

# REAL AULA MALLORQUESA

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THE BULLETIN  
REAL AULA MALLORQUESA  
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## EDITORIAL

Implausibly for me I have been reading a bit about Evolution lately and the tremendous fuss that the Theory caused when it was first proposed. Nowadays it seems so much old hat. We take it for granted that a person and also an organisation that does not adapt to the changing times will probably not survive. Did not even the ancient Romans say : *Tempora mutantur et nos mutamur in illis?* So Darwin cannot take all the credit. We can take ourselves as a collective example of change and survival or disappearance. I can see from our archives that in the past we had a number of Scandinavians in our midst, but quite what became of them I am not now able to discover. They seem to have disappeared and left little trace apart from names in our registers. We have moved on. But now, from that same area, we have a further injection of new blood of a very different nature. They are making a mark that will not be so easily effaced. Three out of the four articles in this issue are due to this influx and I confess that I find it very stimulating. Our other jurisdictions should look to their laurels. And meanwhile personally I must make sure of their place in our registers.

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## CASPE REVISITED

Don Jan-Olov Malmberg

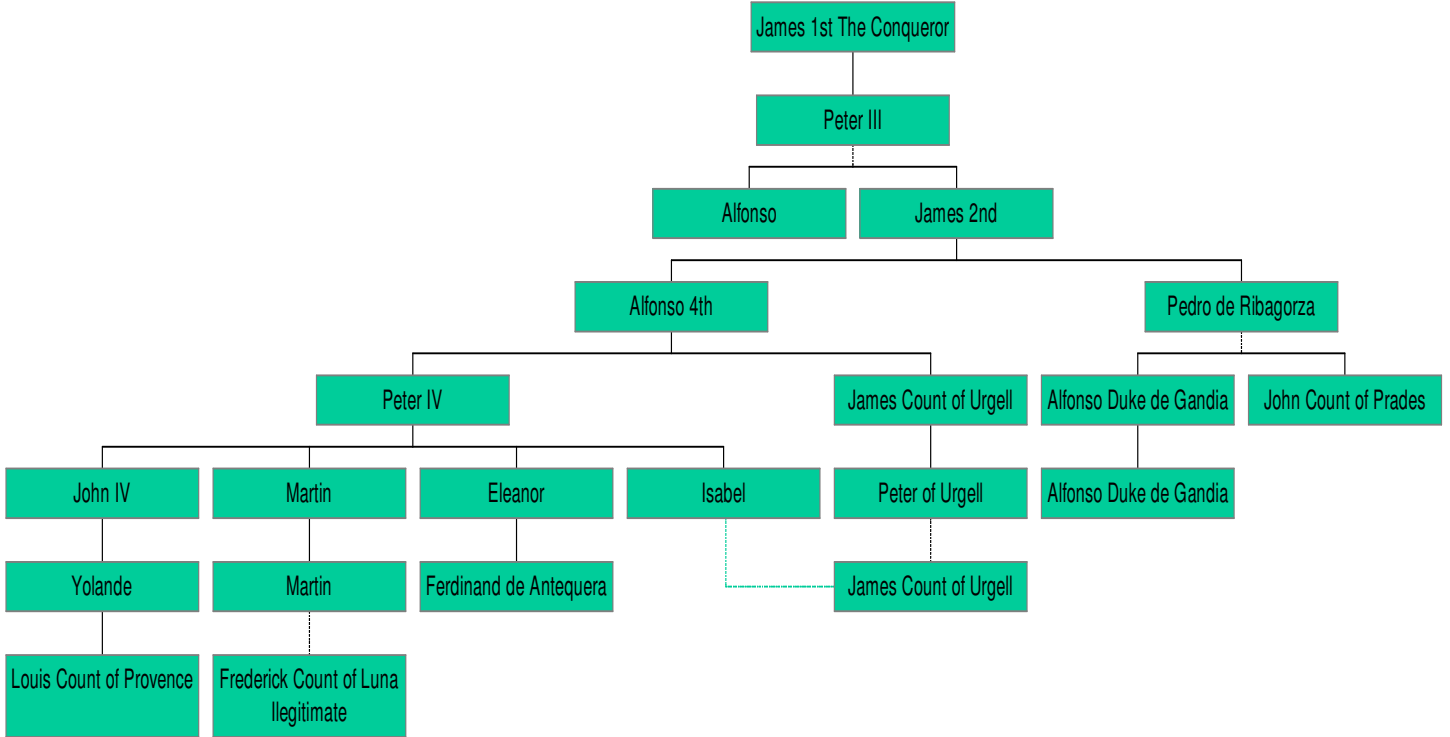
When King Martin I (the Humanist) of Aragon died in 1410 his only son had predeceased him and he did not name a successor. The only written law of succession was the Will of James I which confirmed the principle of male primogeniture, but (as we shall see) this was not followed. Six claimants to the throne stepped forward. Through intrigues and political gerrymandering the law of succession was set aside and a group of nine electors (three from each realm of Aragon, Valencia and Catalonia) was put together to decide upon the respective claims. They met at Caspe in Aragon in 1412 and by the very composition of the group a decision for one of the claimants, Ferdinand, was assured in advance (see T.N. Bisson, "The Medieval Crown of Aragon", pp 134-6, see also Chaytor, "A History of Aragon and Catalonia", ch. 14). The purpose of this article is to show that James Count of Urgell was the legal heir to the throne of Aragon after the death of King Martin in 1410 and that therefore the event known to history as "the Compromise of Caspe" was not a valid election.

The six claimants to the throne were all basing their claims on dynastic rights and nothing else. Before we study them and their claims, let us look at the two case studies that T.N. Bisson refers to as "those distant days in 1134 or 1213, when in narrower counsels it had seemed imperative to defend strictly dynastic succession against all other interests" (op. cit. pp 136), to establish the dynastic rights of succession.

In 1134 Alfonso I “the Battler”, brother of the late Peter I, died. Being childless he bequeathed his kingdom of Aragon to the military orders of the Holy Land. The testament was composed in 1131 and confirmed shortly before the king’s death in 1134. It has been argued that the purpose of the Will may have been to neutralize papal influence in support of the dynastic claims of Alfonso VII of Castile to the throne of Aragon. The testament was set aside by the Aragonese magnates in favour of Ramiro II, a brother of Alfonso I who was a monk but whose vows were swiftly lifted by the Church for him to marry Agnes of Aquitaine by whom he produced the much wanted heir. Ramiro II ruled 1134-37 and retired to the monastic life after fathering a daughter, Petronilla (Bisson, op. cit. pp. 16-17). It is clear that at this event “strictly dynastic succession” was given priority and that the succession continued to pass to the nearest relative in the direct line of descent by primogeniture.

Petronilla married Raymond Berengar IV Count of Barcelona and by this marriage united the two Crowns and the two territories of Aragon and Catalonia. Their only son, the first King-Count was Alfonso II who was in turn succeeded by his son Peter II. The latter was killed in 1213 on the battlefield of Muret. His son and successor, James I, was only five years old at that time and was actually in the custody of his father’s opponents. After negotiations, the child-king was released and escorted to Catalonia. It was then decided to entrust his nurture to the Templars at Monzón and the regency (*procuracio*) to his great-uncle, Sanç of Provence. James later recalled that both Sanç and his uncle Ferrado “had the hope of being king”. In the summer of 1214 the cardinal-legate Pierre de Douai, on behalf of the king, summoned a general *cort* at Lérida, where all those present were required to swear fealty to the king (Bisson, op. cit. pp. 58-59). Again, dynastic succession had been confirmed.

# Genealogy



There can be little doubt that these events were remembered by James I when he in August 1270 wrote his third and last Will. The testament makes it clear that the throne was to descend in male primogeniture from the male line of his second wife Yolanda, but both the Lords of Xerica and Ayerbe (James and Peter, his sons by his third wife Lady Teresa Gil de Vidaure) were recognized as heirs to the throne, should the male line from Yolanda become extinct (as it did). The testament was ratified by the Pope and became the first formal order of succession to the lands of the Crown of Aragon.

Having thus established that the only valid claims to the throne would be dynastic in male primogeniture, let us proceed to investigate the rights of the six claimants who came forth after the death of Martin I.

The first claimant was **James** of Urgel. He based his claims on the fact that he was the great-grandson of Alfonso IV (who was the great-grandson of James I).

The second claimant was **Alfonso**, Duke of Gandia, son of Peter Count of Ribagorza and grandson of James II. Alfonso died in the course of the discussions about the succession and his son, also named Alfonso, took his place.

The third claimant was **Louis** of Anjou, the son of Violante of Anjou, herself the daughter of King John.

The fourth was **Ferdinand**, Infante (Prince) of Castile, son of Eleanor (who had married John of Castile) and grandson of Peter IV.

The fifth claimant was **Frederick**, Count of Luna, an illegitimate son of Martin King of Sicily (the son of King Martin I, but whom he predeceased).

The sixth was **John**, Count of Prades, brother of the first Alfonso (the second claimant), thinking his rights were better than those of his nephew.

We may start by noting that the fifth claimant, Frederick, could not have any real dynastic claims as he was not born of a legitimate marriage.

We may further note that as James Count of Urgel, Alfonso Duke of Gandia and John Count of Prades all claimed and could verify succession in the male line, their claims were better than the claims of Louis Duke of Calabria and Ferdinand Infante of Castile (as they could only claim succession through the female line).

It is quite clear, from the above chart, that from among James, Alfonso and John, the closest relative to Martin was James of Urgel.

We may thus conclude that any successor other than James of Urgel must have been appointed on grounds other than dynastic, and so opposed to the Will of James I and the law of succession.

This point is made abundantly clear by Bisson, who when discussing the “compromise” of Caspe points out that “... the issue was (or became) political rather than simply legal, a utilitarian question of which candidate with *some* dynastic claim would make the best king” (op. cit., pp. 135-6).

When the nine electors announced their vote in favour of Ferdinand in June 1412, it was not long before James Count of Urgell was captured and imprisoned where he died 1433. The legitimate line of succession then passed to the Duke of



Gandia who died without heir in 1454. The operative document then became once more the Will of James I (being the only legal order of succession – the succession through the Will of James I was also explicitly confirmed by the decision of the United Court of Bari 13<sup>th</sup> March 1952), and so the lawful succession to the thrones of the Lands of the Crown of Aragon 1454 passed to the cadet branch of the House of Aragon, namely the House of Ayerbe which descends from Peter the legitimised son of King James I and Lady Teresa Gild de Vidaure. This line continues to this day and the Head of the Royal House is H.R.H. Don Francesco, Duke of Perpignan and Prince of Emmanuel.

## I CAVALIERI TEMPLARI : SOLDATI DI CRISTO E BANCHIERI

Conte Don Paolo Sturla Avogadri

E' luogo comune credere che i protagonisti dello sviluppo delle attività bancarie siano stati i Lombardi ed i Toscani (seguiti poi dalle comunità ebraiche) che dalle fine del XII secolo operarono nelle maggiori città commerciali italiane (Firenze, Siena, Pisa, Amalfi, Genova, Venezia) ed anche all'estero. Ma in realtà furono i mitici Cavalieri Templari che, fin dalla ratifica del loro Ordine (Troyes, 1128) e quindi con un vantaggio di oltre mezzo secolo sugli altri, avvalendosi delle loro commanderie e precettorie capillarmente distribuite su tutto il mondo cristiano ed anche in Terrasanta, utilizzarono e diffusero il nascente istituto bancario (parabancario).

Mai come di recente si è scritto tanto, sia in negativo che in positivo, su questi Cavalieri rossocrociati che, nell'immaginario collettivo o nella maggioranza dei casi, sono conosciuti a torto come essere stati praticanti l'eresia, le arti magiche o riti abominevoli. Questi, infatti, erano solamente alcuni degli oltre cento capi d'accusa che, confermati da confessioni estorte mediante le più atroci ed inimmaginabili torture, dovevano avvalorare e legittimare lo scioglimento di un Ordine divenuto ormai troppo potente, troppo ingombrante e quindi troppo scomodo per Filippo IV il Bello, Re di Francia<sup>1</sup>.

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<sup>1</sup> Lo scioglimento dell'Ordine non avvenne per condanna, ma per provvedimento amministrativo di papa Clemente V (Bolle "Vox Clamantis" del 3.iv.1312 e "Ad providam Christi Vicarii" del. 2.v successivo) durante il Concilio di Vienne nel Delfinato.

L'epopea di quello che sarebbe diventato l'Ordine più potente e celebrato del mondo medievale iniziò a Gerusalemme nel Natale del 1118, all'indomani della Prima Crociata, ad opera di nove cavalieri franco-fiamminghi, capeggiati da Hugo de Payns<sup>2</sup>, che chiesero al re Baldovino II di potersi riunire in comunità monastica quali "Poveri Cavalieri di Cristo". Il re ed il Patriarca Guermondo concessero loro, con la promessa della protezione dei pellegrini cristiani che venivano assaliti ed uccisi dai musulmani e dai briganti, quanto avevano richiesto, ma anche un palazzo nei pressi dei ruderi dell'antico Tempio di Salomone a El-Aksa. Da qui il nome templari.

I 188 anni di vita operativa dell'Ordine (1119-1307) sono letteralmente permeati di leggende e dicerie postume, a primo acchito fantasiose, ma tutte le recenti accurate ed obbiettive ricerche in merito non sono ancora riuscite a smentirle, ma neppure a confermarle. Gli argomenti relativi sono molti e tutti appassionanti, dall'ipotetico recupero del tesoro del Tempio di Salomone, superstite dalle razzie di Nabucodonosor (587 a.C.) e di Tito (70 d.C.), al ritrovamento dei Vangeli Gnostici coevi a quelli di Nag Hammadi e dei Rotoli del Mar Morto coevi a quelli di Qumran<sup>3</sup>. Dal recupero e trasferimento in Europa di quanto restava del contenuto della leggendaria Arca dell'Alleanza al recupero presso Rennes le Château (Linguadoca) dell'immenso tesoro dei Celti (Volsci Tettosagi)<sup>4</sup> passato poi ai Catari. Questo tesoro era il frutto delle razzie di Brenno a Roma (390 a.C.) e di Sigoveso presso l'Oracolo di

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<sup>2</sup> I nomi degli altri cavalieri erano : Godefroy de Saint-Omer, André de Montbard, Payen de Montdidier, Archambaud de Saint-Amand, Gondemare, Godefroy e Geoffroy Bisol. Nel 1126 si aggiunse Hugo conte di Champagne.

<sup>3</sup> Furono ritrovati rispettivamente nel 1945 e nel 1947.

<sup>4</sup> I Romani però chiamavano "Galli" i Celti di Francia.

Delfo nella Focide (219 a.C.), venne recuperato dai Romani del Console Cepione (105 a.C.) dragando un lago presso Tolosa, ma nuovamente perduto nel corso di un'imboscata. Ammontava ad 80 tonnellate d'oro ed argento caricate su 300 asini!<sup>5</sup>

Si parla anche di loro frequenti viaggi (possedevano una poderosa flotta ancorata al porto di La Rochelle) in America centrale, sulle antiche rotte di Vichinghi, da dove si approvvigionavano di notevoli quantitativi di argento, metallo allora assai raro in Europa e Medio Oriente. La massiccia presenza del quel metallo, come moneta circolante, influenzò persino la lingua francese : ancora oggi "*argent*" significa denaro. A sostegno della tesi "americana" possono essere citati alcuni indizi :

a - nei pressi di Westfort nel Massachusetts è stata rinvenuta un'antica lastra tombale, attribuita allo scozzese Sir James Gun, raffigurante un guerriero medievale con elmo, giaco di maglia di ferro, scudo e spadone con elsa e pomolo di foggia del XIV secolo<sup>6</sup>;

b - il navigatore Giovanni da Verrazzano su una sua planimetria annotò la presenza, presso Newport nel Rhode Island, di una "villa normanna". Anche se ora la villa non esiste più, si può ammirare ancora la presenza di un antico torrione, edificato secondo lo stile delle chiese circolari templari, contraddistinto da archi e colonne romanici<sup>7</sup>;

c - Cristoforo Colombo, che era Cavaliere dell'Ordine di Calatrava (Spagna) erede del disciolto Ordine dei Templari,

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<sup>5</sup> M. Bizzarri e F. Scurria, "Sulle tracce del Graal"; Ed. Mediterranee, Roma, 1996, pp. 78-79.

<sup>6</sup> S. Sora, "Il Tesoro perduto dei Templari"; Ed. Piemme, Casale Monferrato, 1999, pp. 83-85.

<sup>7</sup> S. Sora, op. cit., p. 86.

dimostrava un'eccessiva sicurezza di poter scoprire un Nuovo Mondo che, probabilmente, tanto nuovo non era;

d - tutti i "Conquistadores" (Colombo compreso) ostentavano sulle vele delle loro navi la croce rossa "patente", emblema dei Templari;

e - a Rosslyn, presso Edimburgo (Scozia), sul portale di una strana cappella ultimata intorno alla metà del XV secolo (circa quarant'anni prima del fatidico approdo del navigatore genovese), sono scolpite pannocchie di mais e foglie di alohe che, fino alla metà del secolo successivo, erano ancora sconosciute in Europa<sup>8</sup>.

Ma, a parte tutto questo che deve essere dimostrato e confermato, è vero che i Cavalieri rossocrociati, per la loro competenza finanziaria e correttezza, furono consulenti e depositari dell'erario delle Corone di Francia, Inghilterra ed Aragona. Furono incaricati di raccogliere il denaro e trattare il riscatto di Riccardo I "Cuor di Leone" preso in ostaggio dall'Arciduca Leopoldo d'Austria, al ritorno dalla III Crociata (1194). Furono finanziati da Elena Angeli Comneno, Duchessa di Atene, per trasferire, via mare, la Santa Casa di Nazareth (1291) che fu smontata e numerata pietra per pietra e, dopo un viaggio fortunoso, scaricata a Loreto (1293) e ricostruita<sup>9</sup>.

Ma se i Templari erano "i Poveri Cavalieri di Cristo" e la loro Regola<sup>10</sup> imponeva che non possedessero alcunchè di proprio,

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<sup>8</sup> F. Terhart, "I Templari guardiani del Santo Graal", Ed. Newton e Compton, Roma, 2002, p. 182.

<sup>9</sup> L. Imperio, "Considerazioni sulla probabile traslazione, via mare, dei resti della Casa di Nazareth", da Atti del III Convegno di Ricerche Templari, Casale Monferrato, 26-27.x.1985, Ed. Capone, Torino.

<sup>10</sup> La Regola, composta da San Bernardo di Clairvaux, fu loro assegnata nel 1128, durante il Concilio di Troyes, in sostituzione di quella agostiniana adottata precedentemente.

questo non valeva per l'Ordine che era una vera e propria macchina per fabbricare denaro: infatti tutti i mezzi legittimi e leciti dovevano produrre i fondi necessari per finanziare la "Crociata permanente contro l'Islam". Così, dalla iniziali donazioni derivanti dalle doti dei cavalieri novizi o dai penitenti per il suffragio delle loro anime, ben presto si passò ai proventi più concreti derivanti dai "servizi militari", che consistevano a volte in enormi estensioni di terreno, boschi (Forêt d'Orient), laghi, castelli, fortezze, interi quartieri cittadini, tenute con i contadini, gli armenti, le greggi, ecc.

Tutto ciò, saggiamente amministrato, in breve permise all'Ordine di potersi allargare ed espandere al punto di essere pressochè onnipresente sulle maggiori vie di comunicazione militari, mercantili, dei pellegrini, con case (dette magioni, dal francese *maison*) dotate di chiesa, ospizio e stallatico, distanziate tra loro da un giorno di cammino. Presso tutte le magioni potevano essere fatte operazioni o mediazioni di compravendita e permuta di immobili e di ogni genere di mercanzia, oltre ai finanziamenti e prestiti. Le tenute divenivano vere e proprie "aziende agricole" (dette grangie), dotate di mulini, stalle e magazzini per la conservazione, anche per conto terzi, delle derrate (vino, olio, cereali, formaggi, ecc.)<sup>11</sup>.

Altre cospicue entrate provenivano dai noli marittimi: la poderosa flotta, inizialmente armata per il proprio fabbisogno, trasportava anche passeggeri (crociati, mercanti, pellegrini), animali ed ogni genere di mercanzia (seta, spezie, essenze, legno pregiato, ambra, ecc.). Su questo esempio positivo venne fondata la lega Anseatica, nata da un patto mercantile fra le città tedesche del Mar Baltico e del Mare del Nord (Lubecca, 1256).

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<sup>11</sup> A. Demurger, "Vita e morte dell'Ordine dei Templari", Ed. Garzanti, Milano, 1987, pp.143-153.

Ma il vero "fiore all'occhiello" dei templari fu l'utilizzo della "lettera di cambio", antesignana dell'assegno bancario. Anche se in questi tempi le strade erano poco trafficate, in compenso erano infestate dai briganti che aspettavano il passaggio di mercanti e viaggiatori per rapinarli. Per non essere derubati bastava consegnare il denaro presso la più vicina magione templare. Il riscontro consisteva in un poco appetibile foglietto di carta, siglato in maniera incomprensibile ai non addetti ai lavori, munito di sigillo e, quindi, inservibile a chi lo avesse eventualmente rubato. Una volta a destinazione, presso una casa templare, previo lo storno di un modesto tasso di interesse, poteva avvenire l'operazione inversa.

Non si può, infine, non parlare del determinante ruolo di essi ricoperto quali finanziatori e protettori dei leggendari Costruttori delle Cattedrali gotiche<sup>12</sup> nella maggior parte dei casi deducate a "Notre Dame", cioè alla Vergine. Questi fantastici monumenti di pietra e marmi, che ancora svettano incorruttibili alla offesa del tempo e degli uomini nelle contrade di Francia, furono eretti applicando la "geometria descrittiva" ed altre tecniche fino ad allora completamente sconosciute e che venivano tramandate oralmente, in particolare fra gli adepti delle tre confraternite artigiane "*les Enfants du Père Soubise, les Enfants du Maître Jacques, les Enfants de Salomon*". Pur se loro tecniche, ora scomparse, rivivono, fin dagli inizi del XIX secolo, fra "*les Compagnons des Devoirs du Tour de France*". Un giro della Francia propedeutico di cantiere in cantiere per assorbirne ed affinare la tecnica costruttiva, ma anche iniziatico per raggiungere la "Conoscenza"<sup>13</sup>.

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<sup>12</sup> I Gran Maestri templari portavano l'"abacus", il bastone graduato dei Maestri Costruttori.

<sup>13</sup> L. Charpentier, "I Misteri delle Cattedrale di Chartres"; Ed. Arcana, Torino, 1972, pp. 196-198; T. Wallace-Murphy e M. Hopkins, Rosslyn, "Il misterioso

# IS THE MILITARY ORDER OF THE COLLAR A LEGITIMATE ORDER OF CHIVALRY?

Dr. Don Göte Appelberg

## INTRODUCTION

Is the Military Order of the Collar (“MOC”) a legitimate Order of Chivalry? Such a question is not easy to answer. The character of the answer will depend on the context in which the question is asked. If the question is asked from a legal perspective, the question will be whether the Order is recognized by a national or international judicial system or not. If the question is asked from a perspective of social science, the question will perhaps be if certain commonly recognized criteria as to what is considered to be a legitimate Order of Chivalry are fulfilled or not. If the question is asked from an historical perspective, the question will perhaps be what historical proof is there for the earlier and present existence of the Order.

In this brief article I shall treat the question from a mainly legal perspective.

## DEFINITIONS

In "Legitimacy and Orders of Knighthood" ([www.heraldica.org/topics/orders/legitim](http://www.heraldica.org/topics/orders/legitim)) Francois Velde writes that “an association might be a ‘legitimate’ order of

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tempio dei segreti del Santo Graal", Ed. Newton e Compton, Roma, 2000, pp. 84-85.



knighthood in three ways: 1. it is exactly what it claims to be; 2. it conforms to some accepted standard; 3. it is legal.”

These definitions have a combination of ethical/moral (nr 1), sociological (nr 2) and legal (nr 3) elements. Concerning the third criterion, this must be treated both from a national and an international perspective.

In “Illegitimate Orders of Chivalry in Sweden” ([www.hwm.passagen.se/jonar242](http://www.hwm.passagen.se/jonar242)) Jonas Arnell lists the following categories of legitimate Orders of Chivalry:

1. a legitimate spiritual Catholic Order of Chivalry can only be founded or revived by the Pope as Sovereign Head of the Church;
2. a legitimate secularised Order of Chivalry (State Order/Order of Merit) can only be founded or revived by a Head of State;
3. dynastic Orders, founded or revived by a Head of a Sovereign House who is or was a Head of State when the Order was founded.

All requirements can be treated from the three perspectives mentioned in the introduction above (ethical/moral, social science, legal).

## LEGAL – LEGITIMATE

Arnell claims that an Order can be perfectly legal but still be illegitimate: the former refers to legislation for Associations etc. and the latter to non-verified claims of origin. The terms legal and legitimate are often used synonymously. According to the Swedish National Encyclopaedia (2000), an entity that is “legal” fulfils the requirements of the law. The term is used especially of documents. By “legitimate” (according to the same source) is meant something that is recognized (as entitled) by the law. In a

more general sense the latter term is used to mean rightful, given the right to.

## ORIGIN

In the areas that nowadays make up Spain, Portugal and Southern France, several military Orders of Chivalry were founded with the primary task of defending Christendom against the Muslim expansion and preferably drive out the Muslims from these areas. A number of Kingdoms were newly founded and re-founded within these areas through war and conquests during the Middle Ages. According to the feudal social order those chivalric Orders were founded by the ruling Monarch and their Knights were tied to the Sovereign through personal vows of obedience. This feudal system was a prerequisite for the continuance and stability of society in those times.

During the latter Middle Ages and the Renaissance monarchs founded Orders of the Crown, which later were tied to the state itself as Orders of State or tied to the Sovereign as dynastic Orders (according to the article by Arnell).

The ruling Kings of Aragon founded several Orders tied directly to their Royal House during the 12<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup> Centuries. Several of those Orders were military with the task of defending the country and the faith against invaders.

### *The Military Order of the Collar of St. Agatha of Paternò*

On the 16th September 1860, H.M. King Francesco II of the Two Sicilies issued a decree in which he recognized Don Mario Paternò Castello e Guttadauro as the legal Head of the House of Guttadauro according to an order of succession specified in the decree (legitimate children born of legitimate marriages with primogeniture in the male line). In this decree, Don Mario Paternò is also recognized as Head and Sovereign Grand Master of “The Dynastic Order of the Collar dedicated to Saint Agatha Virgin and Martyr” and the same succession for the office of Grand Master is specified as for the recognized order of succession for the House of Guttadauro.

On the 14<sup>th</sup> June 1853 a historical family pact was made by which the heads of all the branches of the family in a document unanimously recognized Don Mario as head of the family. Don Mario was the son of Don Giovanni, the younger brother of the Duke of Carcaci, and Donna Eleonora Princess of Emmanuel, who also descended from King James I of Aragon. Don Mario was the only one in the family descended from King James I on both his paternal and maternal sides. This family pact was ratified by a decree on the 16<sup>th</sup> September 1860 by H.M. King Francesco II of the Two Sicilies. In that decree it was specified that the order of succession should be through the eldest son born of legitimate marriage. In the absence of sons the order of succession would go through the eldest daughter to her eldest son, if both were born of legitimate marriages and so on, though not further than the fourth generation. In this decree Don Mario was also recognized as the Sovereign Grand Master of “The Dynastic Order of the Collar dedicated to Saint Agatha, Virgin and Martyr, the indisputable patrimony of the Most Serene House of Paternò”.

The establishment of the first military Order, tied to the Royal House of Aragon and the Balearic Islands, is shrouded in mystery. Its existence is confirmed through tradition, paintings and fragmentary documents.

According to tradition it was established in the 12<sup>th</sup> Century as a military Order dedicated to fighting the Muslim pirates ravaging around the Mediterranean. It is also likely that it may have participated in the efforts to drive back the Saracens from Western Europe (modern day Spain and Portugal).

On the 13<sup>th</sup> March 1952 the Court of Bari tried the case of the Prince of Emmanuel, Don Francesco Mario Paternò Castello di Carcaci (grand-father of the Present Grand Master of the Order) and his right to confer nobiliary titles. The verdict contains several issues worthy of notice. Firstly, the Court says that Don Francesco is the legitimate heir to the throne of Aragon by specifically recognising the Will of James I of 1272. The Court stated : *“By a brevet of King James I, which called upon the closest branch of the House of Aragon to succeed him in ruling over the Kingdom, and by the current complete and utter extinction of all the various branches of that family, the claim to this throne moreover is a legitimate one which is made by the Paternó who are indeed a branch of the house of Aragon and are its last representatives”*. Secondly, the Court says that Don Francesco has the right to ennoble, to grant and confirm coats of arms, to bestow titles drawn from places over which his ancestors had exercised their sovereign powers and also the right to found, re-establish, reform and exercise the Grand Magistracy of the Orders of Chivalry conferred by his family, and recognizes him as a legitimate fons honorum.

On 5<sup>th</sup> June 1964 in the Tribunal in Pistoia (equivalent to a court of appeal) the case was tried of the MOC in relation to the Italian law of 1951 which prohibits the wearing and granting of false orders and decorations. The verdict confirmed the previous decision of the Court of Bari in 1952 that the present Grand Master's grand-father was the legitimate heir to the family's right to confer Orders and nobiliary titles and that the conferring of those were not contrary to the law of 1951.

## *Constitutional protection in Sweden*

The Constitution of Sweden (*Regeringsformen*), specifies in its second chapter in which respects citizens are guaranteed special liberties and rights. In the second chapter § 2, it says that every citizen is guaranteed the liberty to amalgamate with others for general or specific purposes (freedom of association). It is thus a constitutional right in Sweden to form organisations and work through them. In the same paragraph the citizens are also guaranteed freedom of speech, freedom of information, freedom of meeting, freedom of demonstration and freedom of religion. These liberties can be restricted through legislation, provided that the restrictions meet purposes acceptable to a democratic society and may never stretch as far as posing a threat to the free formation of opinion as one of the foundations of democracy. The restriction must not be made solely because on political, religious, cultural or other such grounds.

From this it may be deduced that the MOC enjoys constitutional protection for its existence and activity in Sweden. In Sweden we differentiate only between two kinds of associations : economic and non-profit making. Economic associations have the purpose of satisfying the economic interests of their members and conduct financial activities. Non-profit making associations may have political, religious, historical, scientific, charitable or other purposes. This type of association is not specifically regulated. They are however regarded as legal entities if they have statutes and a directors and so a certain organizational stability. They can then be holders of rights and obligations in a legal sense. The MOC may be said to belong to the group of non-profit making associations with a historico-cultural aim.

In Sweden there is no law corresponding to the Italian law from 1951 regarding the prohibition to wear insignia of Orders in public. Such a law would easily be in conflict with the above-mentioned constitutional protection.

### *The principle of a state governed by law*

A fundamental principle for a state governed by law is to respect the legal systems of other states governed by law and decisions by courts and authorities involved in the administration of justice. This principle is especially promoted within the European Union with its basis in the Treaty of Rome. Among the leading principles within the EU are those of solidarity and loyalty between member states. This means that, for example, a decision by an Italian court concerning a matter of status is respected without further trial by a court or an authority in another country within the EU. If one wanted to extend the description outside the strictly legal area one could perhaps say that a decision by a court in one country is valid (legitimate) also in other European countries. Only if a decision is directly contrary to the legislation in another country will an exhaustive trial be made regarding the significance (or validity) of a certain matter.

Against this background it is natural to expect that the decisions and statements made by the Court in Bari 1952 and the Court of Appeal in Pistoia 1964 regarding Prince Francesco Mario Paternò's position as Head of the sovereign dynasty of the princely house of Aragon and the accompanying powers (*fons honorum*) are valid (legitimate) in the other European countries. It is of special interest that the Court in Bari in their findings among other things founded their position on the Will of James I (see above). The especially favoured position that the MOC has in relation to the Italian law of 1951 also strengthens the legitimacy of the Order within the entire European jurisprudence.

## CONCLUSIONS

From the above account the conclusion can be drawn that the MOC meets the three criteria posed by Velde as requirements of a legitimate Order of Chivalry. From the three categories listed by Arnell the first and second are not relevant, as the MOC does not claim to be a spiritual Catholic Order nor a secularised Order of Chivalry. The other category applies to the Order. If the criteria listed by Velde are seen as an expression of a generally recognized international position, we may establish the fact that the MOC fulfils them well. If we see the question of the legitimacy of the MOC from a strictly legal viewpoint we may state that strong reasons favour the position that the MOC shall be regarded as an international, or at least European, legal and legitimate Order.

*(Editor's note: H.E. Don Göte Appelberg MJ MOC LLD is the Prior of St. Bridget and Commander of Gothia. A Doctor of Law soon to enter retirement, he is working as the Chief Legal Officer at the Swedish National Agency for Education )*

## **THE WILL OF JAMES I AND THE SUCCESSION TO THE THRONE**

Prince Stephen Screech di Monte Sant'Angelo in

collaboration with Rev. Doctor Don Christer Gardemeister

The laws of succession to the throne and of the territories of the various lands that made up the Crown of Aragon were by no means clear at the time of the reign of James I (1213 - 1276). His own great-great uncle Alfonso I the Battler, having no offspring, even attempted to bequeath the crown and his realm to the military Orders (the Hospitallers and the Templars) but this was decisively rejected by the magnates of the kingdom who called upon his brother to renounce his sacerdotal vows and reign as Ramiro II long enough to sire a child, Petronilla who, upon her father's prompt abdication, ruled as Queen of Aragon in her own right. By Petronilla's marriage to the Count of Barcelona, Catalonia was added to the Crown of Aragon but the two territories coexisted, each with their own customs and laws. By the marriage of their grandson Peter II to Maria of Montpellier various territories in modern day France were added to the realms of the Crown, again with their own distinct usages. Their son James I himself conquered Valencia and the Balearics and permitted in each of these territories a wide degree of diversity from practices in his other realms.

In his Will and Testament James I sought to lay down a definitive prescription for the succession to his crowns and for the inheritance of the various territories over which he ruled,



making detailed provision for the possible extinction of any of the lines that descended from him. At various stages of his long and eventful reign he re-wrote his Will and Testament, each revision replacing its predecessor with new terms and conditions reflecting the current status of the Crown and indeed of the Royal Family.

The last such Will and Testament dictated by the King was executed on the 25<sup>th</sup> August 1270 (according to the Gregorian calendar), six years before his death, in Montpellier the town of his birth. It was witnessed by several magnates and notaries to ensure no argument over its authenticity and legitimacy. It was signed and sealed according to the due form and then lodged in the Royal Archive attached to the Royal Palace in Barcelona where it has remained to this day.

By this Will James distributed his kingdoms of Aragon and Valencia and the County of Barcelona to Prince Peter and his kingdom of Majorca and various counties in modern France to Prince James, his sons by his second wife Violante of Hungary (his first wife Leonor of Castile he divorced before they had any children). To his other children and indeed grandchildren he bequeathed possession of lesser territories. Notably for our purposes he made bequests to his two younger sons, also called Peter and James, by his third wife da Teresa Gil de Vidaure, Lord James receiving various castles and towns but particularly the lordship of Xerica, Lord Peter receiving also certain castles and towns but particularly the lordship of Ayerbe.

However, and more importantly, he made certain specific provisions that in the event of the failure of any or all of the lines that descended from him through his sons by his second marriage the succession would pass to the next legitimate line in order of male (male to male) primogeniture. Thus after the lines of descent from his sons Prince Peter and Prince James by

Queen Violante of Hungary the succession would pass to the lines of Lord James of Xerica and then to Lord Peter of Ayerbe by his queen da Teresa Gil de Vidaure.

As we know only too well, the lines of succession from Prince Peter and Prince James did indeed fail, but the *de facto* succession to the throne did not pass to his more junior lines of descent through Lord James of Xerica and Peter of Ayerbe. The illegitimacy of this callous disregard of their inheritance, theirs and that of the successors down through the House of Paternò to Don Francesco I is a matter which we contest to this day.

There follows a short extract from the lengthy last Will and Testament dictated by James I and magisterially translated into English from the Latin by Don Christer Gardemeister. The full text, in Latin and English, is available upon request.

## THE WILL OF OUR LORD KING JAMES I

*(omissis)*

...Next we install our sons Peter and James by the Lady Teresa, daughter of Gil de Vidaure, whom we acknowledge as legitimate, as our heirs in those castles and towns which we gave to them with the necessary documentation, the lately named James in the castles and towns of Xerica and Torres and the castle and town of Eslida and the castles and towns of Beho and Alin and the castles and towns of Cuhera and Fanzara and the castles and towns of Planes and Travacello and the citadel which the Saracen lord once held, in return for which we received in exchange for the tower of Arcos and the same at Salinas. And these castles and towns lately named we give and bequeath to the same James for his inheritance and in accordance with the laws of the land.

Next we install the said Peter our son and the son of the said Teresa as our heir in the castle and town of Ayerbe and in the castles and town of Lusià and in the castle and town of Ahuero and in the towns of Liso, Artasso, Castillon de Eust and in the castle and town of Boroça and in the castles and towns of Azaner, Cabannis and Becinnana, all of which castles and towns with all their jurisdictions and appurtenances we give and bequeath to the same Peter for his inheritance and in accordance with the laws of the land.

*(omissis)*

...No less do we desire, ordain and command if, which God forbid, it should happen that the said Prince Peter our firstborn son or his legitimate sons or legitimate male descendants in direct line should die without legitimate issue, the Kingdoms, Counties and all else which we bequeath to him should devolve upon our son Prince James the heir of Majorca if he is living then or upon his son or sons or upon whichever of his legitimate male

descendants in direct line shall at that time be King of Majorca and Lord of Montpellier. And if it should happen that the said Prince James our son or his legitimate sons or legitimate male descendants in direct line should die without legitimate male issue, we desire, ordain and command that the said Kingdom of Majorca and the Isles of Minorca and Ibiza and the aforesaid Counties and Montpellier bequeathed to him together or separately shall devolve entirely upon our aforesaid son Prince Peter or upon his son or sons or upon whichever of his legitimate male descendants in direct line shall at that time be King of Aragon and Valencia and Count of Barcelona. And if, Heaven forbid, the aforesaid Princes Peter and James our sons and their legitimate sons or legitimate male descendants in direct line should die without legitimate male issue, we desire, ordain and command that all the aforesaid kingdoms and all the aforesaid Counties and the city of Montpellier and all else which we bequeath to him as specified above should devolve upon James our son and the son of the aforesaid Lady Teresa if he is living then, or if he is dead, upon his legitimate sons or upon his legitimate male descendants in direct line. And if in the said case that same James and his sons or legitimate male descendants in direct line should die without legitimate male issue, we desire, ordain and command that all the aforesaid kingdoms and Counties and Montpellier and all the aforesaid lands should devolve upon Peter our son and the son of the aforesaid Lady Teresa if he is living then, or upon his legitimate sons or upon his legitimate male descendants in direct line\*

*(omissis)*

\* Our underlining SS/CG

## NOTES FOR CONTRIBUTORS

Articles for submission should be typewritten on A4 paper on one side only, with double spacing for editing. Text can also be submitted in data format (RTF or Word Document 2000 or below) on diskettes. References should be added separately. Please note : no type proof will be sent to authors before printing.

Black and white drawing and images can only be accepted in suitable digital format. Please contact us at the address below for further details.

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