

Generally.

This section referred to in holding a bill for a divorce *a mensa* sufficient; this section relates exclusively to divorces *a mensa*; the jurisdiction to grant such a divorce is purely statutory and the causes specified in the statute are exclusive. *Etheridge v. Etheridge*, 120 Md. 12.

If both the husband and wife have been guilty of offenses justifying a divorce, neither will be granted a divorce. Evidence showing cruelty. *Martin v. Martin*, 141 Md. 183.

A divorce *a mensa* may be granted for abandonment, without regard to its duration. *Harding v. Harding*, 22 Md. 345.

The term "abandonment and desertion," must be understood in a technical sense; desertion not made out. *Childs v. Childs*, 49 Md. 514.

A decree under this section is unnecessary and perhaps improper, where there is a deed of separation by which the parties have placed themselves in the same position in which the court would place them by a divorce *a mensa*. *Brown v. Brown*, 5 Gill, 255; *Brown v. Brown*, 2 Md. Ch. 319.

In an application for a divorce *a vinculo*, where the appellant does not at the hearing or in his brief, ask for a divorce *a mensa*, it will not be determined whether he is entitled to the latter. *Wheeler v. Wheeler*, 101 Md. 436.

For a case involving the extra-territorial validity of a decree prohibiting the guilty party from remarrying, and involving the status of the children of such party by a subsequent marriage, see *Dimpfel v. Wilson*, 107 Md. 329.

For a case involving the construction of this section in connection with the statute of 12 Charles II., ch. 24, and passing on the question of the effect of a divorce upon the right of a father to appoint a testamentary guardian, see *Hill v. Hill*, 49 Md. 455.

For a case involving the application of the removal under the act of 1824, ch. 196, and the writ of *ne exeat*, to cases arising under this section, see *Bayly v. Bayly*, 2 Md. Ch. 329.

The portion of this section authorizing the court to revoke a divorce *a mensa*, referred to. *Sharp v. Sharp*, 105 Md. 585.

See notes to secs. 14, 37 and 38.

An. Code, sec. 39. 1904, sec. 38. 1888, sec. 38. 1841, ch. 262, sec. 5. 1843, ch. 287.
1886, ch. 10.

40. No person shall be entitled to make application for a divorce, where the causes for divorce occurred out of this State, unless the party plaintiff or defendant shall have resided within this State for two years next preceding such application.

A court of equity has jurisdiction under this section and sec. 37, where adultery is committed in this state, both husband and wife being at the time non-residents of Maryland, but the wife becoming a resident of this state a few months prior to the filing of the bill. A wife may establish a domicile separate from her husband. *Adams v. Adams*, 101 Md. 507.

Cited but not construed in *Brown v. Brown*, 2 Md. Ch. 319.

See notes to sec. 37.

An. Code, sec. 40. 1904, sec. 39. 1888, sec. 39. 1842, ch. 198, sec. 1. 1906, ch. 765.

41. When a bill prays for a divorce *a vinculo matrimonii*, the fact that the parties have been divorced *a mensa et thoro* shall not be taken to interfere with the jurisdiction of the court over the subject, and a party who has obtained a divorce *a mensa et thoro* on the ground of abandonment, which at the time of obtaining said divorce was not of the character and duration specified in section 38 of this article, shall not be estopped thereby from subsequently obtaining a divorce *a vinculo matrimonii* on the ground of abandonment proved to be of the character and duration specified in said section 38.