

See notes to sec. 14.

Since alimony is allowable only as incident to status of marriage, person who has been absolutely divorced cannot maintain action for alimony. *Staub v. Staub*, 170 Md. 203.

An. Code, 1924, sec. 16. 1912, sec. 16. 1908, ch. 324.

16. In any decree for divorce against a non-resident, where alimony is prayed in the bill of complaint, and the same sets forth that the non-resident defendant is possessed of property in the State, the court shall have full authority to award alimony, and any property in the State of any person against whom alimony may be so awarded shall be liable for the same and subject to such decree as the court may pass in the premises. Any order of the court awarding alimony *pendente lite* shall have the same force and effect as in decree for divorce.

An. Code, 1924, sec. 16A. 1935, ch. 261.

17. In all cases where alimony or alimony *pendente lite* and counsel fees are claimed, the court shall not award such alimony or counsel fees unless it shall appear from the evidence that the wife's income is insufficient to care for her needs.

Amendment.

An. Code, 1924, sec. 17. 1912, sec. 17. 1904, sec. 16. 1888, sec. 16. 1854, ch. 230.

18. Upon application of either plaintiff or defendant to any court of equity, he shall have the right, upon payment of such costs as the court may direct, to amend at any time before final decree, the bill of complaint, answer, pleas, demurrers, or any of the proceedings in any cause before the court, so as to bring the merits of the case in controversy fairly to trial.¹

This section was intended to enlarge the time within which amendments might be made. There is no appeal from the action of the court upon an application to amend. *Snook v. Munday*, 96 Md. 515; *Calvert v. Carter*, 18 Md. 107; *Warren v. Twilley*, 10 Md. 46.

Where no laches can be imputed to the applicant, new facts having been discovered during the progress of the cause, leave should be granted to amend, though the matter is within the discretion of the trial court. *Glenn v. Clarke*, 13 Md. 602.

Prior to the adoption of this section, an application for an amendment rested in the sound discretion of the chancellor, and there was no appeal. *Thomas v. Doub*, 1 Md. 252.

A bill for a sale of property under sec. 159, may be converted by amendment into a bill for partition. *Watson v. Godwin*, 4 Md. Ch. 28.

As to when a defendant who has answered the original bill, need not answer the amended bill, see *Fitzhugh v. McPherson*, 9 G. & J. 51. And see *Thomas v. The Visitors*, etc., 7 G. & J. 369.

For a case involving the nature of an amended bill; how leave to amend may be obtained; and in what manner the amendment should be made, see *Walsh v. Smyth*, 3 Bl. 1.

For a case involving the effect of an amendment of a bill of complaint upon an injunction, see *Binney's Case*, 2 Bl. 99.

An answer held to be properly amendable under this section. *Bowie v. Stonestreet*, 6 Md. 433.

As to amendment of the bill, see also sec. 182.

As to the effect of failure to amend after leave, see sec. 193.

¹ Sec. 18 of art. 4 of the Constitution gives the court of appeals power to make rules which shall have the effect of law. Rule 17 of the general equity rules, adopted November 21, 1919, reads as follows:

The court shall at any time before final decree, in furtherance of justice and upon such terms as to payment of costs as may be just, permit any bill, answer, process, proceeding, pleading, or record to be amended, or material supplemental matter to be set forth in an amended or supplemental pleading. The court at every stage of the proceeding shall disregard any error or defect in the proceedings or pleadings which does not affect the substantial rights of the parties. A further and better statement of the claim or defense or further and better particulars of any matter stated in any pleading may be permitted upon order of court.