

An. Code, sec. 7. 1904, sec. 7. 1888, sec. 7. 1825, ch. 167, sec. 8.

7. When any writ against joint and several obligors shall be returned summoned as to one or more and *non est* as to the others the clerk may renew the writ against those upon whom it has not been served, and upon service upon the other obligors and return thereof the obligors may pray the court to consolidate the actions and the court may so consolidate such actions that no delay shall be caused thereby, but judgment shall be entered against the obligor last summoned at the same term as against the obligors first summoned, and in no case shall delay be occasioned by such consolidation.

This section has no application to actions *ex delicto*. *Mitchell v. Smith*, 4 Md. 406.

An. Code, sec. 8. 1904, sec. 8. 1888, sec. 8. 1825, ch. 167, sec. 5.

8. Where two or more actions or obligations conditioned for the payment of any money or two or more actions on the case arising *ex contractu* by and between the same plaintiff and the same defendant shall be brought at the same term, the court in which such actions are pending shall, on motion of the defendant, order the said actions to be consolidated and when consolidated shall direct the clerk to tax the cost of but one action.

Where separate suits are brought by same plaintiff against same defendant on two policies of fire insurance on adjoining properties destroyed by same fire, they may be consolidated under this section. *Bakhaus v. Caledonian Ins. Co.*, 112 Md. 695.

This section has no application to actions *ex delicto*. *Mitchell v. Smith*, 4 Md. 406.  
This section has no application to suits before a justice of the peace. *Presstman v. Beach*, 61 Md. 205.

An. Code, sec. 9. 1904, sec. 9. 1888, sec. 9. 1825, ch. 167, sec. 6.

9. Any plaintiff in a judgment rendered on a joint and several bond, penal or single bill may levy the amount of said judgment upon either of the defendants therein.

As to attachments against joint debtors, see art. 9, sec. 40.

An. Code, sec. 10. 1904, sec. 10. 1888, sec. 10. 1839, ch. 14.

10. A judgment rendered against one or more members of a partnership or one or more persons jointly liable on any bill, bond, covenant, promissory note, bill of exchange, contract or agreement whatsoever less than the whole number of partners or persons so bound shall not work an extinguishment or merger of the cause of action on which such judgment may have been rendered as respects the liability of the partners or persons not bound by such judgment; and they shall remain liable to be sued as if their original responsibility had been joint and several; provided that but one satisfaction of the debt or demand shall be made.

This section changes common law. It applies to actions on implied contracts. If judgment has been satisfied, that defense must be availed of at trial. Fact that judgment by default was improperly entered against another defendant, is irrelevant. *Westheimer v. Craig*, 76 Md. 407.

Where a covenant is joint or joint and several, it is no defense that judgment has been entered against a co-covenantor, unless judgment has been satisfied. *Cruzen v. McKaig*, 57 Md. 461; *Gott v. State*, 44 Md. 337; *Thomas v. Mohler*, 25 Md. 45.

This section does not alter rule that all joint defendants (partners) must be joined, and omission so to do may be taken advantage of by plea in abatement, or in a proper case by demurrer. Object and effect of this section, discussed. *Loney v. Bailey*, 43 Md. 17. See also *Merrick v. Bank of Metropolis*, 8 Gill, 60.

This section is identical with art. 26, sec. 21—see notes thereto.