

CHAPTER EIGHT

Murray, William, *Italy: The Fatal Gift*.
 NY: Dodd Mead, 1988.

UNCOUPLING, ITALIAN-STYLE

Until 1970, Italy had no divorce law. Marriage “until death do you part” meant exactly what it said. People separated, of course, but they remained married and, separated or not, it was dangerous to fool around, especially for the woman. An Italian wife incautious enough to be caught in bed with anyone but her husband could be sentenced to a year in jail. If she happened to be living with the man, it could cost her two years. Adultery, in other words, was—and still is—a crime, but usually only for the woman. Law or no law, men were expected to be adulterous; it increased their standing in male society as bone fide Latin lovers. Almost the only men who ever got into trouble in this area were the few misguided and reckless souls who brought their mistresses home to live with them. If their wives happened to object, they could summon the police and have their husbands arrested.

The one foolproof way to unload an unwanted spouse was murder, but here again the system favored only the male. Section 585 of the Italian penal code still provides that a man who kills on the spur of the moment in defense of his honor goes to jail for no more than seven years and usually no more than three. There is

no death penalty in Italy, but a cold-blooded, premeditated slaying can put an offender away for life, so it becomes crucial, in a case of wife-killing, for a man to prove that his loved one provoked him beyond reason. Almost any Italian husband with murderous inclinations can usually do this. The ideal situation is to catch one’s wife in the act with her lover, thus permitting the husband to kill them both. It’s important to have an efficient weapon handy, and it also helps the husband’s case if the wife happens to heap imprecations and insults on his head, thus goading him into a “wholly justifiable homicidal frenzy.” This will enable him in court to claim extreme provocation and temporary insanity and be swept off to serve his brief jail sentence on a tidal wave of public sympathy and adulation.

Still the best place to practice this form of instant bond-severing is Sicily, where questions of honor underlie all social obligations and can also lead to the justifiable slaughter of mothers, daughters, nieces, aunts, even grandmothers, and cousins. Sicilians and most other southern Italians believe that woman’s role is to be docile and submissive; a woman who kills her husband for the same reason he would kill her is considered a freak of nature. Things have changed a good deal in southern Italy since the Second World War, with the advent of an increasingly industrialized society and decadent modern concepts concerning the rights of individuals—even women—but murder in defense of one’s honor remains the classic way for a Sicilian to unload an unwanted bride. The chief virtue of this technique, immortalized in a hilarious movie called *Divorce, Italian Style*, is its finality and admirable simplicity.

Madness used to be another solution to an unhappy marriage and the one favored by most northern Italians, who tend to be more practical than southerners and less concerned with questions of honor. Italian law had long provided for the civil annulment of a marriage, regardless of what the Church might decree, if one of the partners were to be declared legally insane. During the late nineteen-forties, the State also recognized rulings on such matters by courts in other countries with which Italy had concluded bilateral treaties. The only way to exploit this loophole was to find an accommodating Italian judge to validate the foreign decision—no easy matter in a country where the magistracy seemed to consist solely of ferociously conservative septuagenarians. Miraculously, one such jurist did pop up, in the person of Domenico Peretti-Griva, an amiable ancient in Turin. Between the end of the Second

World War and 1950, literally thousands of unhappy middle-class couples fled abroad and established residence, after which one member of the union would be declared legally mad, usually by enlisting the services of an expensive psychiatrist, and have the marriage annulled in a foreign country. The couple would then return to Turin, where they would maneuver to get the decision validated by Judge Peretti-Griva, who almost never failed to come through. Unfortunately, the helpful old jurist eventually went to his grave and the practice stopped.

For a while, it became fashionable for Italians to go abroad to get divorced. The only trouble was that Italy simply didn't recognize such divorces nor the subsequent unions of either partner, and offenders could be denounced to the authorities upon their return home. Celebrities were especially vulnerable, as they were constantly exposed to the public gaze. Carol Ponti, Sophia Loren's movie-producer husband, was frequently featured on the front pages because his foreign divorce from the first Mrs. Ponti was not recognized in Italy. He was forced to flee abroad, divorce Sophia, and simply settle down with her in a "state of sin" in order to be able to go on living in his own country.

Under such a system, most unhappy Italian couples didn't even bother to separate legally but simply split and moved in with new partners. This situation worked well enough as long as it was at least tolerable to everyone involved, but it could and often did become nasty if one of the old partners objected. Large sums of money could sometimes buy off an angry discarded mate, but a truly vindictive one could summon the police, with ugly results for everyone involved, including any children. The latter, in fact, often suffered most, because in Italy offspring born to an illegal union are officially designated bastards and cannot be legally recognized by their fathers.

Prior to the passing of the divorce law, the only absolutely ethical way of dissolving a marriage was to get it annulled or dissolved by an apostolic tribunal of the Holy See called the Sacra Rota, or "sacred wheel." This special court is still around and has been for about eight hundred years, but no one is quite sure how it got its name or what the "wheel" in the designation stands for. An Italian writer I know thinks that it alludes to the rotation of the judges, who vary in number from twelve to twenty and can only be removed if picked for some higher ecclesiastical post or

when they reach the retirement age of seventy-four. The court sits in an enormous, appropriately gloomy medieval *palazzo* called the Cancelleria, which, like apparently every other building owned by the Vatican in Old Rome, seems to be unequipped with electricity, for it never shows a light burning. Inside the Cancelleria, the Rota judges weigh the merits of the petitions presented by lawyers especially accredited to the ecclesiastical court, and which have already been scrutinized and passed on by one of the Church's eighteen lower regional courts. Although Pope Paul attempted to reform the process somewhat, historically it has always been glacially slow (a matter of years), costly (as high as twenty thousand dollars), and never less than humiliating to the petitioning parties, even when the proceedings, as often happens, dip refreshingly into areas of low comedy and farce.

The Sacra Rota hands down basically two kinds of sentences: a dissolution and an annulment. A dissolution recognizes the fact that a marriage once existed, whereas an annulment, the much more common ruling, simply wipes the marriage out of history. The Rota will dissolve a marriage if it has never been consummated, or if one of the two partners in a non-Catholic marriage becomes a convert to Catholicism and the other, as a consequence, no longer wants to live with him or her. Annulments, on the other hand, are granted for a wide variety of reasons, such as impotence, religious differences, rape, blood relationship, vows of chastity pronounced prior to wedlock, and so on. The broadest and best qualification for annulment, however—the one favored by most petitioners—is called, vaguely, "the vice of consent," which can mean just about anything. Unfortunately, this category is not so much a loophole as a treacherous swamp through which the miserably married must wallow looking for a way out and at a stiff cost in time, money, and simple human dignity. Here are a few typical cases, somewhat disguised, that the Sacra Rota has handled.

Gino and Anna have been married for four years, and now Anna wants out. She avers that Gino promised her before they got married that he would become an accountant. "I told him I'd only marry a lawyer, a doctor, or an accountant," Anna claims. "He told me he was studying to become an accountant. I agreed to marry him, but only on the condition that he'd succeed in becoming one.

My father was a lawyer, and I couldn't lower myself to marry someone not in the professions." Anna's parents and friends all back her up. "She really set great store on marrying a man who would become someone," her best friend testifies. "Anna told me many times she wouldn't even think of marrying a nobody."

After four years of marriage, Gino has confessed to Anna that he is not now nor has he ever intended to become an accountant. He is merely a clerk in an accountant's office. "I immediately packed up and moved out," Anna tells the court. "I couldn't stay married to a man who wasn't what he said he was." The judges of the Sacra Rota sustain her argument and annul the marriage, convinced not so much by the oral testimony as by the evidence of the postcards the couple exchanged while they were courting, in all of which Anna laid down her conditions and Gino affirmed that he was meeting them. It never seems to occur to the judges that the postcards Anna and Gino mailed to each other years before could have been blank, stored away and filled in later. This practice is a sort of insurance many Italians took as a matter of course before tripping lightly to the altar.

Antonio agreed to marry Ludina only if she promised to remain absolutely faithful to him. In one of the many postcards the lovers supposedly exchanged before their wedding, the theme was struck over and over again. "I will marry you only if you promise to remain faithful and obedient," reads a typical card from Antonio. "Otherwise I'll divorce you and go far away, to Australia or America." Fair enough, even if a little one-sided; Ludina presumably never asked Antonio for the same guarantees, but then such a demand might have offended his Latin sense of sexual grandeur. Ludina accepted Antonio's conditions, which he also, according to subsequent testimony, prudently communicated *a voce* to a couple of dozen acquaintances. Alas, nine years after their marriage, Ludina confesses to her husband that she has, indeed, betrayed him. Antonio demands an annulment and gets one, again on the strength of the postcards.

Umberto and Maria ask for a dissolution of their marriage on the grounds that the fourteen-year union has never been consummated, despite the disquieting fact that they are the parents of a teenaged son. "I attempted the conjugal act on the very first night," Umberto testifies, "but she wouldn't let me near her." The

unfortunate Umberto kept trying, but with no success. "Every night, during the first months of our marriage," says Maria, "Umberto would ask and I'd always refuse." Why did Maria always refuse? Could she not have sacrificed herself every now and then, no matter how great her revulsion? "I was terrified of having children," she explains.

How is it then that Umberto and Maria did actually manage to have a child? It happened one hot summer night, during a vacation on the French Riviera, say the long-married couple. The moon, the stars, soft breezes from the sea, swaying palms. And a great deal of liquor. "I got her drunk," confesses Umberto. "Even then she resisted, turning every which way. I wasn't really quite able to consummate the act." "I made him withdraw almost immediately," says Maria. "It was more of an external contact than a true consummation." The near-miss, however, did produce a son, born nine months later. This happened during the first year of their marriage. After that, Umberto waited thirteen years before giving up hope. The Sacra Rota carefully sifts the testimony—and dissolves the union on the grounds that it has never been consummated.

The memorable aspect of these case histories, considered to be among the more brilliant of the Sacra Rota's more recent decisions, is that in each instance the petitioners were successful in obtaining an annulment or a dissolution of the marriage. The unsuccessful cases, however, can be equally bizarre. My favorite one concerns Carlo, Rosa, and her friend Claudia. Carlo, a wealthy young businessman, meets and falls in love with Rosa, a struggling young actress. He proposes and she turns him down, because, unknown to him, she is a homosexual and in love with Claudia, an older woman who owns a small antique store. Claudia, however, is hard up for cash, so she urges Rosa to marry Carlo; the two women will be able to go on seeing each other and Carlo will never know. Rosa accepts Carlo's proposal and they get married. The union is not a happy one, but Carlo convinces himself that things will get better in time. He suggests to Rosa that she see a psychiatrist who might be able to help her overcome her sexual coldness and obvious distaste for love-making. She refuses. She also refuses to give up her career and move to a small provincial town where Carlo, after two years of marriage, has been offered a lucrative partnership. A few months later, Carlo and Rosa sepa-

rate; he moves to his new job in the provinces, she stays in Rome and goes on seeing Claudia. She also writes to Carlo and at last tells him the truth about herself.

Carlo presents his case to the Sacra Rota and waits confidently for the verdict. The venerable ecclesiastics weigh the known facts very carefully. Has the sacramental nature of the marriage vow been violated? Has the wife refused to perform the conjugal act or expressed a strong reluctance to bear children? No. The annulment is denied. Carlo, a good Catholic, is stuck forever with his lesbian bride.

What is one to make of all this? The very best that can be said, really, for the decisions handed down by the Sacra Rota is that quite often, usually by accident, justice is done. People who have been living unhappily with each other for years or who have separated but been unable to build new lives with other partners are at last freed. The freedom, however, especially in the case of annulment, benefits the man far more than the woman. The most important thing to remember about an annulment, as opposed to dissolution or divorce, is that it imposes no financial obligation on either partner; as far as the Sacra Rota is concerned, such marriages, once annulled, never existed. In a country like Italy, where women are still largely educated to become wives and mothers and the professions are so dominated by male chauvinism that independent-minded career girls are viewed as peculiar, at best, a woman thrown onto her own resources can find herself in serious economic difficulties. What she usually does is immediately look for another husband, if she doesn't have one already lurking in the wings.

The examining procedure of the Sacra Rota is also weighted against women; it is usually the wife who is asked to shoulder most of the blame, and she is subjected not only to a lengthy, excruciatingly detailed cross-examination but occasionally to a physical one as well. An Australian woman married to a Roman obtained a dissolution by claiming that her three-year marriage had never been fully consummated because her hymen was unusually strong and the sex act caused her much pain. She had to submit to a physical examination during which artificial phaluses of various sizes were inserted into her vagina. A cousin of mine succeeded in shedding her first husband by confessing, falsely, to having participated in orgies and to a preference for the sort of love-making considered perverted by the ecclesiastical

authorities (whose knowledge of sex would presumably have to be secondhand). Is it any wonder that most educated Italians consider the workings of the Sacra Rota a grotesque and a highly unsatisfactory way to undo the marriage knot?

When Italy finally got around to passing its divorce law in 1970, it was only after eleven previous attempts in ninety-two years. The first few were never seriously considered. Even when King Victor Emmanuel III threw the prestige of the crown behind one try, in 1902, the divorce bill still failed to pass. The Church has always been ferociously unyielding on the subject and campaigned actively against all attempts to adopt a divorce law. In 1929, the Fascist Government of Benito Mussolini made its peace with the Vatican by concluding an accord known as the Lateran Treaty, Article 34 of which gave the Holy See absolute say over the whole question of Italian marriage and divorce, even if the parties involved happened not to be Roman Catholics. After the Second World War and the installation of a parliamentary democracy, the question of civil divorce was reopened and became ever more insistently debated. "The proponents of civil divorce," wrote Luigi Barzini in the *New York Times* some years ago, "point out that the measure would in no way weaken the bonds of conscience that keep good Roman Catholics married even in places where divorce is as cheap and easy as it is in Reno, Nevada." But the Church, seeing itself threatened nonetheless, quite naturally continued to oppose any change in the status quo. The Vatican was able successfully to do so—and for so long—by exerting pressure on the Christian Democrats, the country's largest political party, which has traditionally depended on the support of the Church for its very survival.

Some kind of divorce law became inevitable, however, if only because so many unhappily married citizens wanted one; eventually, their combined voting power proved effective enough to persuade the minority-party legislators to coalesce and force such a measure upon the reluctant government. The bill that was finally passed by the Italian Parliament in 1970, under the guidance of its author, a Socialist deputy named Loris Fortuna, was supported by all the smaller democratic parties as well as the Communists, and opposed by the Christian Democrats and the neo-Fascists of the Movimento Sociale Italiano. It would, said its most ferocious critics, destroy the social fabric of Italian life, dignify

unbridled licentiousness, and cause untold suffering to millions of helpless women and children.

What was this law that supposedly threatened the country with chaos? It provided the possibility of divorce to people whose partners had been condemned to a minimum of five years' imprisonment for any sort of crime or for such sexual offenses as incest, rape, or compelling one's wife and/or daughters to prostitute themselves; to those whose partners had been confined to insane asylums for a minimum of five years; to citizens still considered married to foreigners even though the foreigners had divorced them under the laws of their own lands; and, most important, to all people who had already been separated for a minimum of two years prior to the adoption of the law or who would in future separate officially for at least five years for any reason whatsoever. The law could hardly be considered radically permissive, but the outcry against it was loud and shrill. Its opponents estimated that some three million Italian "matrimonial outlaws" would storm the courts demanding instant divorces and that such an event would topple society.

Nothing of the sort happened. During the first six months of the law's application, only forty thousand three hundred and eighty-two persons petitioned for a divorce and less than five thousand received final decrees. Today, only a few thousand divorces continue to be granted yearly, this in a nation of sixty million people. One deterrent is the cost, about two thousand dollars; another is the opposition to divorce from conservative judges in whose courts many cases have to be tried. Most important, however, is the simple fact that many childless Italian couples who have been living with each other for years simply don't wish to legitimize their status.

Most of those who have divorced—an estimated four out of five—have done so in order to remarry and thereby to legitimize any children born out of wedlock. The structure of family life in Italy has not been toppled but actually reaffirmed; only customs have been altered. "At last! I'm happy to announce my divorce from Maria T. and my marriage to Severina G.," proclaimed an announcement put up on a Milanese wall. "Our Daddy and Mommy can now live happily with us," said another bulletin, this one including a snapshot of two beaming tots. "After forty-three years of waiting, I'm a bachelor at last, but not for long," began a third. Such proclamations of felicity are limited pretty much to the

north; in the south, the old forms are still respected. "I'm handling the case of a Sicilian who's been living for many years with a woman who is not his wife," a lawyer told me. "Whenever he refers to her, it's always, very respectfully, as 'my fiancée.'"

For the past ten years the Church has continued to oppose the law and backed a referendum to repeal it, which was defeated. The section of the law that the Church finds most unacceptable is the one specifying a divorce for any reason whatsoever after a legal separation of five years, but how long should couples be made to wait? "To maintain that after five solid years of a separation a marriage is not dead," one Italian expert has observed, "is to say that a corpse can't be interred until two weeks after death, and then only after a medical exam establishes beyond doubt that the carcass isn't breathing." Such arguments have so far failed to impress the Vatican, which, in an effort to further undermine the law and to prove that divorce is not a necessity, has been liberalizing its own procedures. It now costs less to petition the Sacra Rota than it used to, the preliminary hearings and investigations have been simplified, and the whole business, if handled properly, can sometimes be wrapped up in a few months instead of years. So-called "irregular families" (man and woman, either or both married but not to each other, living together with or without children) deserve, according to one papal proclamation, the respect and understanding of their fellow man. Some priests will even grant absolution to remarried divorcées, on the condition, however, that they refrain from sex with their new partners. And if they don't? "Certainly it can happen," said one priest in an interview. "The flesh is weak. Well, then, the couple will come to confession, like all relapsed sinners."