

Husband not entitled to divorce for premarital unchastity of his wife when he was the first to have carnal knowledge of her. *Hoff v. Hoff*, 162 Md. 248.

See notes to art. 35, sec. 4.

See notes to sec. 39.

### 39.

Separation and intention to abandon must concur, but need not begin at same time, and divorce may be granted on ground of abandonment without regard to duration. Refusal by wife of marital rights. *Klein v. Klein*, 146 Md. 29. And as to refusal of marital rights, see *Miller v. Miller*, 153 Md. 213; *McKane v. McKane*, 152 Md. 515.

No abandonment such as law recognizes as ground for divorce; resumption of marital relations. Amount and duration of alimony; counsel fee. *Daiger v. Daiger*, 154 Md. 503.

Though abandonment has not continued for three years, partial divorce may be decreed where divorce *a vinculo* is prayed. Wife's continued absence caused by offensive letters and unwillingness for reunion. Refusal to renew marital relations. *Downs v. Downs*, 154 Md. 434.

Divorce *a mensa* may be granted for abandonment and desertion without regard to its duration; elements necessary to constitute abandonment are cohabitation ended and intention to desert. Alimony; counsel fees. *Miller v. Miller*, 153 Md. 217.

Decree awarding permanent alimony does not preclude wife from securing divorce *a mensa* by subsequent suit where separation of parties has continued. Injunction against disposing of property. *Mann v. Mann*, 144 Md. 523.

Common law obligates father to support child during minority, which continues after divorce unless otherwise decreed. Obligation ceases on death of father; estate not liable. Powers of court *re* support of children not broader than *re* alimony. *Blades v. Szatai*, 151 Md. 646. (And see dissenting opinion.)

Separation agreement of husband and wife does not discharge either from obligation to support child. Court may order who shall have custody of child and be charged with maintenance. *Melson v. Melson*, 151 Md. 206.

Cursing and use of vile epithets does not constitute excessively vicious conduct or cruelty. *McKane v. McKane*, 152 Md. 515.

Meaning of "cruelty" under this section; technical word. Adultery. Alimony. *Wendel v. Wendel*, 154 Md. 21. And see *Proudfoot v. Proudfoot*, 154 Md. 586.

Evidence of cruelty sufficient to justify divorce *a mensa*. *Schwab v. Schwab*, 144 Md. 49.

Husband who left his wife and lived with children of former marriage held, under testimony and circumstances, to have left wife with intention of deserting her. *Schwartz v. Schwartz*, 158 Md. 80.

In suit by wife for permanent alimony, the husband files cross-bill for divorce, the court can determine custody and support of infant children whether divorce is granted or not. *Simmont v. Simmont*, 160 Md. 422.

Refusal of husband to return to home with wife, with letter and personal interview declaring his intention to end all relations between them, held to justify divorce *a mensa* for abandonment. *Juergens v. Juergens*, 160 Md. 532.

Cited but not construed in *Bushman v. Bushman*, 157 Md. 171; *Kriedo v. Kriedo*, 159 Md. 234; *Wald v. Wald*, 161 Md. 502.

See notes to art. 35, sec. 4.

1931, ch. 220.

**39A.** Any deed or agreement made between husband and wife respecting support, maintenance, property rights, or personal rights, or any settlement made in lieu of support, maintenance, property rights or personal rights shall be valid, binding and enforceable to every intent and purpose, and such deed or agreement shall not be a bar to an action for divorce, either *a vinculo matrimonii* or *a mensa et thoro*, as the case may be, whether the cause for divorce existed at the time or arose prior or subsequent to the time of the execution of said deed or agreement, or whether at