

It is not the design of the court at this time to place a construction upon this law, because as the original bill was filed before its passage, he does not think its provisions are applicable to the case made by it, and because neither it nor the supplemental bill prays for a divorce of either kind. The bill prays specifically for alimony, and the question is, whether this court has the power and ought, under these circumstances, decree it to her.

The Chancellor thinks the power exists, and that the facts of the case call imperatively for its exertion. This conclusion though not fortified by any direct Maryland decision upon the point, is not without authority in support of it. In *Rhame vs. Rhame*, 1 *McCord's Ch. Rep.*, 197, the Court of Appeals of South Carolina in reversing the decree of the Chancellor, say, at page 207, "that desertion or abandonment of the wife by the husband would be good ground for alimony contrary to the English rule." "That there must be some method by which the husband may be compelled to maintain his wife, and when restitution of conjugal rights cannot be decreed, alimony must."

My impression is, that this is the true rule, and I shall decree accordingly, but the proof in the record in regard to the value of the estate of the husband is not so clear as to enable me to determine satisfactorily the amount of the allowance to be made to the wife, and the case will, therefore, be sent to the Auditor to make a report upon the subject from the proofs already taken and such further evidence as the parties may lay before him. The propriety of referring the question to the Auditor under the circumstances of this case, is stated by Chancellor Kent in *Barrere vs. Barrere*, 4 *Johns. Ch. Rep.*, 198.

[An order was then passed directing the Auditor to state the value of defendant's property at the present time, and also at the time of filing the bill, in accordance with the above opinion. After this report was made by the Auditor, but before the Chancellor acted upon it, the defendant died, and by consent of his executor and the complainant, a decree was passed directing the executor to pay complainant all her costs and expenses,