

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.)

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.

Requirement to sustain charge of abandonment and desertion; condonation. *Bonwit v. Bonwit*, 169 Md. 189.

Causes of separation must be grave and weighty and such as to show that the duties of married life cannot be properly discharged, to entitle one to divorce *a mensa et thoro*. *Foeller v. Foeller*, 171 Md. 660.

### Custody of Children.

The court may revise its decree as to the disposition of the child, though the application is made after the expiration of the term at which the decree is passed. Where a divorce is granted on the ground of the misconduct of the wife, the evidence should be very clear to justify the court in taking the child from the father and giving it to the mother; primary concern of the court in such cases. *Pangle v. Pangle*, 134 Md. 169.

This section does not contemplate that questions as to the custody and support of children should be passed on until the divorce proceeding is heard on its merits. Act of 1920, ch. 574, and ch. 573 (see sec. 85), inapplicable. This section broad enough to cover all questions concerning care, custody, support and maintenance of children. *Hood v. Hood*, 138 Md. 363.

A decree awarding the wife the guardianship and custody of children, and charging the husband with their support, relying on this section, upheld for want of evidence, even if the discretion of the lower court in such a matter could properly be reviewed. *Roth v. Roth*, 143 Md. 150.

The estate of the wife will be awarded to her, and the guardianship and custody of the children ordered, only when a divorce has been decreed. *Murray v. Murray*, 134 Md. 657; *Hood v. Hood*, 138 Md. 361.

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.

Jurisdiction of equity courts under this section as to custody, etc., of infant children cannot be enlarged or abridged by order law court in *habeas corpus* proceeding relating to custody of child. *Tull v. Tull*, 172 Md. 215.

### 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.