

A divorce *a vinculo* and a divorce *a mensa* distinguished; neither will be granted save for the causes set out in the respective sections dealing with the same. The court will not decree a divorce *a mensa* where the only ground alleged is adultery—how such question may be raised. *Stewart v. Stewart*, 105 Md. 301. And see *Schwab v. Schwab*, 93 Md. 382.

This section does not confer upon the courts jurisdiction of divorce cases other than those specifically enumerated. *Wright v. Wright*, 2 Md. 450.

The mere failure of a husband to support his wife and children does not authorize a divorce *a vinculo*. *Wheeler v. Wheeler*, 101 Md. 433.

The right of the husband to a divorce on the ground of impotence existing at time of marriage, is not lost by the execution of a voluntary deed of separation. *J. G. v. H. G.*, 33 Md. 406.

For a case dealing with the acts of 1841, ch. 262, and 1844, ch. 306, and passing upon the effect upon an application for divorce under this section of the execution of a deed of separation and continued life apart thereunder, see *Brown v. Brown*, 5 Gill, 249; *Brown v. Brown*, 2 Md. Ch. 319.

For cases involving the proof of adultery, see *Pattison v. Pattison*, 132 Md. 362; *Shufeldt v. Shufeldt*, 86 Md. 519; *Kremelberg v. Kremelberg*, 52 Md. 553.

For cases involving the portion of the act of 1872, ch. 272, providing that the court might prohibit the guilty party from remarrying (repealed by the act of 1888, ch. 486), see *Dimpfel v. Wilson*, 107 Md. 338; *Garner v. Garner*, 56 Md. 128; *Elliott v. Elliott*, 38 Md. 361.

See notes to secs. 37 and 39.

An. Code, sec. 38. 1904, sec. 37. 1888, sec. 37. 1841, ch. 262, sec. 3. 1872, ch. 272. 1920, ch. 574, sec. 38.

39. DIVORCES A MENSA ET THORO may be decreed for the following causes, to-wit: First, cruelty of treatment; secondly, excessively vicious conduct; thirdly, abandonment and desertion; and the court may decree such divorces forever, or for a limited time; and in all cases where divorce A MENSA ET THORO is decreed, it may be revoked at any time thereafter by the court granting the same, upon the joint application of the parties to be discharged from the operation of the decree; and the court may decree a divorce A MENSA ET THORO in cases where a divorce a vinculo matrimonii is prayed, if the causes proved be sufficient to entitle the party to the same; and in all cases where a divorce is decreed, the court passing the same shall have full power to award to the wife such property or estate as she had when married, or the value of the same, or of such part thereof as may have been sold or converted by the husband, having regard to the circumstances of the husband at the time of the divorce, or such part of any such property as the court may deem reasonable; and shall also have power in all cases in which the care and custody of the children of parties forms part of the relief prayed whether a divorce is decreed or denied to order and direct who shall have the guardianship and custody of the children, and be charged with their support and maintenance and may at any time thereafter annul, vary or modify such order in relation to the children.

Cruelty of treatment; vicious conduct.

The term "excessively vicious conduct," defined. Drunkenness as an independent ground, does not justify a divorce. *Shutt v. Shutt*, 71 Md. 193; *Wheeler v. Wheeler*, 101 Md. 432.

The term "cruelty of treatment," must be understood in a technical sense. The causes must be grave and weighty, and such as show an absolute impossibility that the duties of the married life can be discharged. *Childs v. Childs*, 49 Md. 514. And see *Hawkins v. Hawkins*, 65 Md. 108.

Cruelty of treatment justifying a divorce under this section, held to have been proven. *Sharp v. Sharp*, 105 Md. 581; *Freeny v. Freeny*, 80 Md. 406; *Hawkins v.*