, that is to say internal and private, on the American citizens and eventually on foreigners with substantiated ties to that Nation.

5° According the American Constitution the Federal State and the various federated states have not right to grant or accept nobility nor titles of nobility, moreover the citizens are forbidden from accepting titles from any foreign sovereigns or powers. But according to jurisprudence the ONPR can legally confer, in a private capacity, nobility and titles (precisely domestic titles of nobility) , purely as a private organization.

So the House of Lords of the ONPR confers in its private capacity the nobility and titles of nobility as baronet, baron, viscount, count or earl, marquis and duke. They are all symbolically attached to a territory within the United States of America: place, village, county, town..., according the classic system of the British peerages. There may not be more than one titled noble of a given place at a given time.

6° No privileges are attached to these titles or to the peerage as an institution. The public bearing of these honors is permitted in the U.S.A., and also sometimes abroad according to the national legislations.

7° The customary and legislative basis of this private *fons honorum* are the following:

- ✓ The Western European nobiliary customs, particularly British customs, still in use in the XXIth century.
- ✓ The customs and traditions linked to the American hereditary societies, particularly the Order of Cincinnatus.
- ✓ The ancient and actual laws of the Republic of San Marino as model of its *fons honorum*.
- ✓ The federal American law of 1890 (Act of Sept.25, 1890- 26 Stat.681) concerning the hereditary societies, and ipso facto its *fons honorum*.
- ✓ The American jurisprudence system linked to the constitutional “nobility clauses” centered “on the domestic titles of nobility”, titles granted by private “*fontes honorum*” (“fontes”, plural of “fons”)
- ✓ The “missing” (proposed) 13<sup>th</sup> Amendment of the Constitution, said TONA , which inspired the “noble clauses” of the Article 1 of the American Constitution.

- ✓ The Constitution of the United States of America, art.1, section 9, clause 8, and section 10.
- ✓ The motto of all nobilities is first "Serve and maintain".

(Bibliography: Carlton F.W. LARSON, *Titles of nobility, Hereditary privilege, and the unconstitutionally of legacy presences in public school admissions*, article in Washington Law Review, Vo.84, n 6, 2006, pp. 1376 – 1440).

## NOBILIARY LAW

The defined nobiliary law as "national legislation, or international or national customs, regulating nobiliary issues. In many cases this is not codified, but rather a set of rules and traditions having gained acceptance"

In principle, nobiliary law should govern matters such as inheritance of titles, but varying practices in different regions create difficulties. In the Two Sicilies, for example, succession through female lines was not unknown, but in the Kingdom of Italy, where it was not automatic, a decree or descript was necessary to permit it. Today, the heirs to the kings are reluctant to issue decrees in matters of this kind.

Examples of some of the more important issues regulated by nobiliary law are: Claims to nobility (surname, coat of arms, title) by non-noble persons. This could, but must not, include: children with one or two noble parents but born out of wedlock; stepchildren to noble parents; children to a noble lady in an agnatic family, etc.

- ❖ Claims to nobility by noble persons, where the claims cannot be automatically verified. This could be e.g. the inheritance of a noble title in a junior line of the family when the senior line becomes extinct.
- ❖ Borderline cases, such as which among the ancient patrician families were, and were not, to be numbered among the nobility. Or the reactivation of a family's nobility after some time of voluntary or involuntary loss of nobility
- ❖ The naturalization of foreign nobility, which is the assimilation of immigrant nobility into the domestic nobility, usually with the purpose of ensuring the foreign nobility the same privileges as the domestic.
- ❖ Heraldry and more specifically the use of certain symbols usually reserved for the nobility, such as coronets of nobiliary rank, the use of supporters, etc. Also marshaling of arms, that is the proper combination of two or more coats of arms due to marriage between two noble families, and similar issues may be regulated.

In some countries the nobility is a subject of public law (Belgium, Finland, Netherlands, and in Spain only regarding the titled nobility). In other countries this is not the case, and then the nobility may have organized itself in one or more associations in order to have an institution to handle nobiliary issues such as those mentioned above. It is therefore of the utmost importance for every noble family to define and clarify under which legislation, or under which set of rules or regulations whether codified or not, they are a subject.

Nobiliary law is a complex and multi-faceted subject. It is often necessary to do extensive research in order to establish which rules apply to a specific noble family. A starting place can be to collect relevant literature from (or about) the country where the family is known or believed to have been ennobled or first recognized as noble.

Perhaps the most important thing to remember about nobiliary law is that it is not the same as public law. It may well be possible, according to national legislation, for a non-noble person to assume a noble surname, but this does not make them members of the nobility. A person can only be a member of the nobility if they are so according to nobiliary law, whether this is in harmony with the public law or not.

### **Legitimacy in the International**

In recent years the question of the legitimacy of international law has been discussed quite intensively. Such questions are, for example, whether international law lacks legitimacy in general; whether international law or a part of it has yielded to the facts of power; whether adherence to international legal commitments should be subordinated to self-defined national interests; whether international law or particular rules of it – such as the prohibition of the use of armed force – have lost their ability to induce compliance (compliance pull); and what is the relevance of non-enforcement or failure to obey for the legitimacy of that particular international norm?

**(Legitimacy in International Law Series: Beiträge zum ausländischen öffentlichen Recht und Völkerrecht , Vol. 194)**

### **International Governance become administrative**

Authors **Nico Krisch and Benedict Kingsbury** argue that international governance has become increasingly administrative. The international legal order has changed. It is no longer adequate to think of the international legal order in terms of inter-state, consent based law. In the classic notion of international law, norms are agreed upon by states, and states were free to accept or reject these laws. **In order to be effective, international laws needed to be ratified and implemented at the domestic level.**

**Prof. Benedict Kingsbury**, Director of the Institute for International Law and Justice, works on the issues of indigenous peoples and directs the Program in the History and Theory of International Law and the Global Administrative Law Project.

**Nico Krich**. After studies in law and international relations in Berlin, Geneva and Heidelberg, he has received a Ph.D. in law from the University of Heidelberg. He also holds the Diploma of European Law of the Academy of European Law in Florence, Italy. Nico is the author of "Selbstverteidigung und kollektive Sicherheit" (*Self-defense and Collective Security*, 2001) and of several articles on the United Nations collective security system, on the use of force in international law, on international and European human rights law, and on the role of the United States in international law. He is currently pursuing projects on the role of constitutionalism in a fragmenting legal order, on hegemony in international law, and on global administrative law).

### **The basis for the legitimacy of international law is changing.**

International law used to be considered legitimate when it rested on the agreement of sovereign states. Domestically, however, states were free to organize institutions as they saw fit. However, it has become less important for states to ratify and implement international law. Domestic institutions are subject to international regulations that they did not officially agree to.

### **International law comes from new sources.**

International regulation now flows from sources other than states. Sources like public-private or even purely private institutions now serve to create global law. Additionally, international judicial bodies define and extend international law. At one time, international regulation generally counted as "formal law" when it originated in agreements among states. However, it no longer makes sense to limit the term "law" to formal state agreements or widespread conventional practices. Increasingly, non-state actors are involved in coordinating and regulating global activity.

"It should also be clear that, whereas national laws aim to provide clear-cut definitions or criteria, their validity extends only to their own borders. One country may well be indifferent to, or even recognize, what another calls bogus. A case in point is the various orders of Saint John recognized by their national governments (Britain, Germany, and Netherlands) but not by others (France) or, until the early 1960s, by the Catholic Order itself".

<http://www.heraldica.org/topics/orders/legitim.htm>

### **International law comes from four sources:**

1. Treaties and agreements;
2. Customary law;
3. General principles of law common to major legal systems; and
4. Judicial decisions and scholarly teachings.

Treaties and customary law have equal authority as international law. If they conflict, the “last in time” rule operates, meaning that whichever came into force most recently takes precedence. When treaties and customary law are not helpful, one may then consult general principles, which most frequently come into play to determine procedural matters. If an issue cannot be resolved after examining these sources, decision makers should then consult scholarly articles and judicial opinions.

However, overburdened judges often rely on scholarly works as definitive evidence of customary international law or general principles instead of conducting independent assessments of primary sources.

### **Customary International Humanitarian Law**

Customary International Humanitarian Law addresses customary international law, and specifically, customary IHL. Customary law is “international custom, as evidence of a general practice accepted as law,” resulting from “a general and consistent practice of states followed by them from a sense of legal obligation.” Thus, a principle is considered customary law if many states across the world feel legally obliged to follow that principle. This sense of legal obligation is commonly referred to as *opinio juris*.

Traditionally, customary law is meant to reflect the world as it actually exists and is not intended to reflect aspirations or ideals. Knowing that international and domestic judges are likely to treat this listing similarly to the way American judges treat restatements of common law.

### **RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES**

§ 102 (1987) (recognizing as sources of international law treaties and agreements; customary law; and general principles of law); see Statute of the International Court of Justice art. 38, June 26, 1945, 59 Stat. 1055, 1060, T.S. No. 993 (recognizing that the International Court of Justice (ICJ) can use “judicial decisions and the teachings of the most highly qualified publicists of the various nations” to decide disputes).

There are a plethora of multilateral treaties which address the issue of IHL, but not all states are parties to every treaty and a majority of the treaties only pertain to

international conflict. The division between international and non-international conflict dates to the Geneva Conventions, some of the few treaties to which every state is a party. The Geneva Conventions, with the exception of the very vague and general Common Article, only apply to international conflict.

(Geneva Conventions consist of four treaties formulated in Geneva, Switzerland, that set the standards for international law for humanitarian concerns. These four treaties are the basis for humanitarian law across the world). [http://en.wikipedia.org/wiki/Geneva\\_Conventions](http://en.wikipedia.org/wiki/Geneva_Conventions))



Signing of the Geneva Convention of 22 August 1864.

The First Geneva Convention was instituted at a critical period in European political and military history. Between the fall of the first Napoleon at the Battle of Waterloo in 1815 and the rise of his nephew in the Italian campaign of 1859, the powers had maintained peace in Western Europe. Yet, with the [conflict in the Crimea](#), war had returned to Europe, and while those troubles were "in a distant and inaccessible region" northern Italy was "so accessible from all parts of western Europe that it instantly filled with curious observers;" while the bloodshed was not excessive the sight of it was unfamiliar and shocking. Despite its intent of ameliorating the ravages of war the inception of the First Geneva Convention inaugurated "a renewal of military activity on a large scale, to which the people of Western Europe... had not been accustomed since the first Napoleon had been eliminated."



The movement for an international set of laws governing the treatment and care for the wounded and prisoners of war began when relief activist **Henri Dunant**<sup>6</sup> witnessed the Battle of Solferino in 1859, fought between French-Piedmontese and Austrian armies in Northern Italy. The subsequent suffering of 40,000 wounded soldiers left on the field due to lack of facilities, personnel, and truces to give them medical aid moved Dunant to action. Upon return to Geneva, Dunant published his account *Un Souvenir de Solferino* and, through his membership in the Geneva Society for Public Welfare, he urged the calling together of an international conference and soon helped found the International Committee of the Red Cross in 1863.

The International Committee of the Red Cross, while recognizing that it is "primarily the duty and responsibility of a nation to safeguard the health and physical well-being of its own people," knew there would always, especially in times of war, be a "need for voluntary agencies to supplement... the official agencies charged with these responsibilities in every country." To ensure that its mission was widely accepted, it required a body of rules to govern its own activities and those of the involved belligerent parties.

On August 22, 1864 several European states congregated in Geneva, Switzerland and signed the First Geneva Convention:

1. Grand Duchy of Baden (now Germany)
2. Kingdom of Belgium
3. Kingdom of Denmark
4. French Empire
5. Grand Duchy of Hesse (now Germany)
6. Kingdom of Italy
7. Kingdom of the Netherlands
8. Kingdom of Portugal
9. Kingdom of Prussia (now Germany)
10. Kingdom of Spain
11. Swiss Confederation
12. Kingdom of Württemberg (now Germany)

Norway and Sweden signed in December.

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<sup>6</sup> **Jean Henri Dunant** (May 8, 1828 – October 30, 1910), also known as **Henry Dunant**, was a Swiss businessman and social activist. During a business trip in 1859, he was witness to the aftermath of the Battle of Solferino in modern day Italy. He recorded his memories and experiences in the book *A Memory of Solferino* which inspired the creation of the International Committee of the Red Cross (ICRC) in 1863. The 1864 Geneva Convention was based on Dunant's ideas. In 1901 he received the first Nobel Peace Prize together with Frédéric Passy.

Not only was it the first, it was also the most basic and "derived its obligatory force from the implied consent of the states which accepted and applied them in the conduct of their military operations." This first effort provided only for:

1. The immunity from capture and destruction of all establishments for the treatment of wounded and sick soldiers,
2. The impartial reception and treatment of all combatants,
3. The protection of civilians providing aid to the wounded, and
4. The recognition of the Red Cross symbol as a means of identifying persons and equipment covered by the agreement.

Despite its basic mandates it was successful in effecting significant and rapid reforms.

Due to significant ambiguities in the articles with certain terms and concepts and even more so to the rapidly developing nature of war and military technology the original articles had to be revised and expanded, largely at the Second Geneva Convention in 1906 and [Hague Convention](#) of 1899 which extended the articles to maritime warfare. It was updated again in 1929 when minor modifications were made to it. However, as Jean S. Pictet, Director of the International Committee of the Red Cross, noted in 1951, "the law, however, always lags behind charity; it is tardy in conforming with life's realities and the needs of humankind," as such it is the duty of the Red Cross "to assist in the widening the scope of law, on the assumption that... law will retain its value," principally through the revision and expansion of these basic principles of the original Geneva Convention.

### **The legal basis of titles and honors**

In the UK, titles and honors are not merely matters of social convention. There is, for example, a defined procedure for determining whether somebody is a baronet, and a correct answer to whether a member of one Order of Chivalry takes social precedence over a member of another. These issues are determined by what is known as *nobiliary law*. Questions of nobiliary law may be difficult to answer, particularly because some rulings are of great antiquity and not easy to follow. However, they are, for the most part, questions which do have definite answers which can be researched, rather than matters of social preference.

On the whole, nobiliary law is not to be found in statute. Although there is a small body of statute law which applies to titles and honors, the creation, recognition, and grant of titles of honor is technically one of the *prerogative powers of the Crown*. Prerogative powers are the vestiges of the archaic powers of the monarch to rule by proclamation, rather by the procedures of Parliament. In practice, the exercise of prerogative powers is now by 'the Crown', which is that uniquely English constitutional phenomenon in which the monarch acts on the

"instructions" of the Government of the day. So, in practice, new titles are conferred by the Queen or by the Prime Minister of the day. In theory, it lies in the power of the Crown to create not just new title-holders, but whole new titles. This has happened in the past, of course -- in the immediate post-Conquest era there was only the rank of baron; all the other classes of peerage are more recent creations.

Regulations governing titles and honors are usually formally instituted by letters patent or royal warrant, signed by the monarch, and in many cases countersigned by a minister to indicate that ministerial advice has been given.

One statute that is important is the Honors (Prevention of Abuse) Act (1925). This Act makes it a criminal offence to offer, or to accept, money or other reward to obtain the grant of a dignity or title of honor. In the medieval past, however, there is no doubt that noble status was attendant on wealth, particularly in the form of land. A person who had acquired a sufficiently large estate could petition the monarch for a peerage. In practice, Prime Ministers do reward their long-term supporters with honors and peerages, and this support may take the form of money.

Although peerages cannot be bought or sold in the UK, titles of nobility may have been salable in other jurisdictions. You may sometimes come across people offering to sell French and German titles. Apart from pointing out that these titles would confer no particular status in English law. Of course, since the reform of the House of Lords a hereditary English peerage probably carries no more extensive *legal* rights in the UK than does a hereditary French one.

## **DYNASTIC ORDER OF KNIGHTHOOD**

There are many dynastic orders of knighthood, which exist primarily in Europe. Today, dynastic orders include those still bestowed by a reigning monarch, those bestowed by a head of a royal house in exile, and those that have become extinct.

Although it is sometimes asserted that the heads of former reigning houses retain the right to their dynastic orders but cannot create new ones, that view is challenged by others who believe that the power to create orders remains with a dynasty forever. In a few cases, formerly reigning families are accused of "fudging" the issue by claiming to revive long extinct orders or by changing non-dynastic *state orders* into dynastic ones. One example of this is the Order of Saint Michael of the Wing which is sometimes described as a revival of a long dormant

order last awarded in the eighteenth century but also described as a new order created in 2004. Another example concerns the Royal Order of Francis I of the Kingdom of the Two Sicilies. One branch of the family (led by Prince Carlo, Duke of Castro) claims that the Order of Francis I was attached to the crown not the state, and thus awards it's as a dynastic order. The other branch (led by Infante Carlos, Duke of Calabria) regards the Order of Francis I as a state order that became extinct when the Borbon-Two Sicilies royal family accepted the abolition of their monarchy and the state's inclusion in the Kingdom of Italy. Finally, there is the example of a Russian pretender Maria Vladimirovna who published a *decree* on 20 August 2010 to create the entirely new *Imperial Order of the Holy Great Martyr Anastasia*.

Although some former royal families and their supporters claim that Roman Catholic Church formally recognizes their right to award various orders, the Vatican denies all such assertions. On 16 October 2012, the Vatican Secretary of State renewed its formal announcement that it only recognizes the orders issued by the Pope, namely: the Supreme Order of Christ, the Order of the Golden Spur, the Pian Order, the Order of Saint Gregory the Great, and the Order of Pope Saint Sylvester, plus the Sovereign Military Order of Malta – also known as the Sovereign Military Hospitaller Order of Saint John of Jerusalem of Rhodes and of Malta – and the Equestrian Order of the Holy Sepulchre of Jerusalem. The Secretary of State declared "other orders, whether of recent origin or mediaeval foundation, are not recognized by the Holy See. To avoid any possible doubts, even owing to illicit issuing of documents or the inappropriate use of sacred places, and to prevent the continuation of abuses which may result in harm to people of good faith, the Holy See confirms that it attributes absolutely no value whatsoever to certificates of membership or insignia issued by these groups, and it considers inappropriate the use of churches or chapels for their so-called 'ceremonies of investiture.'

### **House Order**

An order of knighthood which belongs to a reigning monarch or the head of a former royal family is generally called a dynastic order or a house order. These orders are frequently seen as part of the patrimony of the Royal Family involved. Unlike military, religious, and merit orders supported by existing sovereign states, dynastic orders were created to reward service to a monarch or his family. An example of this difference is seen between the Royal Victorian Order, which is a personal gift of the sovereign (and thus is a *dynastic* order), and the Order of the British Empire, which is bestowed by the sovereign on the basis of recommendations by the Prime Minister (and thus is a *national* order).

Dynastic orders are under the exclusive control a monarch and are bestowed without the advice of the political leadership (prime minister or cabinet). A recent

report by the British government mentioned that there is "one remaining exercise that has been identified of the Monarch's truly personal, executive prerogative: that is, the conferment of certain honors that remain within her gift (the Orders of Merit, of the Garter, of the Thistle and the Royal Victorian Order)." Generally, dynastic or house Orders are granted by the monarch for whatever reason the monarch may deem appropriate whereas other orders, often called Merit Orders, are granted on the recommendation of government officials to recognize individual accomplishments or services to the nation.

The term dynastic order is also used for those orders which continue to be bestowed by former monarchs and their descendants after they have been removed from power. For instance, the website of Duarte Pio de Bragança, a pretender to the throne of Portugal using the title Duke of Braganza, asserts that the Order of the Immaculate Conception of Vila Viçosa, "being a Dynastic Order of the House of Bragança and not an Order of State, continued to be conferred by the last King Dom Manuel II, in the exile. "On the basis of his succession to King Manuel II, Duarte Pio continues to award those orders of the Kingdom of Portugal which were not taken over by the Portuguese Republic. The Portuguese Republic views things somewhat differently, regarding all the royal orders as extinct following the 5 October 1910 revolution with some of them revived in republican form in 1918. For official purposes, Portugal simply ignores the orders awarded by the royal pretender, Duarte Pio. Although no one is prosecuted for accepting orders from Dom Duarte, including himself, Portuguese law requires government permission to accept any official award, either from Portugal or foreign powers, and the awards of Dom Duarte simply do not appear anywhere on either list.

A similar situation exists in Italy where the Republican Government regards the orders of the former kings to have been abolished but the last king's heir continues to award them. The Italian situation differs from that in Portugal in that Italy forbids the public wearing of the former royal orders in Italy. Nevertheless, the last Italian Crown Prince Vittorio Emanuele di Savoia widely distributes the orders that he claims to have inherited from his father. As is the situation in Portugal, the Italian pretender asserts that control of the Savoy dynastic orders exists separate from the Kingdom of Italy so that he retains the right to award the orders, and accompanying privileges, despite his recognition that "the Italian throne was formally abolished by referendum in 1946 and a republic was instituted in its place."

### **Dethroned European Dynasties**

There are several European Dynastic cases of non-regnant royal families that have claimed dynastic headship even though they are not lawfully entitled to do so. We refer at this point to those dynasties that have been deposed in the nineteenth or

twentieth centuries, rather than those long-extinct ones for which fraudulent pretenders emerge from time to time. The longer that a dynasty is non-regnant, the more likely it is that questions of the headship.

Dethroned European dynasties continued to enforce their house laws until after World War I, even though they had no legal authority to do so. Some continued doing so through the 20th century (Bourbon-Sicily, Prussia, Wurttemberg). Governments in extant monarchies, without calling the legal mechanisms house laws, have generally strengthened their control over the marriages of members of their royal families since the second half of the 20th century. Previously a prince could often morganatically marry a woman not deemed acceptable as a royal consort, relegating her and their children to a sub-royal status. That is rarely an option anymore. In most Western European monarchies of today, a prince must renounce or forfeit membership in the royal family if his chosen spouse is not deemed suitable.

### Nobility in Italy



An entirely different state of affairs exists in Italy. The abolition of the Papal States, the Kingdom of the Two Sicilies, the Grand Duchy of Tuscany, the Duchies of Parma and Modena, and the incorporation of the Austrian dependencies in Northern Italy into a united Italian Kingdom, led to the establishment of a new national nobility, with an attempt (not wholly successful) to impose a uniform nobiliary law.

Italian nobiliary practices cannot be compared directly to those of other countries, such as Scotland or Russia. Even within Italy, regional differences must be considered because until circa 1870 the nation did not exist as a politically unified state.

Until the 19th century, the peninsula we now call Italy was made up of many city-states. These independent nations exist under successions of various invading empires of the French, Turks, Germans, Austrians and Spanish. The individual states, although sharing a small geographical space, were each culturally unique. They spoke separate dialects, worshiped in different churches and had unique attitudes. The cultural movement of the 16th and 17th centuries created a sense of nationalism within the future Italy for the first time.

The Nobility of Italy reflects the fact that medieval "Italy" was a set of separate states until 1870 and had many royal bloodlines. The Italian royal families were

often related through marriage to each other and to other European royal families. We must realize than less that 150 years ago Italy was comprised of about 10 separate small countries, and as result, great-great grandfather was not “Italian”, but Piemontese, Toscano, Veneziano, Modenese, Parmigiano, a subject of the Pope, or Napoletano – Siciliano, etc.

Prior to Italian Unification, the existence of the Kingdom of Sardinia, the Kingdom of the Two Sicilies (which before 1816 was split in Kingdom of Naples and Kingdom of Sicily), the Grand Duchy of Tuscany, the Duchy of Parma the Duchy of Modena, the Duchy of Savoy, the Duchy of Milan, the Papal States, various republics and the Austrian dependencies in Northern Italy led to parallel nobilities with different traditions and rules.

Although a democratic republic since 1946, Italy boasts two non-regnant royal families as well as three non-regnant grand ducal houses, each of which bestows honors upon Italian citizens. Three sovereign governments exist entirely within Italian borders, and each bestows honors as well. Few Italians are hereditary knights bachelor, forming a kind of Italian baronet age. Indeed, for a nation having no throne, and entertaining no serious plans for the re institution of a monarchy, the Italian Republic is endowed with a plethora of gentlemen entitled to the ancient address "*Cavaliere*" (Knight).

### **Pretender to a Throne**

This concept has always been taken on by the ex-reigning Houses who have lost their throne further to final occupation of the territory: in this case, as the situation of debellatio is not applied, the figure of the Pretender Prince to the throne has emerged.

The Pretender to a Throne, that is a juridical person legally recognized by the International Laws, can act when the debellatio lacks, that is, the losing of the sovereignty. Every Sovereign has to carry on the royal power apart from the way in which he has been deposed. In this way all the titles pertain to the Sovereign and to his descendants, they maintain their nature even if the Sovereign lost the real sovereignty of a Land: we have not to forget that the Sovereignty makes part of the Family Estate (even if it has lost the *jus imperii* – power to command -, the *jus gladii* – right to have the obedience of the people – and the *jus majestatis* – the right to have respect and honors).

A Sovereign can be deprived of his Throne and exiled by a Land, but he can never lose His native quality: in this context take the origin the Pretender to a Throne. In fact he maintains all his rights to the sovereignty and he can exercise it even if his juridical-institutional status has been changed.

From Professor Doctor W. Baroni Santos, Doctor D'état in Nobility Law by The University of Reims in France, in his book "Treaty of Heraldry / Nobility Law Vol. I, Book II, chapter I "Jurisprudence of Nobility" page 197:

"A "Chief of Name and Arms", a title attributed to a Claimant, being by *juris sanguinis* (law of blood) "heir apparent" of a defunct throne, as long as has not formalized a voluntary act of resignation and acquiescence [formalized, not assumed or presumed] to the new political order of the state, according to the classic expression "*subito la debellatio*", retains, in all its fullness, the sovereign prerogatives of Fons Honorum (Fountain of Honors) and Jus Majestatis (right to majestic dignity). It is a fortiori, the source of nobility and honor, and may, without restrictions, create nobles and arm knights."

If we do not want to consider Vittorio Emanuele of Savoy as having lost the rank of Pretender to the Throne further to the above dispositions, even if we want to recognize the Prince has the right to the position of Pretender to the Throne further to the lack of debellatio by his father, King Umberto II - the ceasing of the effects of the XIII transitory and final disposition of the Republican Constitution has a double effect.

A Court sentence of the Republican Italy (Pretoria de Vico Del Gargano, Repubblica Italiana sentence number 217/49) corroborates the above mentioned:

"(...) it's IRRELEVANT if that Imperial family in no longer ruling FOR CENTURIES, because the deposition don't harm the sovereign prerogatives even if the sovereign renounces, spontaneously, to the throne. In substance, in this case, the Sovereign does not cease to be King, even living in exile or IN PRIVATE LIFE (WITHOUT CLAIMING HIS SOVEREIGNTY), because his prerogatives are, itself, by birth and CANNOT BE EXTINGUISHED, but remains and may be transmitted in time, from generation to generation."

Professor Emilio Furno, an advocate in the Supreme Court of Appeal, writes as follows ("The Legitimacy of Non-National Orders", Rivista Penale, No.1, January 1961, pp. 46-70):

*"There are not a few judgments, civil and criminal, albeit some very recent, all of which tend as a rule to the acceptance of traditional principles re-enunciated not long since. The issue is that of innate nobility - Jure sanguinis - which looks into the prerogatives known as jus majestatis and jus honorum and which argues that the holder of such prerogatives is a subject of international law with all the logical consequences of that situation. That is to say, a deposed Sovereign may legitimately confer titles of nobility, with or without predicates, and the honorifics which pertain to his heraldic patrimony as head of his dynasty.*

*The qualities which render a deposed Sovereign a subject of international law are undeniable and in fact constitute an absolute personal right of which the subject may never divest himself and which needs no ratification or recognition on the part of any other authority whatsoever. A reigning Sovereign or Head of State may use the term recognition in order to demonstrate the existence of such a right, but the term would be a mere declaration and not a constitutive act”.*

To the superficial objection that involved transmission through a female line (as also in the case of the title of Prince of Emmanuel) it may be replied (cf. V. Powell-Smith: In the Matter of the Sovereign Order of New Aragon and in the Matter of the Government of Antigua and Barbuda, Submission, 1982) that the Salic Law did not run in Aragon and that thus succession could be through a female line and that the same applies to Sicily (G. Galuppi: The Present State of the Nobility of Messina, Milan, 188 I, pp. 1 -23). This is also shown by the Constitutions In Aliquibus of King Federico II of Sicily which admitted succession in the female line (Constitutiones Regni Sicilae, liber 3, tit.26).

It is undeniable that the Salic Law applied generally in the Kingdom of the Two Sicilies, but as far as Sicily was concerned its application was subject to the traditional limitations, even under the Bourbon dynasty. Further evidence of this is given in the express recommendations of the Royal Commission on Titles of Nobility (2nd February 1860) and in the Decree of King Francesco II of the Two Sicilies (16th September 1860) both of which support the transmission in the female line of the title of Prince of Emmanuel.

It is a general principle of nobiliary law that the head of a dynasty which formerly reigned retains *jure sanguinis*, that is by hereditary right, the faculty of conferring chivalric and nobiliary honors, known as the *jus honorum* (in the act of so conferring them he is called *fons honorum*, fount of honors) and retains his sovereign rights irrespective of political changes or territorial considerations. These rights are called rights of pretension from which arises the term Pretender, which indicates that he maintains and / or exercises those rights and enjoys them in perpetuity (cf. Renato de Francesco: The Legitimacy and Validity in Italy of Non-National Chivalric Orders, ed. Ferrari, Rome, p.10).

According to Salvioli (History of Italian Law, Utet, 1930, p.272) sovereignty as an element of state power sprang from the struggle of the kings against the great feudatories and owes its character of necessity to the resulting concentration of the powers of the state in the hands of the monarch. « Born of feudal origins, this power continued to bear the imprint of the personal property of the Prince, whence derives its transmissibility by hereditary right in perpetuity ». By this doctrine the Prince logically retains his sovereignty always (*suprema potestas*, whence *supremitas*, sovereignty) even when he is no longer reigning.

Since all power is thus centered in the sovereign, he possesses the political authority, *jus imperii*, the civil and military power, *jus gladii*, the right to respect and to the honours of his rank, *jus majestatis*, and finally the right to confer honors and privileges, *jus honorum* (G.B. Ugo, *Bascap*”, Gorino-Causa, Nasalli Rocca, Zeininger and de Francesco).

A sovereign, whether actually reigning or a Pretender, may not only confer in particular his dynastic Orders, but may also create new ones and revive those which were founded by his ancestors (this principle has been determined by the Italian Supreme Court of Appeal) without taking into consideration the fact that by the vicissitudes of succession or of politics some of those Orders may have passed in to the hands of another dynasty.

There is no doubt a Sovereign in exile and his legitimate successor and Head of the Family maintains the *jus majestatis* and the *jus honorum* rights; that is the right to grant nobiliary and honorific titles of Knight Orders that made part of the personal dynastic Family’s Estate. No usurper or subsequent government has the lawful power or authority to take away a family's absolute royal or sovereign prerogatives. The Head of the Princely House has the prerogative of the *fons honorum*.

Non-regnant dynasties, whether in Italy, Germany or elsewhere, play a role in maintaining the cultural and historical identity of Old World peoples. They represent not only peoples but even places. Control of dynastic orders of chivalry is at the root of certain dynastic quarrels. Some of these institutions are very old, and have a canonical position in Church law.

### **Bestowed by non-reigning head of a house:**

- The Order of St. George (Bavaria-Wittelsbach)
- The Order of St. Hubert (Bavaria-Wittelsbach)
- The Imperial Ethiopian Order of Saint Mary of Zion (Ethiopia)
- The Order of the Holy Spirit (France)
- The Order of Saint Michael (France)
- The House Order of Hohenzollern (Hohenzollern, Germany)
- The Imperial Austrian Order of Elizabeth (Habsburg-Lorraine)
- The Noble Order of the Golden Fleece (Habsburg-Lorraine)
- The Order of the Starry Cross (Habsburg-Lorraine)
- The Order of Saint Stephen of Hungary (Hungary)
- The Order of Prince Danilo I (Montenegro)
- The Order of Petrovic Njegos (Montenegro)
- The Order of Saint Peter of Cetinje (Montenegro)
- The Order of Saint George of Parma (Parma)
- The Order of the Saint Louis for Civil Merit (Parma)

- The Order of the Immaculate Conception of Vila Viçosa (Portugal, House of Braganza)
- The Order of Saint Isabel (Portugal, House of Braganza)
- The Order of Saint Michael of the Wing (Portugal, House of Braganza)
- The Order of Carol I (Romania, order founded in 1906 and discontinued with King Michael's abdication in 1947, and then revived by him on 5 January 2005 as a dynastic order)
- The Order of the Crown (Romania), founded as a state order it was revived by King Michael I as a Dynastic Order in 2011.
- The Order of Saint Anna (Imperial House of Russia)
- The Order of Saint Nicholas the Wonderworker (Imperial House of Russia, a new order created in exile on 1 August 1929 by the pretender Cyril Vladimirovich, a cousin of the last Tsar, Nicholas II of Russia)
- The Royal Order of the Intare (Rwanda)
- The Supreme Order of the Most Holy Annunciation (Savoy)
- The Order of Saints Maurice and Lazarus (Savoy)
- The Order of Parfaite Amitié (Thurn and Taxis)
- The Order of Saint Joseph (Tuscany)
- The Sacred Military Constantinian Order of St. George (Two Sicilies)
- The Royal & Illustrious Order of St. Januarius (Two Sicilies)
- The Royal Order of the Crown of the Georgian Kingdom (Georgia, Bagrationi-Gruzinsky Royal House)
- The Royal Order of King David (Georgia, Bagrationi-Gruzinsky Royal House)
- The Royal Order of King Erekle II (Georgia, Bagrationi-Gruzinsky Royal House)

### **Legitimist Royal Lines**

Frequent dynastic viewpoint presented over the years by self-styled scholars of dynastic history and laws have cited only "selective" evidence, conveniently omitting facts which might adjudicate the credibility of the cases being advanced. These examinations are strengthening by various tactics, such as the presentation of source documents outside of their proper historical context. Such persons may deliberately omit unfavorable facts, or present inaccurate interpretations and translations from foreign languages. This approach differs fundamentally from that employed in a court of law, or before the government of a democratic state, where opposing sides are permitted to submit their evidence before the juridical authority empowered to render a decision supported by legal statute and practice.

Where interfamilial disputes are involved, a natural consideration is the credibility of those supporters by whom cases are persistently advanced on behalf of non-

traditionalist royals whose claims to dynastic Head of the House are not generally accepted in their own ancestral realms or by their own royal family.

The circumstances that determine the legitimacy and general acceptance of an individual's claim to Head of the House of a non-regnant dynasty must be based on more than a pseudo researcher justification presented outside the jurisdiction of a competent authority.

Anyone who closely examines not only the legalistic ideas advanced by the self-proclaimed "experts" in dynastic law, but also their ethnic and religious backgrounds, may find it peculiar that some of the most dialogue of these "experts" have absolutely no ancestral connection to a country they advocate.

A nation's decision to grant such recognition is based on the advice of informed scholar's expert in such matters, as opposed to theories espoused by self-styled "scholars" in a foreign country.

### **Dynastic Law**

As dynasties are based on the most fundamental social family, it is logical that the comparative importance of one dynastic law in relation to another usually reflects the hierarchy of values espoused in the context of the family. The norms that govern such matters as courtship have changed considerably in these hundred years. As a result, the dynastic views have changed. Some aspects of succession law are simply less important today than in the past. As in the case of any code of law, certain dynastic statutes and practices are ascribed greater importance than others.

Dynastic law, as it existed until deposition of a dynasty's last regnant sovereign head and to the extent that it is still practicable today, is the principal determinant of who may succeed to headship of a non-regnant royal dynasty. This typically involves such fundamental principles as "Salic Law" concerning the gender of possible heads of these dynasties. In some dynasties, those qualified to assume a place in the line of succession to headship of the house must also be of a particular religious affiliation (i.e. Roman Catholic, Orthodox, Protestant, etc.). In most dynasties, those in the line of succession must be of legitimate birth.

Some have cited the lack of equal marital unions contracted by the dynasts of non-regnant royal houses as evidence of exclusion from the line of succession, but in this day and age, when marriages are based more on spousal affection than parental will, it isn't easy to arrange for one's son a marriage to a woman for whom he has no romantic affinity. As there exists not a single regnant European dynasty that still enforces such a law, it is irrational to presume that this kind of statute would not have been abrogated if some of these dynasties still reigned today.

It is clear that in certain cases, though particular dynastic laws cannot be abrogated *ex post facto*, their application must cease if a dynasty is to continue, even though its head may never reign. Under circumstances such as those described, it is up to the members of the dynasty, acting on the advice of competent authorities, to decide whether, in view of radically altered social conditions, certain dynastic laws can still be considered valid.

### **The rightful order of succession**

The assent of fellow members of a non-regnant royal family is important to guarantee that proper continuity is ensured and as a group can refute an unsubstantiated claim made by a kinsman on the pretext of a principle other than a legitimate one. While the majority opinion of other members of the family may not in every case be indistinguishable to law, it certainly reflects their prior knowledge of the legitimate line of succession.

In the past, the order of succession was sometimes superseded or reinforced by the coronation of a selected heir as co-monarch during the life of the reigning monarch. Examples include Henry the Young King and the heirs of elective monarchies, such as the use of the title King of the Romans for the Habsburg emperors. In the partially elective system of *tanistry*, the heir or *tanist* was elected from the qualified males of the royal family. Different monarchies use different algorithms or formulas to determine the line of succession.

Some hereditary monarchies have had unique selection processes, particularly upon the accession of a new dynasty. Imperial France established male primogeniture within the descent of Napoleon I, but failing male issue the constitution allowed the emperors to choose who among their brothers or nephews would follow them upon the throne. The Kingdom of Italy was designated a second geniture for the second surviving son of Napoleon I Bonaparte but, failing such, provided for the emperor's stepson, Eugene de Beauharnais to succeed, even though the latter had no blood relationship to the House of Bonaparte.

Serbia's monarchy was hereditary by primogeniture for male descendants in the male line of Prince Alexander I, but upon extinction of that line, the reigning king could choose any among his male relatives of the House of Karađorđević.

In Romania, on the other hand, upon extinction of the male line descended from Carol I of Romania, the constitution stipulated that the male-line of his brother, Leopold, Prince of Hohenzollern, would inherit the throne and, failing other male line issue of that family, a prince of a "Western European" dynasty was to be chosen by the Romanian king and parliament. By contrast, older European monarchies tended to rely upon succession criteria that only called to the throne

descendants of past monarchs according to fixed rules rooted in one or another pattern of laws or traditions.

The will or testament, or certain other actions, of the previous head of the dynasty often serve the same purpose. In some cases, a particular designation or title reserved to the hereditary successor to dynastic headship may have been bestowed upon the heir by the last recognized head of the dynasty. An impromptu, dissenting claim by peculiar Cousin Fredrick can thus be easily dismissed, even though he will doubtless find outsiders to defend his assertions. While it is quite possible that one member of a royal family entertains a non-conformist perspective of dynastic succession.

Certain non-regnant royal houses, most notably those of Russia and Ethiopia, family associations exist which for particular reasons might not necessarily support the explicit endorsement of any dynastic head. The primary purpose of its foundation or continuity might be the preservation of the dynasty as an identifiable entity and support of charitable and cultural activities in its former realm. In the case of Ethiopia, the extant association, the Crown Council, existed during the Emperor's reign, when it served to refute or confirm succession to the Crown, which did not always follow the line of primogeniture.

### **Dynastic marriage**

The Russian laws governing membership in the imperial house, succession to the throne and other dynastic subjects are contained in the Fundamental State Laws of the Russian Empire and the Statute of the Imperial Family (codification of 1906, as amended through 1911). These laws, referred to collectively as "the succession laws" in this essay, are sometimes described as "the Pauline law", because their original version was promulgated in 1797 by Emperor Paul I.

From time to time, female dynasts renounced their succession rights upon marriage into a foreign dynasty. One example was Grand Duchess Anastasia Mikhailovna, who renounced upon her marriage in 1879 to the Grand Duke of Mecklenburg-Schwerin. Another example was Grand Duchess Olga Nikolaevna, who renounced upon her 1846 marriage to the future King of Wurttemberg. A dynast was allowed to renounce his succession rights under Article 37. Article 38 specified that such a renunciation was valid *only* upon its being announced publicly and given legal effect.

There is no provision allowing a dynast to renounce the succession rights of his minor children. Thus, a common view held among specialists was that the instrument of abdication signed by Emperor Nicholas II in March 1917 was partially illegal: not in respect of his own abdication but to the extent it also purported to effect a renunciation of the succession rights of his minor son, the

Grand Duke-Tsesarevich Alexei. According to this view, the position of head of the dynasty passed in March 1917 to Alexei (murdered in July 1918) rather than to Nicholas II's brother, Grand Duke Michael Alexandrovich (murdered in June 1918).

### **Line of succession to the former Austro-Hungarian throne**

The dual monarchy of Austria-Hungary was abolished in 1918. The current Head of the House of Habsburg is Archduke Karl. The succession law used is Semi-Salic<sup>7</sup>.

### **Morganatic marriage**

A morganatic marriage is a type of marriage which can be contracted in certain countries, usually between persons of unequal social rank, which prevents the passage of the husband's titles and privileges to the wife and any children born of the marriage. It is also known as a left-handed marriage because in the wedding ceremony the groom held his bride's right hand with his left hand instead of his right.

Often, this is a marriage between a male from a royal or reigning house, often a historical German state, and a woman of lesser status (a non-royal or non-reigning house, or a woman with a profession that is traditionally considered lower-status). Neither the bride nor any children of the marriage has any claim on the groom's titles rights. The children are considered legitimate on other counts and the prohibition of bigamy applies.

It is also possible for a woman to marry a man of lower rank morganatically. This is extremely rare as women of high rank traditionally did not have titles to pass on, and in most cases did not choose their own husbands, but Marie Louise, Duchess of Parma (by birth an Archduchess of the Imperial House of Habsburg, and by her first marriage an Empress of France) contracted a morganatic second marriage

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<sup>7</sup> An **order of succession** is a formula or algorithm that determines who inherits an office upon the death, resignation, or removal of its current occupant. **The Salic law**, a form of agnatic succession, restricted the pool of potential heirs to males of the patrilineage, altogether excluding females of the dynasty and their descendants from the succession. The Salic law applied to the former royal or imperial houses of Albania, France, Italy, Romania, Yugoslavia and Prussia/German Empire. It currently applies to the house of Liechtenstein. In 1830 in Spain the question whether or not the Salic law applied - and therefore, should Ferdinand VII be followed by his daughter Isabella or by his brother Charles - led to a series of civil wars and the formation of a pretender rival dynasty which exists up to the present. Generally, hereditary monarchies that operate under the Salic law also use primogeniture among male descendants in the male line to determine the rightful successor, although in earlier history agnatic seniority was more usual than primogeniture. Fiefs and titles granted "in tail male" or to "heirs male" follow this primogenital form of succession. (Those granted to "heirs male of the body" are limited to the male-line descendants of the grantee; those to "heirs male general" may be inherited, after the extinction of the grantee's male-line descendants, by the male-line descendants of his father, paternal grandfather, etc.)

with a count after the death of her first husband Napoleon I. Another case was that of Queen Maria Christina of Bourbon-Two Sicilies, regent of Spain after her husband's (Ferdinand VII) death while their daughter, the future Isabella II was a minor. She married one of her guards in a secret marriage.

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