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ALTAIR

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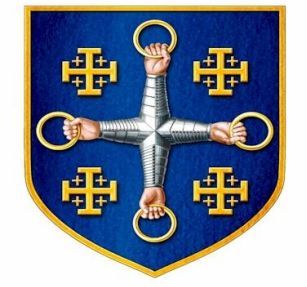

ABOUT THE JOURNAL

ALTAIR is the official journal of the American College of Interdisciplinary Studies (ISSN: 2168-0183).

> **Altair (Alpha Aquilae, Alpha Aql, α Aquilae, α Aql, Atair) is the brightest star in the constellation Aquila and the twelfth brightest star in the night sky. It is an A-type main sequence star with an apparent visual magnitude of 0.77 and is one of the vertices of the Summer Triangle; the other two are Deneb and Vega. [Wikipedia]**

The journal articles are to be submitted no later than 15 May and 15 October. The process is by Peer Review.

> **Scholarly peer review (also known as refereeing) is the process of subjecting an author's scholarly work, research, or ideas to the scrutiny of others who are experts in the same field, before a paper describing this work is published in a journal. The work may be accepted, considered acceptable with revisions, or rejected. Peer review requires a community of experts in a given (and often narrowly defined) field, who are qualified and able to perform impartial review. Impartial review, especially of work in less narrowly defined or inter-disciplinary fields, may be difficult to accomplish; and the significance (good or bad) of an idea may never be widely appreciated among its contemporaries [Wikipedia].**

Membership, Fellowship and College courses: See inside back cover. Copies of the Journal are available on-line and on CD. CD copies are $10.00 (plus postage) for faculty, staff and students and $15.00 to the general public.

CONTENTS

Recovery of Nazi-confiscated Family Property from the Former Imperial House of Habsburg-Lorraine

(This part will focus on the need to have a successor, who qualifies by Family Statue and by FVF regulations, for the half billion dollar case to succeed.)

Stephen BACA y KERR, JD, LLM

D. Edward Goff, Ph.D. senior editor

ABSTRACT FOR PART IIa:

The first part of this article was published in Altair in September 2013. Part Two (published here) is about the legal problems that need to be resolved before litigation of the new case before the Austrian Administrative Court. The goal is to recover Nazi-confiscated private property owned by the former Imperial and Royal House of Habsburg. Part Three, which will be published later, analyses in detail the three steps of the litigation strategy devised to recover the Habsburg property.

The following is Part IIa which reviews the fundamental legal points brought out in the first article, and explains the critical need for discovering a member of the former Imperial Habsburg family who fully qualifies under the provisions of the 29 April 1936 FVF Statute as the Successor Fondschef of the 1936 FVF. Only a Successor Fondschef meeting the qualifications established by §4(2) and §6 of the FVF Statute will have standing or legal capacity to bring the carefully designed new case to the Austrian Administrative Court. Since the July 4, 2011 death of Dr. Otto von Habsburg-Lorraine, the identification of the Successor Fondschef has been in violation of family statute and the FVF requirements. In other words, there is a family issue that needs to be resolved. The present situation is out of harmony with family constitutional law, the requirements of the family trust and certain aspects of international law.

Introduction to the Dynastic Problem

The following is presented to explain how the author became acquainted with the details revolving around the 1936 Settlement Agreement with the Austrian Government and Provisions of 29 April 1936 FVF Statute. The late Archduke Rudolph (5 September 1919 to 15 May 2010) was the managing partner of a private bank in Brussels. He travelled to New York City four to five times a year to place investments for private clients. These trips continued even after he had formally retired.

Between 1981 until 1996 the author met with the late Archduke Rudolph. Upon each visit to NYC during this fifteen-year period Archduke Rudolph would send for the author, who would take the early train from Boston where he was working full-time on the Habsburg Case at the Harvard Law School International Law Library. After noon-Mass with the Archduke at Our Lady of Victory, parish church of Wall Street, over lunch at the India House, the author would discuss progress on the Case and ask relevant questions about the factual background.

Archduke Rudolph said that he was 16 or 17 at the time of the negotiations between the Imperial Family and the Austrian Government over the terms of the 1936 Settlement Agreement. Although the negotiations were handled by the Duke of Hohenberg on behalf of the Imperial Family, the Duke took instructions upon the exact terms directly from Archduke Otto, age 24, then living in exile in Brussels.
Archduke Rudolph said that the particular provisions of §6 FVF Statute restricting the class of "Fund-Beneficiaries and persons entitled to the fund" or "Fonds berechtigten und der Personen, die

Fondsberechtigte wären" which also designates the class of persons eligible under §4(2) FVF Statute to succeed as the successor "Fondschef" of the FVF were included at the specific insistence of Archduke Otto during the 1935 to 1936 negotiations with the Austrian Government upon the terms of the 1936 Settlement Agreement.

Archduke Rudolph also explained the intense the personal rivalry between his eldest brother, Archduke Otto, and Archduke Albrecht of the Teschen Branch contesting the possible nomination for the vacant Hungarian Throne from the Hungarian Regent, Admiral Horthy. Archduke Rudolph said that this rivalry caused Archduke Otto to include the very restrictive provisions in §6 of the 29 April 1936 FVF Statute.

Archduke Rudolph stated that according to tradition an Archduke making a non-dynastic marriage expels himself from the Arch-House upon the date of his marriage. No further action by the Chef de Familie is required under Title III, § 17 Family Statute, because the expulsion is automatic by operation of law. He added, that in late in1934 his eldest brother wrote to Archduke Albrecht stating that he was no longer a member of the Arch-House as a result of Albrecht's non-dynastic marriage.

As Archduke Rudolph explained to the author:

> The permanent loss of dynastic rights is instantaneous upon the date of such marriage under Title III, §17 of our Family Statute. There is no legal need for a formal expulsion although my eldest brother did so in late 1934 to Archduke Albrecht but only to emphasize the point.

Archduke Rudolph related that Archduke Otto insisted upon the inclusion of all of the above provisions in §6 FVF Statute during the negotiations of the terms of the 1936 Settlement Agreement with the Austrian Governments of Chancellors Dollfuss and Schuschnigg in order to bar Archduke Albrecht and his descendants from the enjoyment of, or succession as "Fondschef" to any of the properties which might be transferred under the 1936 Settlement Agreement. Archduke Rudolph elaborated:

> Ironically, fifty-seven years ago when my eldest brother insisted upon the inclusion of these particular provisions in the 1936 FVF Statute, he could not have envisioned that he, himself, would be making just such a formal renunciation of "membership" in our family in 1961 in order to enter Austria.

Archduke Rudolph further stated:

> In light of my eldest brother's expulsion of Archduke Albrecht of the Teschen Branch in 1934 under §17 of our Family Statutes for making a non-qualifying marriage not meeting the requirement of "Standesgesmäßer" as defined in the 1900 Amendment to our Family Statute, it is, indeed, incongruous that this very January (31 January 1993) his own son married a rich woman who clearly does not meet any of the genealogical requirements for a qualifying marriage into our family: This woman scarcely knew him, certainly not for any length of time. My surmise is that she married the penniless heir of the Habsburgs solely for his "title." *One just doesn't 'buy one's way' into our family. We are not for sale -- no matter what the amount*"! In my personal opinion the proper term for this is *mariage de convenance*.

Gesturing across the table in a clearly irritated manner, Archduke Rudolph continued: After just chancing across this wealthy woman, he abjectly broke a long-standing engagement with a poor young cousin of the Tuscan Branch by a morganatic marriage: Their engagement had gone so far that my eldest brother attempted issuance of "Family Laws" giving the offspring of such marriages the "title" of "Count" or

"Countess". This was done specifically to give this young cousin a "title" to facilitate her future marriage with his eldest son -- *which never occurred.* It was not precisely "chivalrous conduct" in my opinion for him to jilt so wretchedly and, thus, to wrong so gravely this poor girl to whom he had given his plighted word -- as one who has been a Knight of the Golden Fleece since his baptism! *In my opinion this was all so completely opportunistic and so utterly dishonourable -- what more can I say!* All of us, my other brothers, sister, and all of our children did not attend his wedding to the wealthy woman in legal protest against this flagrant violation of our 1839 Family Statute and its 1900 Amendment concerning non-dynastically qualifying marriages.The late Archduke Rudolph (5. IX. 1919 to 15. V. 2010) lived a life of what I believe to be canonizable sanctity (The author considers Archduke Rudolph to be the finest man he ever knew). The utmost credence must be placed in Archduke Rudolph's considered opinion upon these dynastic matters. The Archduke would never say such things lightly.

The author met the young Cousin-in-question at Salzburg in October 1988 en route to Vienna to work on the Habsburg Case with Austrian Counsel. She was a sweet and lovely petite blond in her early 20's who appeared to be very much in love. One can only imagine how utterly devastated she must have been after being so capriciously abandoned. Archduke Rudolph noted this his third brother, Archduke Felix, who still actively held that 1961 dynastic power of attorney from his eldest brother given before the 1961 renunciation, did not attend the 31 January 1993 ceremony and definitely did not give "dynastic consent" to a marriage which would be in direct violation of the 1839 Habsburg Family Statute and the 1900 Amendment. As the Archduke remarked:

My other brothers and I are in full agreement that our eldest brother lost all dynastic competence in such matters upon his 1961 renunciation. This non-dynastically qualifying marriage clearly did not receive *any* dynastic consent from my brother, Felix, under his 1961 Power of Attorney, as required by §15 of our Family Statute.

When ask if the provisions of §6 FVF Statute inserted deliberately to bar Archduke Albrecht and the automatic forfeiture of dynastic rights in §17 Family Statute, which expelled Archduke Albrecht from the Arch-House, would also apply in this later situation, Archduke Rudolph replied:

I do not see why not. Any other result would be inequitable, create a double standard, and would be unfair to people such as the Hohenbergs, the Altenburgs, and the Merans. It also has created the public impression that the membership in our family is *in commercio* for purchase by the highest bidder. The penalty of §17 of our Family Statute which was applied by my eldest brother, *himself*, to Archduke Albrecht for the same failure of the latter's marriage to qualify dynastically is equally applicable in this latter situation. "Money" should not make any difference: *We are not for sale at any price!* This is matter of our family honour.

The Archduke was so emphatic about this point that he brought down his fist upon the table in the main dining room of the India House, emphasizing that family honour was at stake. Membership in the Imperial Family was not available for "purchase" by anyone in Archduke Rudolph's own words, "no matter how rich!"

Before focusing on the succession problem, a shortened, but detailed, review of the case will be presented. Then the following subjects will be examined:

Headship of the House of Habsburg.

- The relevance of Archduke Otto's rivalry with Archduke Albrecht of the Teschen Branch for nomination to the Hungarian Throne by Regent Admiral Horthy.
- Dynastic Marital requirements of Title I, §1 Family Statute, and the 1900 Amendment incorporated by Archduke Otto into the 29 April 1936 FVF Statute.
- Legal Necessity for a Successor Fondchef, who *qualifies fully* under the legal criteria of the 1936 FVF Statute, possessing unchallengeable "standing" to bring the New Case to the Administrative Court.
- Reasonable legal doubt exists as to the *de jure* succession to both Chief of Arch-House and Successor Fondschef of 1936 FVF after the 4 July 2011 death of Dr. Otto von Habsburg-Lorraine.
- Permanent loss of all Dynastic Competence by Dr. Otto von Habsburg-Lorraine upon 1961 renunciation.
- Upon the 31. V. 1961 dynastic renunciation of "the Membership of the House of Habsburg-Lorraine and all accompanying rights to rule," all dynastic competence were permanently forfeited.
- Archduke Lorenz of Austria-Este *possesses* best legal rights as both *de jure* Chief of Arch-House and as *de jure* Successor Fondschef of 1936 FVF.
- Under International Public Law, a Sovereign House may internally resolve all doubts concerning a dynastic succession within that House.
- Necessary Action by the Cadet Members of the House of Habsburg-Lorraine.
- Suggested Juridical Declaration of Accession.
- Part IIb of the Law Review Article on recovery of Nazi-confiscated property belonging to the former Imperial House of Habsburg.

Brief Summary of Legal Points

The purpose of this three part law review article is to set forth a three step legal strategy devised to recover Habsburg property confiscated after the 1938 Anschluss during the 1938 to 1945 occupation of Austrian territory by the Third Reich and never returned after World War II. The following key legal points are relevant for a potential new case to the Austrian Administrative Court:

1. The confiscated income-producing property in question was originally derived from the *non-Austrian* Lorraine Patrimonial Family Fortune imported into Austria by Duke Francis Stephen of Lorraine upon his 1736 marriage to Maria Theresa of Austria. This is clearly private personal *on-Austrian* property belonging privately to the Imperial Family re ABGB 289 and not State Property under ABGB 287 of the Austrian General Civil Code. To take private property was a violation of laws of justice created by a punitive Austrian law and directed at a specific family without due process or adjudication. It was confiscated by §6 of the 3 April 1919 Anti-Habsburg Law. Upon the recommendation of a *later* more equitable Austrian Government, this law was altered by the 4 July 1935 Law of Reversal, BGBl. 299/1935, which granted competence to the Government to create a new fund, trust, or entail for the benefit of the Habsburg family to transfer the confiscated Habsburg property back. The 1935 Law of Reversal was enacted during the Legal Order of the 1934 Constitution in which the 3 April 1919 Anti-Habsburg Law was an "ordinary law" and was superseded by the 1935 Law of Reversal.

2. A completely new Fund, trust, or entail known as the Family Vorsorgungs Fond (FVF) was freshly created by the Austrian Government and endowed with legal personality by the 29 April 1936 FVF Statute to own the returned property. The FVF in its capacity as a "legal person" (ABGB 26) is the legal owner of the property transferred to this Fund.

Archduke Otto was named the first Fondschef or entail-holder or trustee as the "Vertreter des Fonds" and administrator of the FVF and manager of FVF property in §4(1) FVF Statute. §4(2) and §6 of the 1936 FVF Statute set forth detailed qualifications, incorporating the dynastic marital provisions from the 1839 Habsburg Family Statute and the 1900 Amendment thereto, which the Successor Fondschef of the 1936 FVF must meet. Only this qualifying Successor Fondschef has "standing" or legal capacity to assert a "claim" to litigate a case concerning this property.

The Austrian Government made two transfers of property to the 1936 FVF. The public law act of 1 December 1936 transferred apartment houses in Vienna to the FVF. The public law act of 7 January 1938 transferred valid titles (ABGB 316) to property named in this Protokoll to both the FVF and to individual members of the Habsburg Family.

3. In the immediate aftermath of the 13 March 1938 Anschluss with the Third Reich such FVF and Habsburg property was seized again and sequestered in vindictive political retaliation for Archduke Otto's Diplomatic Protest against the Anschluss of 14 March 1938. On the First Anniversary of the Anschluss, On 14 March 1939 Seyss-Inquart enacted §§2-4 "Nazi Law" GBlÖ 311/1939, confiscating all of the property returned under the 1936 Settlement Agreement. Seyss-Inquart's enactment statement of this date gave as "the ground for the German confiscation was declared to be that the last Austrian Emperor, Karl, was a traitor to the State and "all members of his family are in the camp of enemies of the German people." (*New York Times,* 15 March 1939, 15:8) This, of course, was done unlawfully without due process.

4. The 27 April 1945 Austrian Declaration of Independence, StGBl. 1/1945, Article 2 declared the Anschluss to be null and void. This means that Austria was never legally annexed by the Third Reich but was belligerently occupied between 1938 to 1945. The Hague Regulations on the Laws of Warfare became automatically and immediately applicable for the entire 1938 to 1945 occupation of Austrian territory.

5. On 1 May 1945, the Renner Provisional Government enacted the Legal Systems Transition Law (abbreviated as R-ÜG), StGBl. 6/1945. §1(1) R-ÜG declared all 1938 to 1945 Nazi Legislation applicable to Austria which conflicts with the following Four Principles to be *immediately* abrogated or repealed as of that date. The four principles are that all laws must be:

- Compatibility with a free and Independent Austrian State.
- Compatibility with the Principles of a Genuine Democracy.
- Compatibility with the Sense of Justice of the Austrian People.
- Contains no Ideology typical of National Socialism.

6. 1(2) R-ÜG and §5 R-ÜG of the 1 May 1945 Legal Systems Transition Law imposes a duty upon all future post-war Austrian Federal Governments to examine the entire corpus of 1938 to 1945 Nazi Legislation for conformity with these Four Principles and to make a decision to

abrogate all Nazi Legislation which conflicts with the Four Principles mentioned above and which will examined for compliance.

This requirement includes Seyss-Inquart's 14 March 1939 Nazi Law GBlÖ 311/1939 confiscating all of the property transferred to the FVF under the 1936 Settlement Agreement between the Austrian Government and the former Imperial Family.

Since the end of World War II, the Austrian Government has rarely abrogated conflicting Nazi Legislation. There have been no abrogations of Nazi Legislation since 1947. Both Seyss-Inquart's Nazi Law GBlÖ 311/1939 and many other offensive and hurtful Nazi Legislation, clearly conflicting with the Four Principles in §1(1) R-ÜG, remain to this day.

7. §2 R-ÜG of the 1 May 1945 Legal Systems Transition Law transformed all "other" Nazi Laws and Regulations into post-war Austrian laws within the post-war Austrian Legal Order. In order to be so "transformed" by §2 R-ÜG such 1938 to 1945 Nazi Legislation had to conform with the Four Principles in §1(1) R-ÜG.

Nazi Legislation which *did not conform* with these Four Principles remained in its original legal capacity as *non-Austrian* (i.e., not derived from Austrian Sovereignty re Article 1(1) B-VG of the Constitution) "occupation measures" issued by the Occupying Power (the Third Reich) during the 1938 to 1945 occupation of Austrian territory.

For legal validity as German occupation measures these *non-Austrian* occupation measures had to conform with the Articles of the Hague Regulations as "special Austrian laws" under Article 9(1) B-VG of the Constitution applicable to *any occupation* of Austrian territory by *any* Occupying Power: This includes the 1945 to 1955 Allied Four Power Occupation of Austria as well as the 1938 to 1945 occupation of Austrian territory by the Third Reich.

Such *non-Austrian* occupation measures which did not conform with the Hague Regulations were immediately *void ab initio* (void from the onset) as of the date of issuance by the Occupying Power (the Third Reich). As complete nullities such non-Austrian occupation measures which violated the Articles of the Hague Regulations were incapable of creating any enduring legal effects or permanent legal consequences (i.e., abrogation of the legal personality of the FVF or confiscation of FVF and Habsburg property). This rendered the anti-Habsburg occupational measures incapable of receiving bonified *legal recognition* from post-war Austrian courts and governmental administrative authorities.

8. Due to the 69-year *deliberate* failure by all post-war Austrian Governments to perform the duty imposed by §1(2) R-ÜG and §5 R-ÜG to examine Seyss-Inquart's 14 March 1939 Nazi Law GBlÖ 311/1939 for conformity with the Four Principles in §1(1) R-ÜG and to make the required decision to abrogate or to repeal §§2-4 Nazi Law GBlÖ 311/1939 for conflict with these Four Principles, the Austrian General Public *has falsely and wrongfully assumed* that Nazi Law GBlÖ 311/1939 was "transformed" by §2 R-ÜG into valid post-war Austrian law, when, in fact, it was not.

9. It is obvious or p*rima facia* that §2-4 Nazi Law GBlÖ 311/1939 was in violation of the First and Fourth Principles of the Hague convention in §1(1) R-ÜG:

a. There is a direct violation of the First Principle in §1(1) R-ÜG re Nazi Legislation

because it is incompatible "*with a free and independent State of Austria.*" The grounds for the confiscation of FVF and Habsburg property were political. The grounds for this confiscation was "that the last Austrian Emperor, Karl, was a traitor to the State and all members of his family are in the camp of enemies of the German people." (*New York Times*, 15 March 1939, 15:8). Archduke Otto's Diplomatic Protest against the Anschluss *violates directly* the First Principle in §1(1) R-ÜG as Nazi Legislation is incompatible "*with a free and independent Austrian State."* This act of retaliation, without due process of law, was in conflict a free and just society or a free and independent State.

b. There is also a direct violation of the Fourth Principle in §1(1) R-ÜG re Nazi Legislation is because it contains "*Ideology typical of National Socialism.*" The clear intention of the legislator, (ABGB 6) set forth in Seyss-Inquart's 14 March 1939 enactment, had the legislative purpose of abrogating the legal personality of the FVF and confiscation of FVF and Habsburg property. This was done in retaliation because: "the last Austrian Emperor, Karl, was a traitor to the State and all members of his family are in the camp of enemies of the German people." (*New York Times*, 15 March 1939, 15:8). It was done because of Archduke Otto's Diplomatic Protest against the Anschluss. Seyss-Inquart's enactment statement is directly taken from severe, unwarranted, condemnation without due process of the entire Habsburg Family set forth by Hitler in *Mein Kampf*: (See "Habsburg" in the Index to *Mein Kampf).*

10. An excellent case also exists that §§2-4 Nazi Law GBlÖ 311/1939 is in conflict with the Second and Third Principles as set forth in the Hague convention §1(1) R-ÜG of the 1 May 1945 Legal Systems Transition Law, StGBl. 6/1945

a. Violation of the Second Principle in §1(1) R-ÜG re Nazi Legislation is because it conflicts "*with the principles of a genuine democracy.*" In other words, §§2-4 Nazi Law GBlÖ 311/1939 causes the total revision of the Constitution by violating both the liberal principle grundsätze or grundnorm as set forth in the three Fundamental Laws of the 1960's incorporated into the present Austrian Constitution and the "rechtsstaat principle" or "rule of law lrinciple" grundsätze or grundnorm set forth in the Articles of the Hague Regulations governing occupation of Austrian territory. Because the Austrian Constitution is anchored upon such grundnorms, such total revision of the Constitution must be ratified by a national plebiscite, which has never taken place. The Nazi laws against the Habsburgs were enacted without the representation of the people and without due process. To any reasonable person, this is obviously in conflict with the principles of a genuine democracy or the rules of equity and fairness.

b. Violation of the Third Principle in §1(1) R-ÜG re: Nazi Legislation is because it conflicts "*with the sense of justice of the Austrian people*" as set forth in provisions of the Austrian General Civil Code of 1812 establishing legal relations between people and their property. When, without due process, property is vindictively confiscated, justice is not served.

11. Under Article 130(1)(b) B-VG of the Constitution, the Austrian Administrative Court has competence or jurisdiction over all situations where a public law, a provision of the Civil Code, or an acquired private law right imposes a duty upon a governmental administrative authority to

make a decision in a matter affecting directly the concrete legal interests in the subject-matter of an Applicant to the Administrative Court.

Beginning with litigation in 1963 over the return of Archduke Otto to Austria, the Administrative Court has a solid record of fairness to the Habsburg Family. The Administrative Court is composed entirely of non-political Civil Service Judges. The same *cannot be said* about the Constitutional Court and the Supreme (appellate) Court which has apparently been filled with *Austro-Marxist* Ideologues. I suggest that these judged are political appointees of the Government instead of objective, neutral judges. Hence, the Administrative Court not only has legal competence, but the critical element of judicial impartiality to bring forth a just and honourable finding in the case.

12. This article sets forth three steps of proposed Litigation to the Administrative Court to recover the Nazi-confiscated FVF and Habsburg property returned by the Austrian Government under the terms of the 1936 Settlement Agreement which was negotiated by both parties:

•First Step: Application by the qualified Successor Fondschef to the Administrative Court for a Judicial Order abrogating or repealing §§2-4 Nazi Law GBlÖ 311.1939 for conflict with the Four Principles in §1(1) R-ÜG of the 1 May 1945 Legal Systems Transition Law, StGBl. 6/1945.

The Austrian Federal Government, the administrative authorities having actual custody and operational management of this property, and officials of the Austrian Federal Treasury (or Treasury of the City of Vienna) to whom such money is paid should be named as defendants or respondents in this Application in order to bind them by the Court's decision.

Automatic revival of legal personality of FVF:

•FIRST, under the jurisprudence (case law) of the Austrian Constitutional Court in VfGH 3. 12. 1980, B 206/75, abrogation or repeal of the law of expropriation or confiscation is required constitutionally for all expropriations of private property by Article 5 RGBl 142/1867 in Article 149(1)(Abs. 1) B-VG. This lawful act would return automatically the expropriated property to its original Owner. Property includes completely intangible things which are subject to legal possession re ABGB 311, 312, 313. In other words, all property, immovable (land), movable, and incorporeal is guaranteed constitutionally as inviolable by Article 5 RGBl 142/1867 in Article 149(1)(Abs. 1) B-VG of the Constitution.

This would include incorporeal property re ABGB 285, 291, 292 such as the legal personality (ABGB 26) and the 29 April 1936 FVF Statute as an acquired private law right (ABGB 292).

§2(1) Nazi Law GBlÖ 311/1939 expropriated incorporeal property (ABGB 285, 291, 292) consisting of the legal personality (ABGB 26) of the FVF and the 29 April 1936 FVF Statute as an acquired private law right (ABGB 292). Therefore, upon future abrogation or repeal of §2(1) Nazi Law GBlÖ 311/1939 for conflict with the Four Principles in §1(1) R-ÜG, StGBl. 6/1945, by the Administrative Court, by virtue of the above case law, the Austrian Constitutional Court in

VfGH 3. 12. 1980, B 206/75, should, as an act of justice, require the automatic return of incorporeal property consisting of the legal personality of the FVF and the 1936 FVF Statute as an acquired private law right to the qualified Successor Fondschef of the FVF.

Under ABGB 312 legal possession of incorporeal property "is acquired through use in the possessor's name." This means that the Successor Fondschef should just begin using the legal personality of the 1936 FVF -- after a favorable decision by the Administrative Court abrogating or repealing Nazi Law GBlÖ 311/1939 for conflict with the Four Principles in §1(1) R-ÜG.[1]

•SECOND, the original recording of the 29 April 1936 FVF Statute upon the public law Official Books of the Austrian Federal Chancellery as Bundeskanzleramt Zl. 147.334-4/36 created a real right of incorporeal property (ABGB 285, 291, 292) in the FVF Statute as an acquired private law right (ABGB 292) as well as in the legal personality (ABGB 26) of the FVF *vesting* under §2 FVF Statute.

Upon the 14 March 1939 expropriation of real rights of incorporeal property consisting of the 1936 FVF Statute and the legal personality of the FVF by the Occupying Power in §2(1) Nazi Law GBlÖ 311/1939, both the FVF Statute and the legal personality of the FVF fell into a legal state of abeyance -- similar to inundated land in ABGB 408. This principle is also exemplified when there is a destruction of either a servient or dominant estate as in ABGB 52,5 and when that property right is unified. The point is, the real rights are restored as stated in ABGB 526.

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[1] NOTA BENE: §2(2) Nazi Law GBlÖ 311/1939 expropriates the immovable property of the FVF. §3 Nazi Law GBlÖ 311/1939 expropriated the immovable property of individual members of the Habsburg family. §4 Nazi Law GBlÖ 311/1939 ordered the "striking" or cancellation of the pre-Anschluss Intabulations on the Provincial Books of this immovable property in the names of the FVF and individual members of the Habsburg family and ordered the re-Intabulation of such property in the name of the Third Reich or the Occupation "Land Ostmark".

Clearly, the case law of the Austrian Constitutional Court in VfGH 3. 12. 1980, B 206/75, would restore the incorporeal "valid titles" (ABGB 316) of such property to their original owners upon future abrogation/repeal of §2(2), §3, §4 Nazi GBlÖ 311/1939 or the unjust occupational measure that took it away in the first place.

Austrian Legal Counsel needs to research whether such future abrogation/repeal of §4 Nazi GBlÖ 311/1939 by the Administrative Court would automatically "strike" or "cancel" the Nazi re-Intabulation of such property in the name of the "Third Reich" and "Land Ostmark" as ordered by §4 Nazi Law GBlÖ 311/1939, and restore the original pre-Anschluss Intabulations of

this property in the name of the FVF and Individual members of the Habsburg family. Or, would an order of the Court to this effect be required. In any event, the Keepers of the Provincial Books need to be named as Defendants or Respondents in the future New Case to the Administrative Court -- to bind them by the Court's decision.

[1] NOTA BENE: Analogous to ABGB 321, 322, 350, 431, 444, 481(1), 527 (Abs. 2), *real rights* in property of any type are established by *the public law recording* of such upon the appropriate public register, official books, and other official records:

Because §§2-7 BGBl. 299/1935 granted competence to the Austrian Federal Government to create a new fund for the benefit of

Analogous to ABGB 526(Abs. 2) only the express cancellation of a *real right* of incorporeal property in an easement or servitude upon the Provincial Books is legally capable of destroying the *real right* of incorporeal property consisting of that servitude or easement. Neither the Nazis nor the post-war Government has ever "struck" or cancelled the original 29 April 1936 FVF upon the public law Official Books of the Austrian Federal Chancellery as Bundeskanzleramt Zl. 147.334-4/36

Upon *future abrogation* of Nazi Law GBlÖ 311/1939 by the Administrative Court *real rights* of incorporeal property (ABGB 285, 291, 292) consisting of the 1936 FVF Statute and with it the legal personality of the FVF revives automatically with EX TUNC (from the onset) legal effect, that is, it is being binding immediately.

This situation, of immediate restoration of right, is analogous to the re-emergence of land inundated by the change of course of a river re ABGB 408; analogous to the automatic revival of the *real right* of incorporeal property in an easement or servitude *interrupted* by the destruction of either the servient or dominant estate but which is restored automatically when the destroyed estate-in-question is restored re ABGB 525; and analogous to the automatic revival of the *real right* of incorporeal property in an easement or servitude placed in a *state of abeyance* upon merger or unification of both estates which is revived automatically when the dominant and servient estates are again separated re ABGB 526.[2]

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the Habsburg family, *real rights* of incorporeal property in the FVF Statute and the legal personality of the FVF was established by recording the FVF Statute upon the official books of the Austrian Federal Chancellery. The 29 April 1936 recording or registration of the FVF Statute upon the public law Official Books of the Austrian Federal Chancellery as Bundeskanzleramt Zl. 147.334-4/36 created a *real right* of incorporeal property (ABGB 285, 291, 292) in the FVF Statute as an acquired private law right (ABGB 292) as well as in the legal personality (ABGB 26).

Further, analogous to ABGB 350, 444, 469a, 526, and 1446, once *real rights* in any type of property have been created by the registration of a Deed or Application for such upon the appropriate public law Official Books, such real rights can be destroyed only the specific "striking" or cancellation of such real rights of property upon the Official Books of the public law registry or record upon which such real right in property were originally created.

Analogous to ABGB 350, 408, 444, 469(a), 525, 526, and 1446, the interruption of a real right of property by some intervening cause is incapable of destroying that real right of property originally created upon the recording of documents relating to the property or object upon the public law Official Books, public records, or public registries.

Once that intervening cause has been removed, the real right of property-in-question revives automatically as long as that real right has not been "struck" or cancelled upon the public law records upon which that real right of property was originally created.

Not even the *seeming destruction* of an object is legally sufficient to destroy a real right of property created upon being recorded on the Official Books of a public law registry:

- Analogously under ABGB 408 , the inviolable rights of the owner remain if land is inundated by the change of course of a river, When the river returns to its old course, the owner can resume use of that land without having to re-Intabulate that property upon the Provincial Land Transfer property Registry Books:
- Analogously under ABGB 525 the destruction of either the servient or dominant estate upon which a servitude or easement rests causes the interruption of that easement or servitude. Whenever once the land or building to which the servitude or easement is attached is restored. the easement automatically becomes immediately effective by automatic operation of law re ABGB 525

•THIRD, the automatic revival of the legal personality of the FVF is because the occupation measures violate the Articles of the Hague Regulations. They are therefore, *void ab initio.* As complete nullities they can create no enduring legal effects or permanent legal consequences which can be recognized by post-war courts or administrative authorities. Hague Regulations Article 46(2) declares "private property cannot be confiscated." This includes incorporeal property (ABGB 285, 291, 292) belonging to the legal personality (ABGB 26) of the FVF and the FVF Statute as an acquired private law right (ABGB 292).

Thus, nullification of such enduring legal effects or permanent legal consequences in step two of this litigation will definitively obtain the recognition of the legal personality of the FVF *vesting* under §2 of the 29 April 1936 FVF Statute as a public law act of the Austrian Government. Post-war administrative authorities will now be required to recognize it.

Abrogated Nazi Legislation *reverts* to original legal status as *non-Austrian* occupation measure issued by the Occupying Nazi Powers during 1938-1945 occupation of Austrian territory.

•SECOND STEP: Application by the Successor Fondschef to the Administrative Court for a Judicial Order nullifying the enduring legal effects or permanent legal consequences (i.e., abrogation of the legal personality of the FVF and confiscation of FVF and Habsburg property) instituted upon the (14 March 1030) *entry-into-force* of §§2-4 Nazi Law GBlÖ 311/1939 for violation of Articles 42, 43, 46(2), 23(h), 23(g), 47, 52, 46(1), and 45 of the Hague Regulations as special Austrian laws under Article 9(1) B-VG of the Constitution applicable automatically to *any occupation* of Austrian territory by *any* occupying Power for the *entire duration* of such occupation of Austrian territory:

The Austrian Federal Government, the administrative authorities having actual custody and operational management of this property, and officials of the Austrian Federal Treasury (or Treasury of the City of Vienna) to whom such money is paid should be named as defendants or respondents in this application.

§§2-4 Nazi Law is *void ab initio* as of its 14 March 1939 date of issuance by the

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•Analogous to ABGB 526 the unification of the ownership of both the dominant and servient estates in one person causes the servitude or easement to cease of itself. Such unification of both the dominant and servient estates causes the easement or servitude to go into a state of abeyance or legal suspension. Such unification does not destroy the *real right* of incorporeal property in that easement or servitude created originally by the registration of the documentation establishing that easement or servitude upon the public law registry, records, or official books. When the dominant and servient estates are again separated the easement or servitude created by registration upon the Provincial Books revives automatically. Only the express cancellation of that easement or servitude upon the pubic register is capable of destroying that easement or servitude re ABGB 526(Abs. 2).

•ABGB 526(Abs. 2) states explicitly what ABGB 350, 444, 321, 322 implies analogously. A real right of property of *any type* -- immovable property (land), movable property (an automobile), or incorporeal property (a legal right such as an easement or servitude or legal personality re ABGB 26) may be destroyed legally only by the express cancellation or "striking" of that *real right* of property upon the public law registry, record, or official books upon which it was created originally. This results from the constitutional guarantee of the inviolability of property of all types -- including incorporeal property.

Occupying Power (Third Reich) for violation of the above Articles of the Hague Regulations. As a *complete nullity* no post-war Austrian court or administrative authorities can recognise any of the enduring legal effects or permanent legal consequences instituted by the *entry-into-force* of §§2-4 Nazi Law GBlÖ 311/1939.

As a result of the nullification of the enduring legal effects and permanent legal consequences (i.e., abrogation of the FVF and confiscation of property) instituted by §§2-4 Nazi Law GBlÖ 311/1939; such post-war Austrian administrative authorities must recognize the three public law acts of 29 April 1936 (creation of FVF), 1 December 1936 (transfer of apartment houses in Vienna), and 7 January 1938 (transfer of valid titles to the property named in Protokoll) by the Austrian Government under competence granted by §§2-7 BGBl. 299/1935 during the Legal Order of the 1934 Constitution -- when the 3 April 1919 Anti-Habsburg Law was an "ordinary law" and was superseded by the 4 July 1935 Law of Reversal, BGBl. 299/1935.

Under the *non-retroactivity of law*s established by ABGB 5 *none* of the following acts of the 1 May 1945 Constitutional Transition Law, StGBl. 4/945, can have no influence upon the legal validity of public law "acts which have taken place before" of 29 April 1936 (creation of FVF, 1 December 1936 (transfer of apartment houses in Vienna), and 7 January 1938 (transfer of "valid titles" to property named in Protokoll) or upon acquired private law rights which have been acquired before vesting in the Successor Fondschef in his *fiduciary capacity* as "Vertreter des Fonds" and administrator of the FVF and manager of FVF property in §4(1) FVF Statute:

> • the 1 May 1945 re-establishment of the constitutional status of the 3 April 1919 Anti-Habsburg Law by Article 1 V-ÜG, StGBl. 4.1945
>
> • the 1 May 1945 abrogation or repeal of all Austrian Federal Laws enacted after 5 March 1933 -- *including the 1935 Law of Reversal, BGBl. 299/1935* -- by Article 2 V-ÜG, StGBl. 4/1945;
>
> • the 1 May 1945 abrogation of the 1934 Constitution by Article 3.1 V-ÜG, StGBl. 4/1945.

At this point, the Government loses valid title to the FVF and Habsburg property derived from the enduring legal effects or permanent legal consequences instituted upon the *entry-into-force* of §§2-4 Nazi Law GBlÖ 311/1939. The Government's tenure or legal nature of custody of this property becomes that of a holder without title re ABGB 318 who has no legal claim to the possession of this property. The Government is barred by ABGB 319 from arbitrarily changing the legal nature of its custody so as to acquire title for itself. The Government becomes the *Implied Bailee* by taking into its custody property belonging to another re ABGB 957 and a constructive Contract of Custody or bailment (ABGB 957-970) arises:

•THIRD STEP: Application by the Successor Fondschef to the Administrative Court for a Judicial Order under the duty imposed by ABGB 961 upon the Austrian Federal Government, the administrative authorities having actual custody and operational management of FVF and Habsburg property, and officials of the Austrian Treasury to

whom the earnings of such property was paid as *Implied Bailees* (ABGB 957) of such property since the 1 may 1945 §1(1) R-ÜG declared all 1938 to 1945 Nazi Legislation conflicting with the Four Principles to be *immediately abrogated or repealed* as of that date to do the following

•Return (ABGB 961) the FVF and Habsburg property to the Successor Fondschef upon his request ABGB 962 or upon his termination of the Bailment ABGB 963;

•Return all income earned by the FVF and Habsburg property since the 1 May 1945 §1(1) R-ÜG immediate abrogation/repeal of §§2-4 Nazi Law GBlÖ 311/1939 for conflict with the Four Principles when the Austrian Federal Government and the "administrative authorities" having actual custody and operational management of this property became the Implied Bailees under a constructive Contract of Custody (ABGB 957-970); and

•Pay 4% Legal Interest on each year's earned income for every year since 1945 as "damages" for the monetary value for the 69-years loss of use of such earned income by the Successor Fondschef,

14. Although the 1936 FVF was created by the Government as an entail, trust, or fund for the benefit of members of the Habsburg Family qualifying fully under the legal relationship established by the 1713 Pragmatic Sanction, the 1839 Family Statute, and the 1900 Amendment, only the Fondschef as the entail-holder or trustee as the "Vertreter des Fonds" or legal representative of the FVF and administrator of the FVF and manager of FVF property in §4(1) FVF Statute has a sufficient concrete legal interest in the subject-matter of the 1936 FVF and FVF property to possess standing or legal capacity to make Application to the Austrian Administrative Court to bring the THREE STEP New Case under the litigation strategy outlined above.

§4(1) of the 29 April 1936 FVF Statute designated Archduke Otto by name and date of birth as the first Fondschef of the FVF.

During 1935 to 1936 when the terms of the 1936 Settlement Agreement were being negotiated with the Austrian Government, Archduke Otto *insisted* upon the insertion into §4(2) and §6 of the FVF Statute provisions which incorporate the full and unmitigated dynastic marital qualification of "Standesgesmäßer" in Title I, §1 Family Statute, and the highly exact legal criteria for dynastically qualifying marriages into the Arch-House set forth in the 1900 Amendment to the Family Statute. Under the terms of the 1936 FVF Statute the Successor Fondschef of the FVF must qualify fully under the legal criteria of <u>both</u> §4(2) and §6 of the FVF Statute. Only a Successor Fondschef qualifying fully under §4(2) and §6 of the 1936 FVF Statute will have standing or legal capacity to make Application to the Administrative Court.

After the 4 July 2011 death of the late Dr. Otto von Habsburg-Lorraine, *grave doubt exists* as to which legal Member of the House of Habsburg-Lorraine qualifies under §4(2) and §6 FVF Statute as the Successor Fondschef of the FVF as well as Chief of the Arch-House. This is because the same legal criteria in the FVF Statute *parallels* identical legal criteria in the 1713 Pragmatic Sanction, the 1839 Family Statute, and the 1900 Amendment for designating the successor dynastic Chief of the House of Habsburg-Lorraine. "The clear intention of the

Legislator" (ABGB 6) permeating the entire 29 April 1936 FVF Statute is that the Successor Fondschef of the 1936 FVF should always be *one and the same person* as the dynastic Chief of the House of Habsburg-Lorraine.

Because the 29 April 1936 FVF Statute is a legal emanation of the Austrian Government, no possibility exists for any type of a wavier or authentic interpretation to permit a person not qualifying under the exact terms of §4(2) and §6 of the FVF Statute to be the Successor Fondschef of the 1936 FVF. Certainly, the Austrian Government would have no motive to grant any type of a waiver to a person desiring to bring a case against the Government for FVF and other Habsburg property!

Because only the Successor Fondschef qualifying (dynastically) fully under the legal criteria of §4(2) and §6 of the FVF Statute has standing or legal capacity to bring the THREE STEP New Case under the above litigation strategy, legal Members of the House of Habsburg-Lorraine re Title I, §1 Family Statute, desiring to recovering some §516,000,000 in total assets and claims from the Nazi-confiscated FVF and Habsburg property returned under the 1936 Settlement Agreement, will need to take affirmative dynastic action to acclaim the nearest related Archduke in the order of dynastic succession established by the 1713 Pragmatic Sanction, the 1839 Family Statute, and the 1900 Amendment fully (dynastically) qualifying under the terms of §4(2) and §6 FVF Statute as the legitimate Successor Fondschef of the 1936 FVF as well as the patrimonial dynastic Chief of the House of Habsburg-Lorraine.

Headship of the House of Habsburg:

Identification of the *de jure* Successor Fondschef of FVF (the Habsburg Trust) *qualifying fully* under §4(2), §6(1)(Abs. 1), §6(1)(Abs. 2), §6(2), §6(3)(a), and §6(7) of the 29 April 1936 FVF Statute.

Only the Successor Fondschef of the 1936 FVF qualifying fully under §4(2), §6(1)(Abs. 1), §6(1)(Abs. 2), §6(2), §6(3)(a), and §6(7) of the 29 April 1936 FVF Statute will possess unchallengeable standing, competence, legal capacity and a sufficient and obvious legal interest in the subject-matter of the 1936 FVF and its property to bring the THREE STEP New Case to the Austrian Administrative Court:

The estimated present value of Habsburg Family claim for property, back income earned by such property since 1945, and 4% Legal Interest as damages for the monetary value of 69-years loss of use of income earned since 1945 against the post-war Austrian Government for the property belonging to the 1936 FVF confiscated by the Nazis after the 1938 Anschluss is $516,000,000:

- Present value of 1936 FVF property: $270,000,000
- Accumulated Back Income since 1945
  app. $2,000,000 per year X 69 years: $138,000,000
- 4% Legal Interest as damages for
  68 years delay in payment of back income: $108,000,000
- TOTAL VALUE: $516,000,000

Article 4(1) of the 1936 FVF Statute designates the "Fondschef of the FVF" as "Der Vertreter des Fonds" as the manager and administrator of the FVF and its property.

Preliminary decisions in the First Case in 1989 ruled that although the Cadet Members of the Habsburg

Family are the intended class of beneficiaries of the 1936 FVF created to own the property returned under the 1936 Settlement Agreement, no individual Member of the Habsburg Family possesses a sufficient legal interest in the subject-matter of 1936 FVF and its property to bring any type of a case for the recovery of this property.

O*nly* the *de jure* Successor Fondschef of FVF will have standing, competence, legal capacity, and sufficient legal interest re §4(1) FVF Statute in the subject-matter of 1936 FVF and its property to bring an Application, Petition, Complaint for the proposed new case to the Austrian Administrative Court,

The Successor Fondschef of the 1936 FVF must qualify fully under the complete legal criteria of §4(2), §6(1)(Abs. 1), §6(1)(Abs. 2), §6(2), §6(3)(a), and §6(7) of 29 April 1936 FVF Statute:

The above provisions were "set into stone" by the late Dr. Otto von Habsburg-Lorraine during the 1935 to 1936 negotiations with the Schuschnigg Government over the terms of the 1936 Settlement Agreement. No waiver of any of these provisions is possible. The Successor Fondschef of the FVF must fully qualify under all of these provisions.

***Origin* of Provisions of 1936 FVF Statute in Archduke Otto's rivalry with Archduke Albrecht of the Teschen Branch for nomination to the Hungarian Throne by Regent Admiral Horthy:**

The provisions of §4(2), §6(1)(Abs. 1), §6(1)(Abs. 2), §6(2), §6(3)(a), and §6(7) in the FVF Statute designating the Successor Fondschef of 1936 FVF arose due to competition between Archduke Otto (1912 to 2011) and Archduke Albrecht (1897 to 1955) of the Teschen Branch for potential nomination to the Hungarian Throne from Hungarian Regent, Admiral Horthy.

At the time of the 1935 to 1936 negotiations with the Austrian Government, there existed a bitter personal rivalry between Archduke Albrecht and Archduke Otto to obtain the potential nomination of the Hungarian Regent, Admiral Horthy, for the Hungarian Throne.

After Kaiser Karl's second 1921 attempt to recover the Hungarian Throne, the Allied Powers forced Hungary to enact a law deposing the Habsburg Family. The Regent was granted competence by this Law to nominate a successor as King of Hungary.

Archduke Albrecht had been represented himself publically as the "Hungarian Habsburg" and was actively engaging in a wide-spread publicity campaign in Hungary to obtain Admiral Horthy's nomination. As the *de jure* Austro-Hungarian Crown Prince, Archduke Otto claimed that the Hungarian Throne was his by hereditary right under the Pragmatic Sanction.

On 16 April 1930, Archduke Albrecht married civilly in Brighton England to a 26-year old Hungarian divorcée, Irene Dora Lelbach von Rudanay. This marriage lacked the legal requirement of "Standesgemässe" re Title I, §1 Family Statute for dynastically-qualified marriage into the Arch-House as defined legally and genealogically in the 1900 Amendment.

In response to this marriage Archduke Otto deliberately caused the provisions of §4(2) and §6(1)(Abs. 1), §6(1)(Abs. 2), §6(2), §6(3)(a), and §6(7) to be inserted into the 1936 FVF Statute. These provisions concern both the beneficial enjoyment of income from the FVF Fund as well as for the designation of the Successor Fondschef. These provisions were designed specifically to bar Archduke Albrecht, and any of his descendants from the property returned under the 1936 Settlement Agreement. [3]

This was legally and morally justified because Archduke Albrecht's 1930 marriage did not conform to the legal requirement of "Standesgemässe" re Title I, §1 Family Statute as defined in the 1900 Amendment. Archduke Otto declared that Archduke Albrecht had expelled himself automatically upon the date of his 1930 marriage from the Arch-House by the *automatic operation of law* under Title III, § 17 Family Statute:

> "III Title, §17 Family Statute: Ein ohne diese Bestätigung abgeschloßener Ehevertrag ist als null und nichtig anzusehen und begründet für die angetraute Person und deren Kinder weder Ansprüche auf Erbfolge, Appanage, Witthum, Austere oder auf Stand, Title und Happen der Mitglieder Unseres Hauses, noch auf andere rechtliche Folgen einer ehelichen Verbindung."

The 29 April 1936 FVF Statute is a legal emanation of the Austrian Government. No waiver of any of the provisions in the 1936 FVF Statute is possible. The Successor Fondschef must qualify fully under §4(2) and §6(1)(Abs. 1), §6(1)(Abs. 2), §6(2), §6(3)(a), and §6(7) of 1936 FVF Statute.

Dynastic Marital requirements of Title I, §1 Family Statute, and the 1900 Amendment incorporated by Archduke Otto into the 29 April 1936 FVF Statute as the *legal criteria* for qualifying as Successor Fondschef of the FVF:

The following dynastic marriage and consent requirements of 1839 Family Statute and 1900 Amendment were *incorporated* as contractual "choices of law" by Archduke Otto, *himself*, into §4(2) and §6(1)(Abs. 1), §6(1)(Abs. 2), §6(2), §6(3)(a), and §6(7) of 1936 FVF Statute *designating* the Successor Fondschef of the 1936 FVF:

Archduke Otto insisted personally upon the specific inclusion of these highly restrictive provisions into §6 of the 1936 FVF Statute. These provisions were designed to bar Archduke Albrecht, Duke of Teschen and any children which he might have on the grounds that Albrecht had a non-dynastically qualifying marriage not meeting the legal requirements of the 1900 Amendment to the 1839 Family Statute, from the enjoyment of and succession to property transferred to FVF under 1936 Settlement Agreement.

The Successor Fondschef of the FVF must qualify in accordance with the following provisions the 1936 FVF Statutes:

1. Approved Roman-Catholic Marriage: The requirements in §6(1)(Abs. 1) FVF Statute specify the necessity of an approved Roman-Catholic marriages. This particular requirement is not found in either the 3 February 1839 Family Statute or in the 12 June 1900 Amendment. This rule was inserted for Archduke Albrecht's *particular benefit*: Albrecht had been married to a divorcée in a 16 April 1930 civil ceremony in Brighton, England and not in a canonical Catholic marriage by a Catholic Priest.

   §6(1)(Abs. 1) FVF Statute *requires* the Successor Fondschef to have contracted an approved Roman-Catholic marriages. §6(1)(Abs. 1) FVF Statute also *excludes* as Successor Fondschef members of the Habsburg Family who had contracted a Protestant or a civil marriage.

2. Dynastically approved marriage: The requirement in §6(1)(Abs. 2) FVF Statute of "approved marriages and among those approved by the Statute" re Title I, §1 Family Statute mandate "Standesgemässe" as legally defined in the 1900 Amendment for a dynastically qualifying marriage. This requirement was inserted, because Archduke Albrecht's civil law wife, Irene

Dora Lelbach von Rudanay, was barely noble, and because this marriage had not received the dynastic consent from Archduke Otto as required by Title III, §15 Family Statute.

Under the specific Dynastic Power of Attorney given to Archduke Felix by his eldest brother Otto *before* signing his 31.V.1961 renunciation as well as under Title II, §10 Family Statute, since the 31.V.1961 renunciation of Dr. Otto von Habsburg-Lorraine, the specifically *designated person* to give the required dynastic consent *has always been* Archduke Felix.

§6(1)(Abs. 2) FVF Statute *requires* the Successor Fondschef's marriage to have received the dynastic approval of Archduke Felix (since 31.V.1961). The §6(1)(Abs. 2) FVF Statute also *excludes* as Successor Fondschef members of the Habsburg family who have married *without* dynastic consent from Archduke Felix (since 31.V.1961).

3. *Standesgemässe:* "Marriages ... among those approved by the Statute": The full integral dynastic marital requirement of "Standesgemässe" in Title I, §1 Family Statute, as defined legally with genealogical specificity in the 1900 Amendment, incorporated in §6(1)(Abs. 1) 1936 FVF Statute, requires approved marriages.

This clearly requires that any *future* Successor Fondschef must make a dynastically qualifying marriage meeting the legal criteria of both the 1839 Family Statute and the 1900 Amendment. Archduke Albrecht's 1930 marriage did not measure up to these legal standards.

The *same sanction* of Title III, §17 Family Statute, which Archduke Otto applied against Archduke Albrecht's 1930 marriage, applies also to *later* marriages in 1993 not meeting the dynastic marital requirement of "Standesgemässe" in Title I, §1 Family Statute, and defined with specificity in the 1900 Amendment: *'What is good for the Goose is good for the Gander.'*

4. *Unadulterated* dynastic order of succession existing during the Monarchy established by the 1713 Pragmatic Sanction, 1839 Family Statute, and the 1900 Amendment: The legal requirement of §6(1)(Abs. 3) of the 1936 FVF Statute: "Under the Chief of the House of Habsburg-Lorraine is the respective Regent, and after the suspension of succession of the Throne understood to be that Member of the House who would have been appointed to the succession of the Throne under the [1713] Pragmatic Sanction."

The "particular provision of the" (ABGB 6) *second clause* of the above, "which is apparent from the plain meaning or the language employed" states that "after the suspension of succession of the Throne understood to be that Members of the House who would have been appointed to the succession of the Throne under the Pragmatic Sanction," can *only be interpreted* to mean those particular rules applicable "to the succession of the Throne" that existed until the 30 October 1918, StGBl. 1/1918, the date of the *Austro-Marxist* "legal revolution" (re Dr. Hans Kelsen) against the Monarchical Imperial Constitution of 1867.

"Appointment to the succession of the Throne" in existence *before* the "legal revolution" of 30 October 1818 is *entirely* a *legal relationship* (**not** a *biological relationship)* **predicated** upon strict adherence to the *sole* legal criteria of the 1713 Pragmatic Sanction, the 1839 Family Statute, and the 1900 Amendment, all of which constitute the objective legal *rules designating* that the successor should be "that Member of the House who would have been appointed to the succession of the Throne" during the Monarchy.

"Appointment to the succession of the Throne" re §6(1)(Abs. 3) of the 1936 FVF Statute has *never* had *anything to do* with the mere *biological seniority* of organic *descent* as from the Habsburg family tree: *If such were true, than the Duke of Hohenberg* (born legitimately of a canonically valid marriage) *is clearly lineally biologically senior in pure genealogical descent from the* "*common ancestor*" *and ought to be* "*Chef de Familie und Familien Oberhaupte*" *as well as the Successor Fondschef of the 1936 FVF*.

The legitimate succession within the Arch-House of Habsburg-Lorraine *has always been* entirely a purely legal relationship based upon the *strict adherence* to the *legal criteria* spelled out in the 1713 Pragmatic Sanction, the 1839 Family Statute, and the 1900 Amendment to the Family Statute.

§6(1)(Abs. 3) FVF Statute *requires* that the Successor Fondschef must qualify under the legal relationship for succession as Head of State existing during the Monarchy under the objective positive legal criteria of the 1713 Pragmatic Sanction, the 1839 Family Statute, and the 1900 Amendment.

§6(1)(Abs. 3) FVF Statute *excludes* as Successor Fondschef one who fails to qualify under the objective positive legal criteria of the 1713 Pragmatic Sanction, the 1839 Family Statute, and the 1900 Amendment which existed during the Monarchy for the legal relationship which designated the Head of State.

5. Honourable Roman-Catholic birth: The requirement in §6(2) FVF Statute of "honourable Roman-Catholic birth" is not found in either the 3 February 1839 Family Statute nor in the 12 June 1900 Amendment. This requirement was clearly inserted for Archduke Albrecht's *benefit*: Any children which Albrecht might have by this divorced woman would not be born within a canonical Roman Catholic marriage, and would thereby be considered to be *canonically illegitimate* under the 1917 Code of Canon Law of the Roman Catholic Church.

The §6(2) FVF Statute *requires* the Successor Fondschef to have been born within a canonical Roman Catholic Marriage. §6(2) FVF Statute also *excludes* as Successor Fondschef any person not born within a canonical Roman Catholic Marriage.

6. The 1900 Amendment to Family law: "Marriages ... meeting the criteria of the Statutes" -- Use of the *plural term* "Statutes" includes *both* the 1839 Family Statute *and*, in particular, the 1900 Amendment to the Family Statute. The complete legal criteria for dynastic marriages set forth in the 1900 Amendment is incorporated by §6(2) of the 1936 FVF Statute re "marriages were approved by the respective Chief of the House of Habsburg-Lorraine and meeting the criteria of the Statutes":

The 12 June 1900 Amendment imposes the following legal and genealogical criteria for a dynastically-qualifying marriage into the Arch-House:

- Other legal Members of the Arch-House: i.e., an *Archduchess.*
- Members of other Christian Sovereign Royal Families: i.e., a *Princess.*
- Members of the German Princely Houses mediatised who were referenced in Article XIV of the Annex to the 1814 Bunds Pact of the Congress of Vienna and corresponding Austrian Princely Houses listed in the handwritten letter of 17 September 1825 by

Emperor Franz I: Girls from antique Sovereign Princely Houses who would be generically considered to be *Princesses.*

•Members of ancient noble knightly families possessing noble fiefs which lack a family statute or house laws but who can prove 16 quarters of nobility of 300 years each qualifying such ancestors to participate in knightly tournaments: The mother of each particular ancestor 300 years ago must herself come from a noble family as the medieval requirement to participate in Knightly Tournaments was that both parents had to be noble: in practice this means 32 quarterings of authentic nobility: a girl *so noble* in all sixteen quarterings and of such *antique lineage* in each of her sixteen quarterings that she is the moral equivalent of a generic princess as such is commonly understood on the Continent of Europe.

Archduke Albrecht's 16 April 1930 civil marriage to the divorcée Irene Dora Lelbach von Rudanay clearly did not meet any of the above legal criteria for a dynastically-qualified marriage into the House of Habsburg Lorraine set forth in the 1900 Amendment to the 1839 Family Statute:

§6(2) of the 1936 FVF Statute *requires* the marriage of the Successor Fondschef to meet the specific legal criteria of the 1900 Amendment as set forth above. The §6(2) of the 1936 FVF Statute also *excludes* as Successor Fondschef any member of the Habsburg Family whose marriage does not meet the particular legal criteria of the 1900 Amendment. Archduke Otto, *himself*, inserted the above requirement of §6(2) into the 1936 FVF Statute; no one else is responsible.

A person contracting a non-dynastic marriage not meeting the above criteria of the 1900 Amendment *automatically expels himself* from the Arch-House under Title III, §17 Family Statute in the *same exact manner* that Archduke Otto declared in November 1934 that Archduke Albrecht had expelled himself upon his *non-dynastically qualifying* 1930 Marriage:

The legal criteria of the 1900 Amendment applied by Archduke Otto, *himself*, to Archduke Albrecht's 1930 marriage *applies with equal force* to the later marriage of *every other* Archduke -- *without exception even the 1993 marriage of his eldest son, which was boycotted by all of the Uncles, Aunts, Nephews, Nieces, and Cousins in legal protest for violation of the 1900 Amendment to the Family Statute*. This legal protest preserved the dynastic rights of the other members of the Arch-House and prevents prescription from ever running to legitimate this marriage by the passage of time.[4]

[4] See Oppenheim - Lauterpacht, *INTERNATIONAL LAW*, Volume I - Peace, §489 re Protest:

> §489 Protest: "Protest is a formal communication from one … to another that it objects to an act performed, or contemplated by the latter. A protest serves the purpose of preservation of rights or of making it known that the protesting … does not acquiesce in, and does not recognize certain acts. A … can lodge a protest with another … against acts which have been notified to the protesting … or which have otherwise become known. On the other hand, if a … acquires knowledge of an act which it considers internationally illegal and in violation of its rights, and nevertheless does not protest, this attitude implied a renunciation of such rights, provided that a protest would have been necessary to preserve a claim."

This protest of the other and most-closely related members of the Arch-House against the violation of the 1900 Amendment and "Standesgemässe" in Title I, §1 Family Statute, by the 31 January 1993 ceremony preserved fully the dynastic rights of the other

7. "Marriages approved by the respective Chief of the House of Habsburg-Lorraine" -- the dynastic consent requirement in Title III, §15 Family Statute is that "marriages [must be] approved by the respective Chief of the House of Habsburg-Lorraine" as mandated in the §6(2) FVF Statute.

The §6(2) FVF Statute *requires* that the marriage of the Successor Fondschef receive the dynastic consent required in Title III, §15 Family Statute from Archduke Felix, since 31 May 1961 under the Dynastic Power of Attorney given by Dr. Otto von Habsburg-Lorraine, before renouncing "the Membership of the House of Habsburg-Lorraine and all accompanying rights to rule" vesting under the Pragmatic Sanction.

§6(2) of the 1936 FVF Statute *excludes* as Successor Fondschef any member of the Habsburg Family whose marriage did not receive dynastic consent re Title III, §15 Family Statute, from Archduke Felix under his Power of Attorney: *Archduke Felix's consent cannot be presumed because he and his entire family boycotted deliberately the particular 31 January 1993 ceremony-in-question together with his other Brothers, Nephews, Nieces, and Cousins in a legal*

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members of the Arch-House against extinctive prescription or loss of rights by the passage of time.

The other members of the Arch-House are analogously in the position of the Cayuga Indians of Canada in their claim against the United States. The Indian's protest at the time of the occurrence of the violation of their rights in 1810 was held to have fully preserved their rights notwithstanding the passage of time until 1926 when their claims were finally adjudicated in the famous *Cayuga Indian Claims* Arbitration. (See Oppenheim - Lauterpacht, *International Law,* Volume I - Peace, §155c re Bar by Lapse of Time (Extinctive Prescription), footnote 2, page 350):

> In the same manner that the protest of the Cayuga Indians preserved their claim in the *Cayuga Indian Claims* before the American-British Claims Arbitration Tribunal in 1926 upon the analogy of the exemption of persons under a disability from the operation of statutes of limitations:
>
> That "dependent Indians not free to act except through the appointed agencies of a sovereignty which has a complete and exclusive protectorate over them" ought not to be prejudiced by the delay on the part of Great Britain in pressing their claim.

For the Award see *American Journal of International Law,* 20 (1926), pp. 574-594, and *Annual Digest,* 1925-1926, Case No 181.

> In this case the claim [of the Indians] dated from about 1810. It is difficult to see why the principle of this decision should not apply in favour of an individual claimant who, having exhausting any private remedies, duly notifies to his own Government a claim against a foreign State and asks for help.

Similarly, because the Chiefship of the Arch-House had been in a legal state of abeyance since the 31 May 1961 renunciation of "the Membership of the House of Habsburg Lorraine and all accompanying rights to rule" under the Pragmatic Sanction by the late Dr. Otto von Habsburg-Lorraine; the other members of the Arch-House could not do more than the Cayuga Indians were able to do in 1810. To protest against the violation of their rights by the 31 January 1993 ceremony.

In the same manner that the Cayuga Indians protest of 1810 kept alive their rights until the 1926 Arbitration of their claims, the legal protest of the other and most closely related and interested members of the Arch-House against the violation of "Standesgemässe" in Title I, §1 Family Statute, and the explicit provisions of the 1900 Amendment to the Family Statute by the ceremony of 31 January 1993 has kept alive their claims until the present day. This preserved the application of the sanction of Title III, §17 Family Statute, to the 31 January 1993 ceremony in the same manner that Archduke Otto applied this sanction against the 16 April 1930 marriage of Archduke Albrecht.

The interested and most closely related members of the Arch-House may now vindicate their legal protest of 31 January 1993 by issuance of a Declaration of Accession to acclaim the closest related person in the order of succession qualifying fully under the terms of the 1713 Pragmatic Sanction, the 1839 Family Statute, the 1900 Amendment, and the 29 April 1936 FVF Statute.

protest against violation of the legal criteria of the 1900 Amendment and Title I, §1 Family Statute. This prevents prescription from running to legitimate this violation of the 1900 Amendment and Title I, §1 Family Statute, by the passage of time.

8. "Not eligible as Fonds-Beneficiaries are the [after-conceived] descendants of those listed in paragraph 1, namely Ancestors who have renounced after 10th April 1919 their Membership in the House of Habsburg-Lorraine. All of the descendants of those who have renounced their rights are ineligible as Beneficiaries.

Under ABGB 22 legal rights of all type are acquired at conception. Thus, the renunciation of a father could not possibly deprive *living children* and those *in esse* (conceived but not yet born) of their legal and dynastic rights.

The specific exclusion in §6(3)(a) FVF Statute of the after-conceived descendants of all persons "who have renounced the legal membership in the Arch-House after 10th April 1919" are therefore *entry-into-force* of the Anti-Habsburg Law, StGBl. 209/1919:

Under the classic doctrines of Public International Law a dynastic renunciation *cuts off* irrevocably the legal capacity of the person so renouncing to thereafter conceive future children who possess dynastic rights of succession. See Hugo Grotius, DE JURE BELLI AC PACIS LIBRE TRES, Book II, Chapter VII, No. 26; and Book II, Chapter IV, No. 10, which treats the basic principles of public international law governing abdications, renunciations, and the transmission of the right of dynastic succession to one's children.

Grotius adds, that if dynastic renunciations did not cut off the rights of dynastic inheritance of all after-born children that "the title to practically every European throne could be questioned". That is, the consequences of renunciation are binding rules of common sense and hold the status and power of law.

Acquisition of legal membership re Title I, §1 Family Statute, in House of Habsburg-Lorraine are by "birth into" re Title I, §3 Family Statute, the Arch-House to two parents both of whom, *themselves*, were legal "members" re Title I, §1 Family Statute, upon date of person's conception. Only under these circumstances are *legal rights* acquired under ABGB 22.

Hugo Grotius, *Father of Public International Law,* declares:

> Persons not yet born possess no rights which are taken away from them by a renunciation. This does no injustice to the unborn because as they are not yet in existence they are not capable of acquiring rights to any dynastic succession. (See Hugo Grotius, *De Jure Belli ac Pacis Libre Tres,* Book II, Chapter. IV, No. 10). This is the same as ABGB 22 that legal rights begin upon conception.

Archdukes renouncing membership re Title I, §1 Family Statute in the House of Habsburg-Lorraine and all accompanying rights of succession vesting under the Pragmatic Sanction *also lose* the title of Archduke *as well as* forfeits permanently his dynastic competence and legal capacity under the 1839 Family Statute. This includes *specifically* the dynastic capacity to conceive future children who are by born into legal Members of the House of Habsburg Lorraine re Title I, §3 Family Statute.

The *legal status* of such future children conceived *after* a dynastic renunciation of Membership

of the House of Habsburg-Loraine *vis-a-vis* the Arch-House is the same as the Hohenberg descendants of Archduke Franz Ferdinand and for the same legal reason. That is under the doctrines of Public International Law, a dynastic renunciation *cuts off* the legal capacity of the person making that renunciation to thereafter conceive future children who possess dynastic rights of succession. Children conceived after such renunciation have the same legal status as the Hohenbergs. Such children were not born into re Title I, §3 Family Statute, the Arch-House as legal members thereof re Title I, §1 Family Statute. Nor are such children conceived (ABGB 22) after a renunciation of the legal membership of the Arch-House beneficiaries of the 1936 FVF re §6(3)(a) 29 April 1936 FVF Statute.

During the negotiations for the terms of the 1936 Settlement Agreement, Archduke Otto felt that anyone who had capitulated to the demands of the Austro-Marxist Republic by renouncing membership of the Arch-House had demonstrated his personal dynastic unworthiness by the very act of signing of such a document and did not deserve to share in whatever property might be returned by the Schuschnigg Government under the 1936 Settlement Agreement.

§6(3)(a) FVF Statute *requires* that the Successor Fondschef's dynastic rights (analogous to ABGB 22) must have *vested* before a father renounced membership of the House of Habsburg-Lorraine and all accompanying rights to rule vesting under the Pragmatic Sanction. §6(3)(a) FVF Statute also *excludes* as Successor Fondschef anyone conceived after a dynastic renunciation of a father of the legal membership re Title 1, §1 Family Statute, of the Arch-House.

Ironically, this *excludes* Archduke Otto's second son born 16. XII, 1964 after Archduke Otto's 31. V. 1961 renunciation of membership of the House of Habsburg-Lorraine and all accompanying rights to rule upon which date he lost his legal capacity to thereafter conceived future children who might be born into re Title I, §3 Family Statute, the House of Habsburg-Lorraine. (See also ABGB 22 re legal rights begin upon conception).

9. The Fondschef is the Head of the House of Habsburg: The order of dynastic succession existing during the Monarchy established by the 1713 Pragmatic Sanction, the 1839 Family Statute, and the 1900 Amendment is "that person who would have been entitled to be appointed Fondschef in succession to the [original] Family Welfare Fund of Empress Maria Theresa established as a Primogenitor Fideicommiss."

§4(2) FVF Statute designates entitlement to the position of Successor Fondschef as being "that person who would have been entitled to be appointed Fondschef in succession to the [original] Family Welfare Fund of Empress Maria Theresa established as a Primogenitor Fideicommiss [entail -- confiscated by §6 Anti-Habsburg Law]; but if at this time no such person exists, then the female person entitled to be appointed successor to a fictional Primogenitor Fideicommiss [entail] after the extinction of the male line and to whom female succession would apply":

"The clear intention of the legislator" (ABGB 6) is to re-establish the original order of succession as such existed during the Monarchy which, in turn, incorporates the marital requirement of "Standesgemässe" in Title I, §1 Family Statute, as defined legally in the full unadulterated 1900 Amendment.

§4(2) FVF Statute *requires* that the Successor Fondschef must qualify as Head of House according to the dynastic order of succession existing during the Monarchy. §4(2) FVF Statute

therefore *excludes* as Successor Fondschef anyone failing to conform to the legal requirements of Title I, §1 FVF Statute, and the particular legal criteria of the 1900 Amendment.

10. The legal dynastic order of succession existing during the Monarchy incorporates the *legal relationship* created by the dynastic marital and dynastic consent provisions of the 1839 Family Statute and the 1900 Amendment.

The legal dynastic order of succession that existed during the Monarchy is explained in §6(7) FVF Statute, which provides that: "The actual Fondschef is he who proves to be truly entitled to the Fonds-Right of the family by proving himself to be the closest descendant from the [common] ancestor" under the legal relationship established by the 1713 Pragmatic Sanction, the 1839 Family Statute, and the 1900 Amendment. The phrase used is: "from the clear intention of the legislator" (ABGB 6).This is the legal dynastic order of succession existing during the Monarchy.

"Proving himself to be the closest descendant from the [common] ancestor" re §6(7) of 1936 FVF Statute *means* establishing the legal relationship within the juridical Arch-House based upon strict adherence to the legal criteria of the 1713 Pragmatic Sanction, the 1839 Family Statute, and the 1900 Amendment thereto.

The Duke of Hohenberg is the *closest senior biological descendant* by a canonical Catholic marriage, but disqualified by Franz Ferdinand's 28 June 1900 renunciation and non-dynastic marriage to Countess Sophie Chotek. Analogously, this clearly applies to 1993 marriages also not meeting the legal criteria of the 1900 Amendment.

The Hohenberg precedent *evidences* that the succession to Maria Theresa's Primogenitor Fideicommiss, Chef de Familien und Familien Oberhaupte and, thus, as the PRIMOGENITUS or FIRST-BORN HEIR of Holy Roman Emperor Charles VI to the entire dynastic "real union" vesting under the 1713 Pragmatic Sanction is *entirely* a legal relationship predicated upon strict juridical adherence the legal criteria of the 1713 Pragmatic Sanction, the 1839 Family Statute, and the 1900 Amendment, and that the Habsburg Succession has *nothing to do with* mere biological seniority of *descent -- who would be the Duke of Hohenberg, grandson of Archduke Franz Ferdinand and Countess Sophie Chotek!*

This requires that the Successor Fondschef must meet the following legal criteria of the 1839 Family Statute and the 1900 Amendment:

> A. The Successor Fondschef must be born into the Arch-House re Title I, §3 Family Statute to two parents who, themselves, were legal members re Title I, §1 Family Statute of Arch-House at the time of the conception/birth of that person.
>
> B. The Successor Fondschef must be married in conformity with the legal provisions of "Standesgemässe" in Title I, §1 Family Statute, and in the 1900 Amendment.

§6(7) FVF Statute *requires* that the Succession Fondschef must be born into the Arch-House to two parents who were legal members of the House at the time of his conception and that his marriage must conform to the legal requirements of "Standesgemässe" in Title I, §1 Family Statute, and the 1900 Amendment. §6(7) FVF Statute *excludes* anyone who does not conform to the above. Such persons are *expelled automatically* from the Arch-House under automatic

operation of law of Title III, §17 Family Statute. Archduke Albrecht was expelled upon the date of his 16 April 1930 Marriage.

Legal Necessity for a Successor Fondchef, who *qualifies fully* under the legal criteria of the 1936 FVF Statute, possessing unchallengeable standing to bring the New Case to the Administrative Court

If an Applicant to the Administrative Court does not qualify under the above dynastic and legal provisions incorporated into the 1936 FVF Statute, the Austrian Government would move the Administrative Court to dismiss the case with prejudice against refilling a new Application. The Governments grounds would be that the supposed applicant does not qualify as the Successor Fondschef under the specific provisions of the 1936 FVF Statute and, therefore, lacks the necessary standing or legal capacity to bring a case on behalf of the 1936 FVF.

Ironically, under the cited provisions of the 1936 FVF Statute, *neither* of the two sons or any other of the descendants of the late Dr. Otto von Habsburg-Lorraine can possibly qualify as the Successor Fondschef of the 1936 FVF.

A Successor Fondschef of the 1936 FVF *qualifying* (dynastically) *fully* under §4(2) and §6(1)(Abs. 1), §6(1)(Abs. 2), §6(2), §6(3)(a), and §6(7) of 1936 FVF Statute is the *indispensable party* needed to bring the new case to the Austrian Administrative Court for the recovery of claims totaling *over half a billion American Dollars.*

Without a *de jure* Successor Fondschef of FVF *qualifying legally* under highly specific dynastic, marital, and genealogical criteria of the 1936 FVF Statute, the Austrian Government can easily, and without effort, obtain the dismissal of the proposed case on the grounds that there is no Successor Fondschef who meets the terms of the 1936 FVF Statute who, therefore has standing or legal capacity to make Application to the Administrative Court to execute the THREE STEP *litigation strategy* outlined above.

Only the *fully* (dynastically) *qualifying* Successor Fondschef of the 1936 FVF will have the necessary standing, competence, legal capacity, and sufficient legal interest as the statutory Representative of the Fund and administrator of the 1936 FVF and rightful manager of FVF property under §4(1) FVF Statute needed to make a successful Application to the Austrian Administrative Court.

Failure of the Membership of the House of Habsburg Lorraine to acclaim a Successor Fondschef of the 1936 FVF who qualifies fully under the above legal criteria of the 1936 FVF Statute -- *inserted at the specific insistence of Archduke Otto* -- will result in the *permanent loss* of all claim by the Imperial Family to the assets and claims resulting from Seyss-Inquart's 14 March 1939 Nazi Law GBlÖ 311/1939.

Reasonable legal doubt exists as to the *de jure* succession to both Chief of Arch-House and Successor Fondschef of 1936 FVF after the 4 July 2011 death of Dr. Otto von Habsburg-Lorraine

If *neither* of the two sons of the late Dr. Otto von Habsburg-Lorraine can qualify as the Successor Fondschef of the 1936 FVF under the terms of the 1936 FVF Statute, then, *neither* of them nor any of their descendants can qualify legally under the 1713 Pragmatic Sanction, the 1839 Family Statute, or the 1900 Amendment as the *legitimate* Chief of the Arch-House of Habsburg-Lorraine to act as *Chef de Familie und Familien-Oberhaupte* under §1, §2, §4, §7, §11, §12, §15, §16, §18, §19, §46, §57 Family Statute or as "Duke of Burgundy" and Chief and Sovereign of the Order of the Golden Fleece.

There exists a *bona fide* and serious legal problem, under the RECHTSSTAAT PRINCIPLE instituted by

the *objective positive law* of the legal relationships established by 1839 Family Statute and the 1900 Amendment, as to the *legitimate succession* to the patrimonial position of *Chef de Familie und Familien Oberhaupte* of the House of Habsburg-Lorraine and all of its functions. This includes all *dynastic elements* (for example the Order of the Golden Fleece) united in perpetual "inseparable and indivisible" dynastic "real union" under Article 7 of the Pragmatic Sanction in the person of the Chief of the Arch-House.

This legitimate doubt as to the *de jure* succession as Chief of the Arch-House of Habsburg-Lorraine *arose upon* the 4 July 2011 (death of Dr. Otto von Habsburg-Lorraine) termination of Civil Law juridical condition of *HEREDITAS JAENS* (i.e., "inheritance lying in abeyance") which was *instituted upon* the 31 May 1961 Dynastic Renunciation of the late Dr. Otto von Habsburg-Lorraine as the first born legal member re Title I, §1 Family Statute of Arch-House and all accompanying rights to rule" the permanent dynastic real union, which of course would include the title of "Duke of Burgundy" and all other rights including the Order of the Golden Fleece *vesting* under 1713 Pragmatic Sanction.

This *question* as to the *legitimate* succession as Chief of the Arch-House was created by the inevitable *juridical effect resulting from* various voluntary acts and "actions" taken by certain Members of the Arch-House of their *own free will* and *without* coercion as such is defined legally in both Public International and Austrian Civil Law respecting the following:

- Dynastic renunciation in 1961 as a legal member of Arch-House re Title I, §1 Family Statute.
- Non-dynastic marriage in 1993 *lacking* "Standesgemässe" re Title I, §1 Family Statute, as defined legally in 1900 Amendment resulting in the sanction of immediate *self-expulsion* by operation of Title III, §17 Family Statute, *effective automatically* upon date of ceremony -- as occurred *identically* upon the 1930 non-dynastic marriage of Archduke Albrecht:

The particular dynastic actors-in-question are solely responsible for the inevitable legal consequences of their own free-will acts under the Pragmatic Sanction, the 1839 Family Statute, and the 1900 Amendment upon the legitimate succession to the Chiefship of the Arch-House after the termination of the legal state of abeyance (HEREDITAS JAENS) on 4. VII. 2011:

The person's responsible must accept complete responsibility for the legal consequences of their actions -- no one else is to blame for either the 1961 renunciation of the legal m*embership of the Arch-House or for the 1993 non-dynastically qualifying marriage.*[5]

Permanent loss of all Dynastic Competence by Dr. Otto von Habsburg-Lorraine upon 1961 renunciation

As a Superior Fideicommiss (or entail under the Roman law) the Pragmatic Sanction united all the possessions, claims, estates, rights, and titles (such as "Duke of Burgundy") of Holy Roman Emperor Charles VI into a perpetual inseparable and indivisible dynastic *real union.*

Dr. Otto von Habsburg-Lorraine's 31 May 1961 dynastic renunciation of membership of the House of Habsburg-Lorraine and all accompanying rights to rule acquired under the Pragmatic Sanction *instituted* a Civil Law juridical condition of *hereditas jacens* ("inheritance lying in abeyance"), *in gremio legis* ("in the bosom of the law"), *in nubius* ("in the clouds") or legal state of abeyance (common law) *caused* the

[5] What type of spoilers would interject "pretensions" to a Heritage to which they do not qualify and thus bar their blood kith and kin from laying claim to the vast Patrimony belonging to that Heritage?

entire *dynastic heritage* vesting in him as the indefeasible life holder of the Usufructuary Fideicommiss-*for-the-time-being* created by the Pragmatic Sanction to fall into a legal state of abeyance for the remainder of the natural life of Dr. Otto von Habsburg-Lorraine.

This *dynastic heritage* will remain in abeyance until a new holder to valid title (ABGB 316) of the Usufructuary Fideicommiss *vesting* under the Pragmatic Sanction has been qualified under the terms of the Pragmatic Sanction and the regulations of the 1839 Family Statute and the 1900 Amendment pertaining to this *dynastic heritage* and has been duly and officially acknowledge, recognised, and acclaimed by the other members of the Arch-House.

The late Dr. Otto von Habsburg-Lorraine (as he desired to be known after his 31.V.1961 dynastic renunciation) *recognized fully* that his forthcoming renunciation of the legal membership re Title I, §1 Family Statute, in the Arch-House would deprive him permanently of all dynastic competence as Chief of the Arch-House of Habsburg-Lorraine. (*Logically, one cannot be Chief of a House whose membership one has renounced.)*

Before executing his 1961 renunciation, Dr. Otto von Habsburg-Lorraine gave his third brother, Archduke Felix, a full Dynastic Power of Attorney to exercise all the functions of Chef de Familie and Familie-Oberhaupte under the 1839 Family Statue for the duration of this civil law condition of *hereditas jacens* ("inheritance lying in abeyance") or juridical state of abeyance instituted for the remainder of his natural life by his 31 May 1961 dynastic renunciation as first-born member of the "House of Habsburg-Lorraine" upon which is anchored the status of Primogenitus and dynastic competence as Chief of the Arch-House.

Upon the 31. V. 1961 dynastic renunciation of the Membership of the House of Habsburg-Lorraine and all accompanying "rights to rule" *vesting* under the Pragmatic Sanction, all dynastic competence were permanently forfeited.

All *pretended* dynastic acts *attempted* by the late Dr. Otto von Habsburg-Lorraine after his 31 May 1961 dynastic renunciation of "the Membership of the House of Habsburg-Lorraine" and all accompanying right to rule are *ULTRA VIRES* (beyond one's power and authority) for lack of dynastic competence. Being *void ab initio* for lack of dynastic competence such *attempted* dynastic acts are complete nullities, which are incapable of creating any enduring legal effects or permanent legal consequences for the House of Habsburg-Lorraine and all qualified legal Members under Title I, §1 Family Statute, thereof.

All *attempted* dynastic acts made by Dr. Otto von Habsburg-Lorraine *after* his 31 May 1961 renunciation are merely simulated and have no binding legal effect:

- The *attempted* inclusion in the membership roll of the Imperial Family of his second son, born 16. XII. 1964 after his 31. V. 1961 renunciation of membership of the House of Habsburg-Lorraine and all accompanying rights to rule terminated his legal capacity to conceive thereafter re ABGB 22 children who might be born into re Title I, §3 Family Statute, the House of Habsburg-Lorraine as a legal "member" re Title I, §1 Family Statute:
  - The *legal status* of this second son is *identical* with that of the Hohenbergs and for the same reason. A dynastic renunciation *cuts off* irrevocably the legal capacity of the person so renouncing to thereafter conceive future children who possess dynastic rights of succession. (See ABGB 22).
  - See Hugo Grotius, *De Jure Belli ac Pacis Libre Tres,*, Book II, Chapter VII, No. 26; and

Book II, Chapter IV, No. 10: Grotius declared, "*Persons not yet born possess no rights which are taken away from them by a renunciation. This does no injustice to the unborn because as they are not yet in existence they are not capable of acquiring rights to any dynastic succession.*" See also ABGB 22 of the Austrian Civil Code establishing that all legal rights begin at conception.

- The late Dr. Otto von Habsburg-Lorraine was clearly aware of these doctrines of both Austrian and Public International Law when he caused the inclusion of §6(3)(a) into the 29 April 1936 FVF Statute which excludes as beneficiaries of the 1936 FVF all after-conceived children of an Archduke who renounces membership of the House of Habsburg-Lorraine.

- The *feigned*, or invalid, 1990 *attempted* issuance of "New Rules" *purporting* to give the "title" of Countess/Count to the issue of morganatic marriages;

- The *feigned*, or invalid, 1993 *attempted* "dynastic consent" to the 31 January 1993 marriage of Karl Habsburg-Lorraine, which identical to Archduke Albrecht's 16 April 1930 marriage to Irene Dora Lelbach von Rudanay, lacked *prima facia* "Standesgemässe" re Title I, §1 Family Statute, as defined legally and genealogically in the 1900 Amendment;

- The invalid 30 November 2000 *attempted* "transfer" of the Chiefship and Sovereignty of the Order of the Golden Fleece to Karl Habsburg-Lorraine;

- The invalid 1 January 2007 *attempted* "transfer" of the dynastic position of *Chef de Familie und Familien Oberhaupte* to Karl Habsburg-Lorraine.

After the late Dr. Otto von Habsburg-Lorraine's 31 May 1961 dynastic renunciation of the legal membership of the House of Habsburg-Lorraine and all associated right to rule acquired under the Pragmatic Sanction, Dr. Habsburg-Lorraine lost permanently all dynastic competence, dynastic legal capacity, dynastic legal authority, dynastic "house power", and all dynastic rights *vesting* under the Pragmatic Sanction of every type and variety whatsoever to perform any of the above *purported* dynastic acts.

All of the above *attempted* dynastic acts were *ULTRA VIRES* or beyond his dynastic power and competence after 31 May 1961. Such *attempted* dynastic acts are *beyond the power* of anyone who has renounced the legal membership re Title I, §1 Family Statute, of the Arch-House. These purported dynastic acts are complete nullities having no valid binding effect upon any member of the Habsburg family:

Essentially, all of these attempted dynastic acts after 31 May 1961 are a mere sham: i.e., literally, a betrayal of those in the family who are true members and heirs to the throne.

Archduke Lorenz of Austria-Este *possesses* best legal rights as both *de jure* Chief of Arch-House and as *de jure* Successor Fondschef of 1936 FVF

Archduke Lorenz of Austria-Este, married to Princess Astrid of Belgium, is unambiguously the next legal member of the Arch-House in the dynastic order of succession established by the 1713 Pragmatic Sanction who fully and unequivocally meets the entire *objective positive law*s of the Pragmatic Sanction, the 1839 Family Statute, and the 1900 Amendment establishing the *legitimate* legal relationship designating statutorily the *de jure* dynastic order of succession for the Primogenitus or first-born heir of

Holy Roman Emperor Charles VI under the Pragmatic Sanction:

Born on 16 December 1955, Archduke Lorenz is the eldest son of the second son of the late Emperor Charles and Empress Zita. Under ABGB 22 Archduke Lorenz's individual dynastic rights under the Pragmatic Sanction, the 1839 Family Statute, the 1900 Amendment and the 29 April 1936 FVF Statute *vested* indefeasibly upon his conception. Personally and martially Archduke Lorenz of Austria-Este meets all of the dynastic requirements of the above and is disqualified by none of these requirements -- to succeed his late uncle, Dr. Otto von Habsburg-Lorraine, upon his death on 4 July 2011.

During the 1980's Archduke Lorenz showed sufficient interest in the recovery of the Nazi-confiscated assets belonging to the 1936 FVF to join with his uncle in Brussels, the late Archduke Charles, as Plaintiff in the First Case to the European Commission on Human Rights to recover this property. Professionally, Archduke Lorenz is a partner in private investment bank in Geneva and, thus, situated to manage and re-invest any proceeds should there be a recovery in this proposed New Case.

Juridically, it appears unequivocally apparent that Archduke Lorenz of Austria-Este is the true legitimate Chief of the Arch-House of Habsburg-Lorraine entitled legally to act as *Chef de Familie und Familien-Oberhaupte* under §1, §2, §4, §7, §11, §12, §15, §16, §18, §19, §46, §57 Family Statute or as Duke of Burgundy as Chief and Sovereign of the Order of the Golden Fleece under the original 1431 Statutes of this Order.

Furthermore, the legal specialist is of the opinion that Archduke Lorenz of Austria-Este also qualifies fully as the *de jure* Successor Fondschef of the 1936 FVF under §4(2), §6(1)(Abs. 1), §6(1)(Abs. 2), §6(2), §6(3)(a), and §6(7) of 29 April 1936 FVF Statute.

Therefore, Archduke Lorenz possesses the unchallengeable standing, competence, legal capacity, and sufficient legal interest as the statutory Representative of the Fund and rightful manager of its property under §4(1) FVF Statute to bring an Application, Petition, Complaint for the proposed new case to the Austrian Administrative Court. Because Archduke Lorenz qualifies (dynastically) fully under all of the cited legal criteria of the 1936 FVF Statute, an Application by him to the Administrative Court will not be subject to dismissal by the Government on the grounds of failing to meet the strict qualifications for Successor Fondschef under the 1936 FVF Statute.

To make a future Application dismissal proof, Archduke Lorenz of Austria-Este needs to be acclaimed as both Chief of the House of Habsburg-Lorraine and as the Successor Fondschef of the 1936 FVF by a formal "Declaration of Accession" to be issued by concerned Members of the House of Habsburg-Loraine:

Under International Public Law, a Sovereign House may internally resolve all doubts concerning a dynastic succession within that House

Under the doctrines of Public and International Law concerning monarchies, all rights of jurisdiction concerning the factual and legal issues surrounding the right of succession to a true kingdom have been transferred to the royal family, itself, who possess the sole juridical competence to resolve any issues regarding the succession thereto.

The *Father of International Law*, Hugo Grotius, *De Jure Belli ac Pacis Libri Tres*, Book II, Chapter 7, No. 27(2), declares:

> Nevertheless, if the right of succession is disputed, those who claim the right will act in a

> correct and high-minded way if they will agree upon arbitrators, a subject which will be treated later. The people, in truth, have transferred all its rights of jurisdiction to the king and royal family, and it has no remnants of that power so long as the former are in existence: I am speaking of a true kingdom and not of the mere possession of supreme authority.

In their juridical capacity as arbitrators the particular royal family in question possesses full juridical competence and legal capacity under Public International Law to resolve all issues of both fact and law surrounding the dynastic succession including that of "Fondschef" of the FVF.

The *judicial discovery* of the *identity* of Archduke Lorenz as the qualifying successor "Fondschef" of the FVF and Chief of the Arch-House may be made by a formal judicial decision issued by a future Habsburg Family Council -- cast in the form of a Declaration of Accession -- as the only body seized with competence to adjudicate the relevant issues of law and of fact in this matter.

The authoritative publicist, Samuel von Pufendorf, *De Officio Hominis et Civis Libri Duo*, Book II, Chapter 10, No. 12, p. 135, declares,

> In case a controversy should arise in regard to the succession in a patrimonial kingdom, it will be best to take the matter before arbitrators among the royal family.

As evidenced by the Preambles to both the 3 February 1839 Family Statute and the 12 June 1900 Amendment thereto, the juridical competence to act as "arbitrators amongst the royal family" re Hugo Grotius, *De Jure Belli ac Pacis Libri Tres*, Book II, Chapter 7, No. 27(2); and Samuel von Pufendorf, *De Officio Hominis et Civis Libri Duo*, Book II, Chapter 10, No. 12, p. 135, has already been designated to the entire class of "the adult Agnate Archdukes".

This legal designation arises from the fact that both Preambles required the specific "Beirath und Zustimmung" ("advice and consent") of the adult male Agnate Archdukes for the enactment of the original 3 February 1839 Habsburg Family Statute and the 12 June 1900 enactment of the amendment thereto. Hence, they are the clearly designated arbitrators to resolve any question of law or fact relating to the dynastic succession.

The same Doctrines of Public and International law recognize the legal competence of members of a royal family to resolve all factual and legal issues relating to the dynastic succession within that Sovereign Ruling House. These Doctrines recognizes as a necessary and logical legal corollary the shared formal procedural competence of the Cadet Members of that Royal Family to self-convene a Family Counsel upon their own initiative to resolve any issue of the dynastic succession within their Sovereign House.

In order to rectify this *lacuna* or legal gap in the administration of the affairs of the House of Habsburg-Lorraine, which have arisen since the 4 July 2011 death of the late Dr. Otto von Habsburg-Lorraine, Members of the Arch-House interesting in pursuing the claim for $516,000,000 in assets re the 1936 Settlement Agreement will need to self-convoke a meeting of the Habsburg Family Council to rectify and resolve the *succession* problem within the House of Habsburg-Loraine by issuing a Declaration of Accession of Archduke Lorenz as Chief of the Arch-House and as the Successor Fondschef of the 1936 FVF.

Seized with full judicial competence under the above doctrines of Public and International Law to resolve any issues of both fact and law concerning the succession within the House of Habsburg-Lorraine, sitting

as the Family Council of the Arch-House of Habsburg-Lorraine in their dynastic judicial capacity, this class of the adult Agnate Archdukes may issue a "Declaration of Accession" establishing the succession after 4 July 2011 (death of Dr. Otto von Habsburg-Lorraine) to the *legitimate* Chiefship of the House of Habsburg-Lorraine in accordance with the Pragmatic Sanction, the Family Statutes, and the Amendment thereto. A substantial majority of the adult Agnate Archdukes will be legally sufficient.

The same person will thereby by the *de jure* Successor Fondschef of the 1936 FVF meeting the statutory requirements of §4(2), §6(1)(Abs. 1), §6(1)(Abs. 2), §6(2), §6(3)(a), and §6(7) of 29 April 1936 FVF Statute.

Only this *legitimate* Successor Fondschef of the 1936 FVF will have the unchallengeable standing, competence, legal capacity, and sufficient legal interest in the subject-matter of the 1936 FVF and FVF property to bring an Application for the proposed case to the Austrian Administrative Court for the recovery of property, unpaid back income earned by this property since 1945, and 4% Legal Interest as damages for the 69-year delay in payment of this unpaid income earned by this property.

If the Members of the Habsburg Family desire to recover claims totalling $516,000,000 against the Austrian Government for the private Habsburg Family entailed property (derived originally from the non-Austrian Lorraine Family Fortune imported into Austria by Francis Stephen of Lorraine upon his 1736 marriage to Maria Theresa), there is no alternative but to discover juridically the one Successor Fondschef who fully qualifies under §4(2) and §6(1)(Abs. 1), §6(1)(Abs. 2), §6(2), §6(3)(a), and §6(7) of 1936 FVF Statute. This person as the head of the House will possesses unchallengeable standing, not only for the new case, but as the true and legitimate Head of the House of Habsburg.

Necessary Action by the Cadet Members of the House of Habsburg-Lorraine

To rectify problems created since the 31. V. 1961 renunciation of Dr. Otto von Habsburg-Lorraine and clear up the succession problem to conform to the Pragmatic, Family Statutes, and the Amendments thereof, certain actions are required by interested members of the Arch-House:

A circular letter issued by concerned legal members re Title I, §1 Family Statute, and sent to all other legal members of the Arch-House will be juridically and legally competent under Public International Law and the Family Statute to self-convoke a meeting of the Habsburg Family Council upon a set date in a particular city to rectify problems related to the succession and the potential return of confiscated properties worth over a half a billion US dollars.

This circular letter would propose the critical need for this meeting to correct *lacuna* or legal gaps in the administration of the affairs of the Arch-House since 31 May 1961 and to meet the legal criteria of the 1936 FVF Statute by acclaiming Archduke Lorenz as qualifying fully as the Successor Fondschef under the terms of the 1936 FVF Statute. Appropriately, this letter might direct members of the House to the comprehensive *on-line* law review article on the potential recovery of Nazi-confiscated Habsburg Family assets totaling some $516,000,000.

The same circular letter should request their personal attendance or the attendance of a representative holding a Power of Attorney from those unable to attend. This circular letter should specifying both the time and place for the meeting. The letter should state that the purpose of this meeting to issue judicially a *Declaration of Accession.* Brussels, the historic capital of the Austrian Netherlands, might be an equally convenient place for such a future meeting of the Habsburg Family Council.

This meeting might include an explanation on the laws of Arch-House, how such apply and are legally binding, the need to resolve legitimate doubts arising after the 4 July 2011 death of the late Dr. Otto von Habsburg-Lorraine as to the succession to the Chiefship of the Arch-House of Habsburg-Lorraine in accordance with the 19 April 1713 Pragmatic Sanction, the 3 February 1839 Family Statute, and the 12 June 1900 Amendment thereto. This is essential in order to legally maintain non-territorial sovereignty in full accord with Public International Law. In this Family Council, the potential New Case to challenge the 1939 Nazi confiscation of FVF and Habsburg property will also be explained fully.

The legal members of the Arch-House, or delegates holding a Power of Attorney from those not present will be asked to sign a Declaration of Accession of Archduke Lorenz as Chief of the House of Habsburg Lorraine (and the dignities united in *real union* by the Pragmatic Sanction: the title of "Duke of Burgundy" as Chief and Sovereign of the Order of the Golden Fleece, etc.) as well as the Successor Fondschef qualifying fully under the 1936 FVF Statute -- *under the particular terms inserted into the FVF Statute upon the personal insistence of Archduke Otto.*

In the same manner that Archduke Otto in November 1934, declared that Archduke Albrecht of the Teschen Branch, by making a non-dynastically qualifying marriage on 16 April 1930, had *expelled himself* under automatic operation of Title III, §17 Family Statute; this precedent also apply clearly to anybody else similarly situated.

It order to successfully litigate a new case to the Administrative Court for the recovery of some $516,000,000 in Nazi-confiscated assets and claims presently held by the Austrian Government, the Arch-House will need to unite itself around Archduke Lorenz as the *clearly legitimate* Successor Chief of the House of Habsburg-Lorraine under the 1713 Pragmatic Sanction the 1839 Family Statute, and the 1900 Amendment as well as the *only possible* Successor Fondschef of the 1936 FVF who possesses *unchallengeable competence* under the complete legal criteria of the 1936 FVF Statute to make Application to the Administrative Court.

The following is a summary of what the proposed Declaration of Accession might state:

Suggested Juridical Declaration of Accession by Members of the House of Habsburg-Lorraine

DECLARATION OF ACCESSION

Their Imperial and Royal Highnesses, the Archdukes and Princes Imperial of Austria and Princes Royal of Hungary, Bohemia, Croatia, Moravia, Slovakia, Slovenia, and Bosnia, *de jure* Members of the Arch-House of Habsburg-Lorraine in accordance with the 19 April 1713 Pragmatic Sanction, the 3 February 1839 Family Statute, and the 12 June 1900 Amendment thereto:

(Include the list names of Archdukes and Archduchesses signing this *Judicial Declaration of Accession*)

UNDER COMPETENCE GRANTED BY PUBLIC, INTERNATIONAL, AND DYNASTIC LAW as follows:

A. The original 3 February 1839 enactment of the Habsburg Statute;

B. The subsequent 12 June 1900 Amendment to the Family Statute;

C. The classic doctrines of Public and International Law declaring that all public law "rights of jurisdiction" or competence in "patrimonial" dynastic matters regarding "the right of succession" to a "true kingdom" have been "transferred" by the 19 April 1713 Pragmatic Sanction to the "royal family" concerned conferring competence or legal capacity upon Us to act as impartial "arbitrators among the royal family" to resolve all

factual and legal issues relating to the dynastic succession to the Chiefship of our House. (See Hugo Grotius, *De Jure Belli ac Pacis Libri Tres*, Book II, Chapter 7, No. 27(2); and the authoritative publicist, Samuel von Pufendorf, *De Officio Hominis et Civis Libri Duo*, Book II, Chapter 10, No. 12, p. 135):

WE, the adult male Agnate Archdukes as legal "Members" re Title I, §1 Family Statute of the "House of Habsburg-Lorraine" possessing dynastic rights of succession vesting under the 19 April 1713 Pragmatic Sanction as "authentically interpreted" (ABGB 8) by the 3 February 1839, whose specific "Beirath und Zustimmung" (advice and consent) was required for the 1839 enactment of the Family Statute and the 1900 enactment of the Amendment thereto, possessing the full right of legal competence under the aforementioned doctrines of Public and International Law to adjudicate all relevant issues of "law" and of "fact" surrounding the succession to the Chiefship of the House of Habsburg-Lorraine, together with our Mothers, Wives, Sisters, and Adult Daughters also legal "Members" re Title I, §1 Family Statute of the "House of Habsburg-Lorraine" meeting as the Family Council of the Arch-House of Habsburg-Lorraine in Brussels this _____ day of _____, 2014 in person or by delegation, and

WE as *de jure* "Members of the Arch-House of Habsburg-Lorraine" re Title I, §1 Family Statute, *inter alia*:

A. Qualifying legally under the 3 February 1839 Family Statute, and the 12 June 1900 Amendment thereto as Princes Imperial and Archdukes of Austria, Princes Royal of Hungary, Bohemia, Croatia, Moravia, Slovakia, Slovenia, and Bosnia, the *de jure* Members of the Arch-House of Habsburg-Lorraine either (1) "by birth" re Title I, §3 Family Statute as "die Geburt erworbenen" *into* the Arch-House to two parents who were, *themselves*, legal "Members" re Title I, §1 Family Statute of the Arch-House at the time of our conception or (2) by marriage into the Arch-House qualifying dynastically in accordance with the legal requirement of "Standesgemässe " in Title I, §1 Family Statute as defined with specificity in the 1900 Amendment thereto;

B. Possessing *de jure* rights of dynastic succession to the heritage of the "*inseparable and indivisible*" permanent and unbreakable dynastic "real union" vesting under the 19 April 1713 Pragmatic Sanction in the Primogenitus or First-Born Heir of Holy Roman Emperor Charles VI;

C. In Our Collective Dynastic Capacity as the direct or collateral descendants of the Blessed Karl I & IV and Kaiserin Zita, Kaiser Franz Joseph, Kaiser Ferdinand, Kaiser Franz II, Römisch-deutscher Kaiser Leopold II, Römisch-deutscher Kaiser Joseph II, Maria Theresa Ehzgin v. Österreich, Kgin v. Ungaren und Böhmen = Römisch-deutscher Kaiser Franz I, and Römisch-deutscher Kaiser Karl VI, who enacted the Pragmatic Sanction of 19 April 1713;

D. Sitting as the formal Family Council of the Arch-House of Habsburg-Lorraine in Our Judicial Capacity as the lawful and impartial "arbitrators among the royal family" concerned so designated by the traditional and most venerable doctrines of public and International Law;

WE are the only body seized with full judicial competence and dynastic legal capacity to

adjudicate all relevant issues of "law" and of "fact" surrounding the succession to the Chiefship of our House of Habsburg-Lorraine arising recently, because:

A. particularly after the 6 September 2011 death of Archduke Felix of Austria, born 31 May 1916 at Schönbrunn, the last living Member of our House possessing *de jure* public law dynastic rights of succession vesting under the 19 April 1713 Pragmatic Sanction acquired in Public International Law before re ABGB 5 the 11 November 1918 withdrawal from power by Blessed Kaiser Karl I & IV whose claims in public law need to be renewed before they lapse through the rules and principles of prescription, and

B. after the 4 July 2011 death of Dr. Otto von Habsburg-Lorraine by the means of issuing the following formal Judicial Decision and Declaration of Accession:

NOW THEREFORE WE DO MAKE AS A FAMILY COUNCIL sitting in our judicial capacity the following findings of fact, determine the necessary conclusions of law derived from such facts, and following the precedents established by the 3 February 1839 enactment of the Family Statute and the 12 June 1900 enactment of the Amendment thereto grant our specific dynastic "Beirath und Zustimmung" to issue the following formal JUDICIAL DECLARATION OF ACCESSION pursuant to the doctrines of Public and International Law, to resolve every potential "issue" surrounding the undoubted succession of our Brother, and Cousin, His Imperial and Royal Highness, the Archduke Lorenz of Austria-Este, Duke of Modena, married to Princess Astrid of Belgium, daughter of King Albert II of the Belgians to the following, upon the 6 September 2011 death of our beloved Uncle, and Cousin, Archduke Felix of Austria, possessing *de jure* rights of succession under the Pragmatic Sanction acquired on 31 May 1916 *before* re ABGB 5 the 11 November 1918 withdrawal from power by the Blessed Kaiser and King Karl I & IV as well as upon the 4 July 2011 death of our beloved Uncle, and Cousin, the late Dr. Otto von Habsburg-Lorraine, WE thus acclaim HIRH Archduke Lorenz of Austria-Este, Duke of Modena as:

A. The undoubted Chief of OUR ARCH-HOUSE OF HABSBURG-LORRAINE in his dynastic capacity as the qualifying PRIMOGENITUS of Holy Roman Emperor Charles VI under the 19 April 1713 Pragmatic Sanction in his dynastic capacity as the First-Born legal "Member" re Title I, §1 Family Statute of the "House of Habsburg-Lorraine" qualifying "by birth" re Title I, §3 Family Statute as "die Geburt erworbenen" *into* the Arch-House to two parents who were, *themselves*, legal "Members" re Title I, §1 Family Statute of the Arch-House at the time of his conception (ABGB 22) as well as by dynastic marriage of 22 September 1984 to H. R. H. Princess Astrid of Belgium meeting, *prima facia,* the legal requirement of "Standesgemässe" in Title I, §1 Family Statute as defined with specificity in the 1900 Amendment thereto;

B. The Holder of the Usufructuary Fideicommiss consisting of all of the "components" united permanently together in "*Inseparable and Indivisible*" dynastic "real union", particularly the *legitimate* Holder of the title of "Duke of Burgundy" and as such Chief and Sovereign of the Order of the Golden Fleece **(**re *authentic interpretation* [analogous to ABGB 8] made under Article LXVI of 1431 Statutes of the Order of the Golden Fleece**)**, established by Article 7 of the 19 April 1713 Pragmatic Sanction;

C. Our lawful Chef de Familie and Familien-Oberhaupte under the 3 February 1839

Family Statute and 1900 Amendment thereto;

D. The Holder of the personal hereditary non-territorial dignity of *de jure* "Kaiser von Österreich" vesting as a personal title in the Chief of our Arch-House under the 11 August 1804 Imperial Patent of Holy Roman Emperor Franz II;

E. The Inheritor of the public law claims of Blessed Karl I & IV, the most recent Emperor of Austria, Apostolic King of Hungary, King of Bohemia, Croatia, Duke of Salzburg, Styria, Carinthia, and Carniola, Margrave of Moravia, Count-Prince of Habsburg and the Tyrol, Count of Hohenembs, Feldkirch, Sonnenberg in Vorarlberg, etc; and,

F. The Successor Fondschef of the 1936 FVF qualifying fully under the specific provisions of §4(2), §6(1)(Abs. 1), §6(1)(Abs. 2), §6(1)(Abs. 3), §6(2), §6(3)(a), §6(7) of the 29 April 1936 FVF Statute issued by the Austrian Government under competence granted by §§2-7 BGBl. 299/1935, during the Legal Order of the 1934 Constitution and registered on 29 April 1936 upon the Official Books of the Austrian Federal Chancellery as Zl. 147.334-4/36, which created a real right of intangible incorporeal property consisting of the "legal personality" (ABGB 26) of the 1936 FVF or Habsburg Family Trust.

At the same time, WE renew the 24 March 1919 Feldkirch Manifesto and 4 November 1921 Tihany Protest of our Father, Grandfather, and Great-grandfather, the Blessed Karl I and IV, Emperor of Austria, Apostolic King of Hungary, King of Bohemia, Croatia, Archduke of Austria, Duke of Salzburg, Styria, Carinthia, Carniola. Margrave of Moravia, Count Prince of Habsburg and of Tyrol, Count of Holhenems, Feldkirch, Bregenz, Sonnenburg in Vorarlberg, etc., etc. made on upon departing Austria for exile and upon departing Hungary to die on the Isle of Madeira. This constitutes in Public International Law a renewed protest claiming the continuing right to rule as required by prescriptive law to maintain our rights as non-territorial sovereigns.

(The full Declaration of Accession is to be signed by the Members of the Arch-House.)

Part IIb of the Law Review Article on recovery of Nazi-confiscated property belonging to the former Imperial House of Habsburg

The above is Part IIa of an law review article presenting a THREE STEP *litigation strategy* for the recovery of Nazi-confiscated property belonging to the 1936 FVF established by the Austrian Government on 29 April 1936 as a Fond or trust to hold property transferred to the FVF by the Austrian Government in public law acts of 1 December 1936 and 7 January 1938. This section focuses upon the necessary legal action which must be taken by the Archdukes, themselves, to acclaim Archduke Lorenz of Austria-Este as the fully qualifying Successor Fondschef of the 1936 FVF to recover illegally confiscated property by the repressive Nazi regime of Austria. This section focused primarily on what the Habsburgs must do as a family to qualify the Successor Fondschef of the 1936 FVF to act a the plaintiff in the new case presented in this law review article for recovery of half a billion dollars in Habsburg Family assets in Part I, which can be see on the internet at:

(http://www.americanschoolofgenealogy.com/yahoo_site_admin/assets/docs/SPECIAL_ISSUE_-_SEPTEMBER.227182757.pdf)

Part IIb will discuss threshold legal requirements or steps which Austrian Counsel says are needed to proceed with the proposed new case. Part III, which will be published later, presents the case-in-chief to *doubly invalidate* all intervening 1938 to 1945 Nazi Legislation affecting the 1936 FVF and Habsburg property confiscated by Seyss-Inquart's 14 March 1939 Nazi Law GBlÖ 311/1939.

BIOGRAPHY

Stephen Kerr y Baca, BA, JD, LLM. MAT serves as legal counsel, a member of the National Board of Advisors and as Dean of the Law School of the International College of Interdisciplinary Sciences. He is a Scottish Baron having been armorially matriculated by the Court of the Lord Lyon of Scotland as the Baron of Ardgowan. He has been recognized and knighted a number of times and has written numerous articles on the legal aspects of nobility, heraldry and monarchy. In the past, he has acted as a special counsel to the Imperial and Royal House of Habsburg. The above article has resulted from important legal discoveries pertaining to the Habsburgs and their rightful possessions in Austria.

D. Edward Goff, BS, MA, Ph.D., DBA, Managing Editor of the ALTAIR, Chief Academic Officer and Assistant Professor of the International College of Interdisciplinary Sciences.

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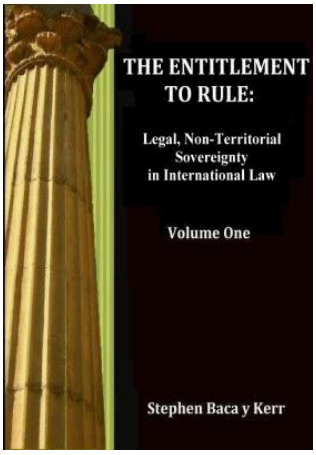

Dr. Kerr has written a book, not in the language of a complicated law review article as above, but in understandable terms for most average readers. He has addressed some highly important subjects and written the most definitive book on this subject in existence. The first paragraph in the Foreword declares:

> **The whole field of nobility and royalty is in disarray and confusion. It is rife with falsehoods, misguided experts, phony princes, and counterfeit chivalric orders. Besides the numerous scams and charlatans that exist, there is a widespread misunderstanding of the international and natural laws that govern dynastic rights. This is a field that is truly divided. This sad state of affairs need not continue. If international law is honored, revered and respected, then everything can be set in its proper order. The grand key to this needed unity is the rule of the just, time-honored laws that already exist.**

The following are some excerpts from what some prominent people have written about it:

> **"It is magnificently done and of great worth."** (Adalberto J. Urbina Briceno, Sc.D., Professor Head of the Public International Law Chair of the Catholic University Andres Bello- Caracas)

> **"It is a goldmine of references and is a valuable account of a [thought provoking] . . . and poorly understood area of law."** (Rev'd Professor Noel Cox, LLM, MA, MTheol, Ph.D., LTh, FRHists, Barrister, Aberystwyth University, New Zealand)

> **"Dr. Kerr has put together a book that is a 'one of a kind' providing what is needed to perpetuate the rights of deposed sovereignty. For all those interested in the legal future of nobility and royalty, this is a very important, scholarly and insightful book to read."** (LaWanna Blount, Ph.D., F.Coll.T, vice president and professor at the American College of Interdisciplinary Sciences, Como, Mississippi, USA)

> **"It is written in a clear and compelling manner. It is hoped that more and more people will become familiar with the laws of justice contained in this book."** (Thubten Samphel, director of the Tibet Policy Institute of the Central Tibetan Administration and author of the book *Falling Through the Roof*, Dharamshala, India)

> **"Dr. Kerr's book . . . is one of those . . . path breaking works that throws new light on a field of study . . . on the complex legal and philosophical sinews that keep alive [deposed] monarchies. . . . This type of writing fills a huge gap within the royal studies field. . . ."** (Dr. Diana Mandache, historian and author, Budapest, Romania)

> **"The author obviously has a deep understanding of international law and how it relates to deposed monarchies and exiled governments. The content is well structured and well written. I accept this book as conforming to the highest academic standards expected of a master scholar and practitioner."** (Alexander Arapov, Sc.D., Professor of the Department of Philosophy and Sociology of the All-Russian State Distance-Learning Institute of Finance and Economics, a branch of the Financial University of the Russian Federation)

> **"This has been the most interesting and helpful book I have read in the field of nobiliary law as well as international law . . . . It exemplifies the highest level of scholarly content, clarity and depth of inquiry yet presented on this profound and important subject."** (Prof. Dr. Mirjana Radovic-Markovic, Academician, Institute of Economic Sciences and Faculty of Business Economics and Entrepreneurship, Belgrade, Serbia)

The first volume of 370 pages can be obtained as an ebook by contacting Dr. D. Edward Goff at donaldegoff@hotmail.com. The second volume is due to come forth in early 2015.

SUBMISSIONS TO ALTAIR

AUTHOR GUIDELINES

New issues of the Journal will appear on-line for all members of the School as well as certain member of the academic community.

The Journal is available to the public for $4.00 an issue. The Journal is published in August and December. All articles submitted for the aforementioned publishing date must be submitted no later than 15 days before publication. The Editors are not responsible for delays in publication. The new Journal is a peer-review publication.

The publication accepts relevant subject material for consideration which is reviewed and evaluated by the Journal's Editors and the Review Board. Areas covered by the Journal include, but are not limited to:

- various aspects of genealogy:
- history (ex. Family History):
- DNA research;
- anthropology research;
- educational theory;
- heraldry (the shield and its representations; shield's ornaments; heraldry usage's: art and decoration; computerized systems; heraldic rules) and the study of elements art and of: archival studies; bibliology; chronology; diplomatics; human genetics; historical- political-ecclesiastical geography; graphology; numismatics; onomatology; toponymy; paleography; sigillography; symbology and iconography:
- genealogical theory: and
- kinship anthropological issues.

Items may include:

- general genealogical or heraldic articles of 4,000-6,000 words;
- controversies between heraldists or genealogists topics;
- issues relating to chivalric orders;
- new research in genetic genealogy;
- anthropological topics;
- White Papers;
- small pieces of 1,500 words or less;
- reviews and review articles;
- themed issues; and
- Letters to the Editor.

Potential writers for the Journal should use the Chicago Manual of Style (standard footnoting) An example might be as follows: (10 point -- book or journal in italics)

The articles should be fresh, insightful and envision new and innovative aspects of heraldry and genealogy. The language used in the paper should be clear and provide positive approaches to the aforementioned topics. The publication welcomes unsolicited manuscripts, reviews and comments.

- Articles should be **10 -- 20 single spaced, typewritten pages.**
- The length of the manuscript should not exceed 20 pages (excluding notes, references, appendices, tables, figures, charts, etc.).
- The paper must be written in English in text processor Microsoft Word, using font **Times Roman** (size 11), in Latin alphabet, single spacing.
- Paragraphs are spaced and **no intention** is used. **Margins should be 2 inches** top, bottom and left and right. **Please DO NOT add page numbers.**
- Excessively long manuscripts may be returned. Each article should include a short single spaced Abstract and Key Words section in 10 font.
- Articles are to be submitted by electronic submission. Papers as noted are submitted in **MSWORD** as an e-mail attachment. Submissions are acknowledged within 48 hours but the evaluation process usually takes 1-- 2 weeks.

Citing within the Manuscript

The manuscript guidelines are as follows: The Chicago Manual of Style: The Essential Guide for Writers, Editors, and Publishers, 15th or later edition. **DO NOT USE ANY OTHER REFERENCING SYSTEM!**

The Chicago style, sometimes called documentary note or humanities style, places bibliographic citations at the bottom of a page or at the end of a paper. Although The Chicago Manual of Style also offer guidelines for parenthetical documentation and reference lists, the Chicago style [is] most commonly thought of as note systems.

- tables submitted with articles must be submitted in a separate file
- all questions pertaining to formatting should be sent to the Editor

The fifteenth edition of The Chicago Manual of Style is the most extensive revision in twenty years. The Manual -- more comprehensive and easier to use than ever before -- remains the essential reference for authors, editors, proofreaders, indexers, copywriters, designers, and publishers in any field.

The title of the article should be in 18 Times Roman font. The author's name should appear in font 12 with his/her position directly below in italics (size 11). Post -- nominal's may be used. Behind the name of the first author, a footnote should be inserted containing address and email of the first author. A separate copy with a mark through of the name will be submitted to the peer review board.

Abstract: italic, size 10 Roman Times font 2 line after the author's position or school, the maximum length of 250 words.

Key words should be one line after the abstract up to ten words. Place this on the cover sheet with the author's information. Footnotes, not endnotes, are to be used

Title Example:

Educationists Who Assisted the College of Astrophysics in becoming an Early "Learning Organization" (18 point)

Dr. Carl Stevenson, FSG, FRSA, FRAI **(12 point)**

PhD Dissertation Committee External Examiner, John Smith University
(11 point)

ABSTRACT **(Caps. 11 point in caps)**

The purpose of this article is to discuss the history of the noted College of Astrophysics, now located at the University of Bologna and more specifically its practical and theoretical development first as the Victorian Era College and later as an scientific force in the 20th and 21st centuries. Additionally emphasis will be placed on showing how the College developed as a "Learning Organization." **(10 point italics)**

Key Words: *women, employment, College of Preceptors, education, teachers, learning, organization, schools, The Educational Times, Peter Senge, system thinking* **(10 point italics)**

Introduction (Bold -- 11 point) Do paper in 11 point. Each section should be so marked. Do NOT use caps in the section headings.

Tables and figures should be numbered (1,2,3 etc.), in italics centered.
All tables and figures (drawings) must be black & white.

Paper -- Use standard 8 1/2 x 11 with 1" margin on top, bottom and sides.

Send the paper to **SENIOR EDITOR**