Liberty

JUNE 10, 1944

DISCORDS in the WARTIME WEDDING MARCH

Will divorce wars follow war marriages? The evidence seems to say—"They will." Here it is, along with a sample of the tangles ahead

BY MARY DAY WINN

IT takes a brave soul to sound a warning honk in the middle of the Wedding March from Lohengrin. But a lot of thoughtful people who have been watching the pell-mell rush to the altar which began shortly before Pearl Harbor are doing just that. Those whose job it is to help pick up the pieces point out that many war marriages have already broken up and many more are breaking.

The divorce rate took a sharp upswing in all the warring countries after the first World War, and another rise after this war is already being foreshadowed. Reno divorces increased more than 30 per cent in the first six months of 1942, and the rate is still sharply up. Reno's courts dissolved 404 marriages in February, for example, an increase of 119 over the same month last year. In England divorces in 1943 were almost double the prewar rate.

True, there are some special reasons contributing to these increases. Many women are making big money in war industries for the first time in their lives. Some of them are getting divorces they have long wanted but couldn't afford previously. The same holds true for some men whose pay checks have suddenly ballooned. As for England, the double-time step-up is in large part attributable to liberalization of the divorce laws.

But the figures show which way the breeze is blowing and it bids fair to whip up to gale intensity when the men come back and pent-up grievances on both sides are hung out for airing in the courts.

2

DISCORDS

Much of the postwar rise in the divorce rate is expected to come from the untying of knots too hastily tied as a result of war hysteria.

Take Mabel and Jim. Theirs was a "quickie" romance—a blind date in the little town near his camp; loneliness and the desire to belong to some one on his part; the glamour of the uniform and the everybody's-doing-it feeling on hers. They went through a ceremony before a justice of the peace and spent a week together in a shabby hotel room. Then she returned to her job and he shortly was at a forward base in New Guinea.

They had gone through the forms of being married, but it wasn't a marriage at all in the accepted sense. There was no home; no sharing of problems, friends, and experiences; no learning to live with each other by mutual give and take. There was nothing but the memory of a few short days together and the fragile link of letters often weeks apart. That's war, of course.

To speak cynically, it was easy for Jim to be "true" to this marriage; he didn't have much chance to be otherwise. Not so Mabel. The wedded-but-no-wife role became harder for her to play. She was bored and lonely and soon began to go around with other soldiers. "Friends" let Jim know it, and spared no details for lack of facts. He wrote to her, and there was no mistaking his anger and suspicion. She replied curtly that he didn't seem at all like the man she had married and she thought they'd better get a divorce.

But if Mabel tries to follow up this threat she is due for a jolt. While a serviceman is just now the easiest man in the United States to marry, he's also the hardest to divorce. Some legislatures, for example, have abolished the usual waiting period for servicemen applying for marriage licenses. But the federal government tightens up on divorce by a law prohibiting judgment against any individual in uniform unless he is represented by counsel. Plainly, conditions of war often make it impossible for the fighting man to arrange for counsel; so Mabel may discover that, like it or not, she is married to Jim for the duration.

It would be foolish to say that Jim and Mabel's quickly withered romance is typical of war marriages. But reports brought back by a number of chaplains from the fronts indicate that the pattern is one of the chief causes of friction that may lead ultimately to divorce.

3

DISCORDS

For example, Major John S. Garrenton, staff chaplain for the India-China wing of the A. T. C., told a War Department press conference that requests for divorce by the wives of men in service are one of the greatest problems he encounters. "The woman who has a husband wading through hell, sweat, and blood, and who is playing around with another man, is the lowest thing I know, and the next lowest thing is the man who runs around with her," said Major Garrenton.

There is plenty of other evidence that divorce has become a big personal problem for many servicemen. Edward Schoeneck, chairman of the New York State Bar Association's Committee on War Work, recently reported that the committee had handled at least 2,500 "wayward wife" cases in 1943, and the number doesn't include cases brought before local bar associations.

Louis Fabricant, president of the National Association of Legal Aid Organizations, says that informal reports from volunteer lawyer groups included in the Army and Navy free legal assistance machinery show that applications by soldiers for divorce were in the thousands in 1943.

He attributes many of the requests for divorce to abuses of the present dependency allotment law. For example, wives long separated from their husbands rush in to claim allotments as soon as they hear that John is on Uncle Sam's payroll—and they get them. Even a woman convicted of immoral acts cannot be cut off. Right now the serviceman's only recourse is to divorce or annulment.

The usual reaction of a soldier abroad who learns—or sometimes just suspects—that his wife is unfaithful is to try to get her allotment discontinued. So far, the War Department has refused to do it. Brigadier General H. N. Gilbert, administrator of Army Dependency benefits, has said, "The Army would prefer not to pass on a woman's misconduct. Many men are alleging that their wives are wayward when, as a matter of fact, they are not."

THIS policy protects the innocent wives, who are in the majority, but it also protects a class of women whom lawyers call "love racketeers." They are a new type of wartime chiseler, and Charles Rothenberg, New York lawyer and author of New York Law of Alimony, says of them:

"I am regularly receiving pleas from servicemen who discover that the women

4

DISCORDS

they have married on very slight acquaintance were already married to some one else. Miami and Miami Beach are two of the special hunting grounds for these love racketeers. I have just received a letter from a man who married a girl in Florida, only to discover later that she had been previously married to at least two other soldiers, each time under a different name and address. She was drawing allotments from all three. The only way this soldier can stop part of his pay from being sent to her is to get an annulment of their marriage.

"This particular man is lucky, because he has been able to locate husband number two, from whom we can get testimony. But many men who have fallen into this same trap are not so fortunate. Previous husbands of the women who have deceived them may be on some far fighting front, hard to trace; they may even have been killed. In such cases, bigamy is difficult to prove."

Mr. Rothenberg stresses another curious angle of the divorce situation which may take on considerable significance after the war. What will be, in effect, divorce cases after death may be tried in great numbers in New York and other states which have laws similar to New York's.

"New York," he explains, "has a law that if a married person dies intestate, the remaining spouse may not inherit from the estate if it can be proved that he or she has been guilty of any kind of conjugal delinquency at any time during the marriage. 'Conjugal delinquency' may cover a number of things—adultery, desertion, extreme cruelty, for instance. Many of our servicemen who die in battle will die intestate—that is, without having made a will. If close relatives or other heirs of these servicemen can prove that their wives have at any time during the marriage been guilty of misconduct, the wives will not be able to inherit any part of the husbands' estates.

"The legal question which will come before the Surrogates' Courts will be, in effect: 'Did this wife, during her married life, give her husband legal grounds for divorce?' There will be many of what may thus be described as 'post-mortem divorce cases.'

"For example: If a woman, against her husband's wishes, joins the WAC, will that be legally regarded as desertion? That is one of the questions which will need a legal answer. I do not know what

5

DISCORDS

it will be, but I think it should be No."

It would be unfair to give the impression that women are responsible for all or even most of the failures of war marriages. There are soldiers who blithely woo and sometimes even marry girls they meet while they are in service, failing to mention that they already have wives. The marriage failures of the men, however, are likely to be more in evidence when the war is over. To many war brides, husbands will return who have been reshaped, in the oven of war, into men vastly different from the boys they married. The period of adjustment will be the testing time for both of them. It will also, in all probability, be the time when the divorce rate will reach its new high.

IT might be well to look ahead to this time. At present American divorce laws are in a state of chaos, and the signs are that getting a divorce will be an increasingly complicated business. Some unhappy complexities may arise to plague young couples who are marching so swiftly down the aisle today.

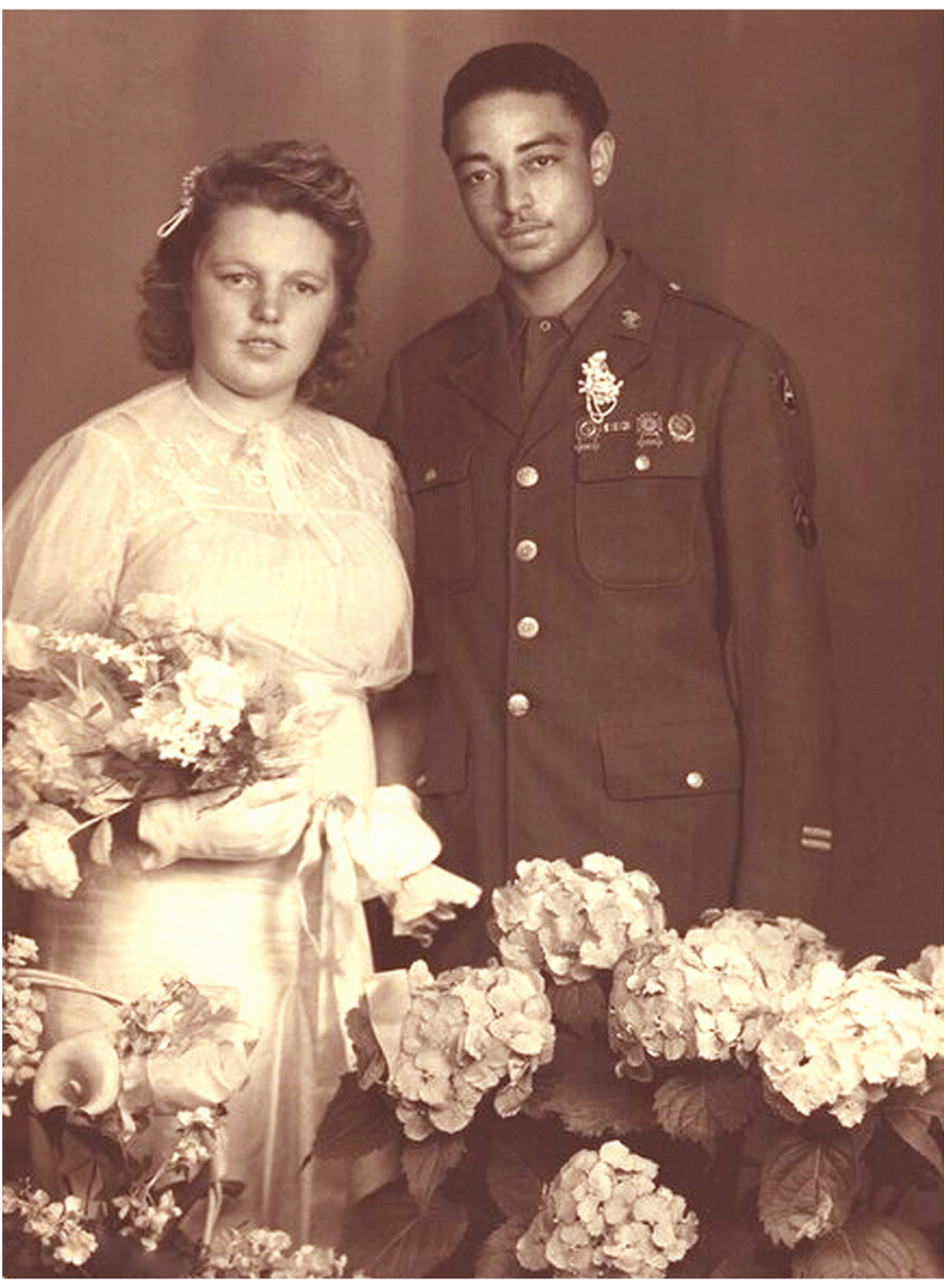
There has been a long recognized need for uniformity of standards in divorce laws among the various states. Nevada, for example, has become a byword for easy divorce. South Carolina, on the other hand, practically refuses to recognize divorce on any grounds. One of the principal problems calling for a solution is that of couples whose divorce is legal in some states and not in others.

The United States Supreme Court caused some consternation in December, 1942, when it ruled that Nevada divorces are valid and must be recognized by other states. The Court specifically overruled a 36-year-old opinion.

Here's what happened. O. B. Williams and Mrs. Lillie Shaver Hendrix determined to get divorces and marry each other. As thousands of others had done, they went to Reno, spent six weeks in the Alamo Auto Court near Las Vegas to "establish a residence," and procured their divorces. On the day the second divorce was granted they married and returned to North Carolina.

There a shock awaited them. On the ground that their Nevada divorces were not legal in North Carolina, they were indicted and convicted of "bigamous cohabitation." They appealed. The United States Supreme Court reversed the judgment as being contrary to the provision of the Constitution which declares that each state must give "full faith and credit"

DISCORDS



to the laws of every other state. The couple's troubles seemed to be over.

But the decision provoked complaints that the Supreme Court, whatever its intent, was lowering all divorce laws to the Reno level. In fact, Justice Jackson, who dissented, declared: "It is not an exaggeration to say that this decision repeals the divorce laws of all the states, and substitutes the law of Nevada as to all marriages one of the parties to which can afford a short trip there."

But there is still a loophole. Such divorces may still be nullified if it can be proved that legal residence in Nevada is not actually established by the divorce seeker, and judges are showing an increasing tendency to question whether the "residence" is genuine. For example, it could be a mistake for one who arrives in Reno swearing that he "intends to reside there permanently" to retain his New York apartment.

At any rate, there have been several recent decisions, notably in New York and New Jersey, which have thus refused to honor Nevada and Florida divorces. And, recently, North Carolina actually retried, reconvicted, and resentenced Williams and Mrs. Hendrix! The ground this time was that they never had become bona fide residents of Nevada, had never actually come under that state's jurisdiction, and therefore their divorces were not protected by the "full faith and credit" clause of the Constitution. Williams has announced that he will reappeal to the Supreme Court.

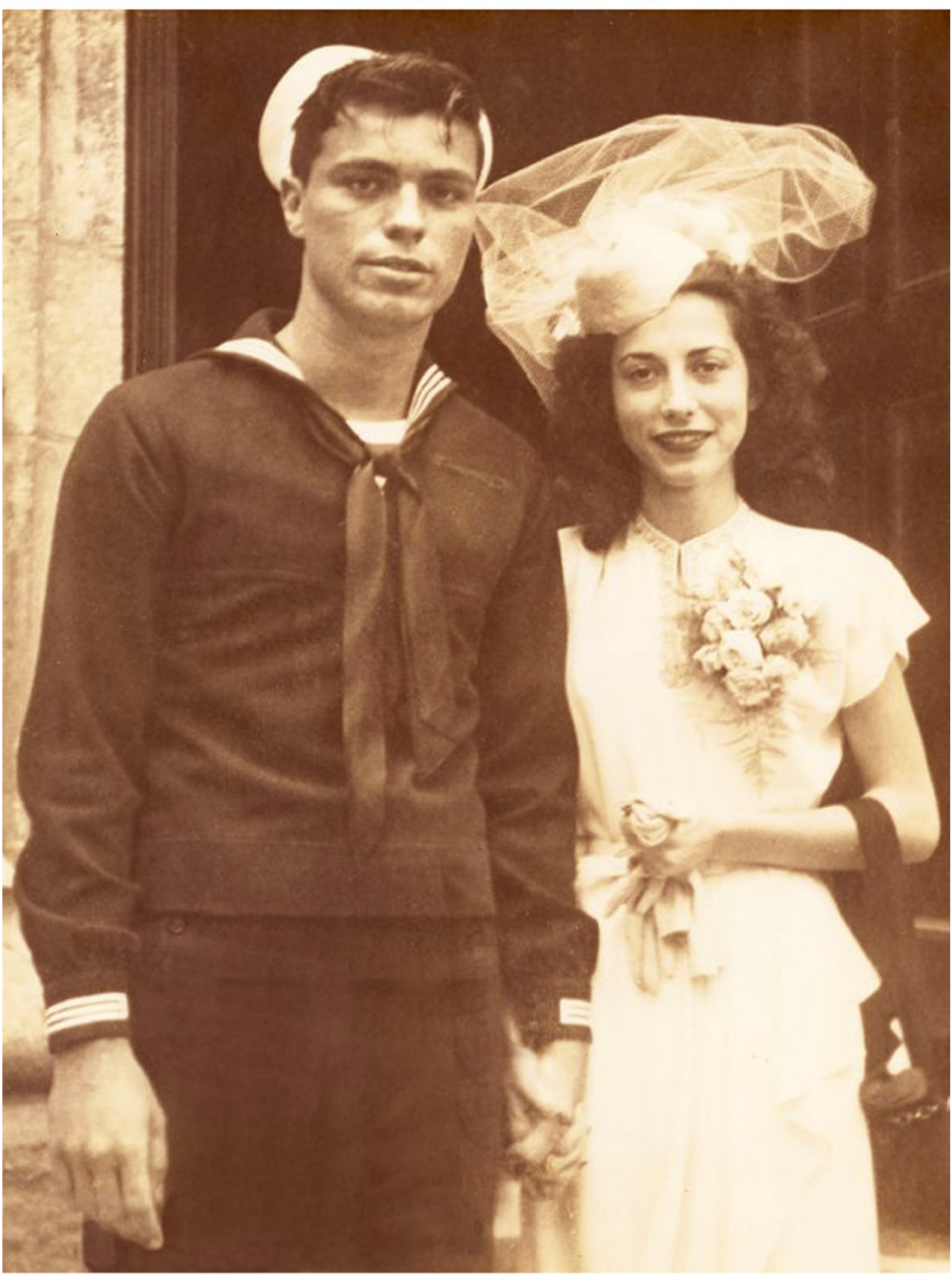
THE question of what exactly constitutes a legal residence is an important factor in the celebrated divorce case of the tobacco heiress Doris Duke Cromwell. The Cromwells were separated in 1940. In July, 1943, Doris, who had originally lived in New Jersey before building her home in Honolulu, arrived in Reno and announced that she was going to establish a permanent residence there. One reason was Nevada's lower property and inheritance taxes; another was to get a divorce. She immediately bought a home in Reno.

In September, Cromwell brought suit in New Jersey for a "limited divorce"—really a separation—on the grounds of desertion. By New Jersey law, a separation gives the winning spouse certain financial interests in the other's estate.

Doris countered by filing suit for absolute divorce in Reno, on the grounds of "extreme mental cruelty." Cromwell's

7

DISCORDS



next move was to obtain an injunction in the New Jersey courts to restrain his wife permanently from obtaining a divorce "anywhere on earth except in the sovereign State of New Jersey." New Jersey was far from disinterested. It was trying to hold onto an extremely taxable citizen. It claimed that the Reno residence was a fraud.

Judge William McKnight of Reno, however, ruled that the Nevada residence was genuine and granted Doris her divorce in December, 1943. Now Cromwell's attorneys have started a legal battle to have the Nevada divorce nullified, and Doris has announced that, if necessary, she will go to the Supreme Court. If she does, the question of legal residence may be clarified.

Examples of the confusion arising from the easy divorce laws of Nevada and other "divorce mill" states are many, and point the necessity of working out some sort of uniformity.

Here is one example. Mr. and Mrs. Jones had married late in life, after each had been divorced from another mate for some years. They pooled everything they had and bought a farm, placing it in Mr. Jones' name. Jones died intestate, and almost before the funeral flowers had withered his first wife arrived on the scene. The court upheld her contention that his divorce from her had no legality in the state in which he had remarried. Therefore she was still his wife in the eyes of the law, and she inherited all of his property, including the farm which had been purchased, in part, with money earned by his second wife before her marriage to him.

And here is another example of the absurdity of the divorce laws. "Mrs. Baker" of New York, aided financially by "Dr. Taylor," established residence in Reno and won a divorce by default—that is, her first husband took no part in the proceedings. When the decree was granted, she left for Indiana to marry Dr. Taylor. They returned to New York.

But after she had lived for a while in New York as Dr. Taylor's wife she brought suit for separation. Dr. Taylor resisted the suit on the grounds that he had never really been her husband, since a Nevada divorce by default was not recognized by the New York courts! The case went to the Court of Appeals and Dr. Taylor won.

So what is her legal status in her home state? The New York courts have said she is not the wife of Dr. Taylor. If she claims legally to be the wife of Mr. Baker, he can sue her for bigamy or bigamous cohabitation.

DISCORDS

And so it goes. Of course, not many will find themselves in such unhappy predicaments. But the facts themselves should serve as a Stop, Look, and Listen warning for those who now are marrying too lightly, believing that later on they can divorce just as lightly.

Liberty