Gill, 109. But it may be considered as settled in our practice, where there are several defendants, that all the original defendants or their representatives must be made parties to the *scire facias* whenever it is issued against terre-tenants, and it must so appear on the face of the writ, Nesbitt v. Manro, 11 G. & J. 261; Warfield v. Brewer *supra;* see, however, Bank of U. S. v. Lyles, 10 G. & J. 326. The principle on which this is required is not that of contribution as amongst different terre-tenants, for the defendant or his heir cannot claim contribution from terre-tenants, but the former are regarded as the persons most competent to know and to prove satisfaction of the judgment. This, however, is held not to apply to the case of a sole defendant dying after judgment, for a *scire facias* may issue against his heirs or terre-tenants without proceedings against his personal representatives, Polk v. Pendleton, 31 Md. 118. But if a terre-tenant be charged without naming other terre-tenants, who ought to be co-defendants, and the writ may issue against terre-tenants generally, McElderry v. Smith *supra,* he must plead it in abatement, for otherwise, as the proceedings do not shew that others are liable, his right to contribution will be lost, and in collateral proceedings, it seems that it will be intended that a judgment revived against terre-tenants was revived against all the terre-tenants, *ibid.* and Doub v. Barnes, 4 Gill, 1.

In Arnott v. Nicholls *supra,* it was considered that the whole of the real estate of the defendant being bound by the judgment, if there were other alienees or other real estate of the defendant the whole should contribute, and if there was other proyerty than that aliened, the *fieri facias* should be first levied of that before recourse was had to the land aliened, and that the Court might enforce this on the return of the *fieri facias.* But this doctrine was overruled, as it seems, in McElderry v. Smith *supra.*[17] And in Doub v. Barnes it was declared that the terre-tenant cannot force a sale of all the lands, for the judgment gives a right to sell only so much as may be necessary, and the injured terre-tenant can only have relief in equity. In the same case it was also held that contribution amongst different terre-tenants standing *in equali jure* is equal without reference to the dates of the conveyances from the judgment debtor. As to when the terre-tenant may have relief in equity against the enforcement of a judgment, see Barnes v. Dodge, 7 Gill, 109; Miller v. Fiery, 12 Md. 207.

Nature of judgment revived.—Some discussion has also taken place in Maryland as to the nature of the judgment revived.[18] It seems to have been considered at one time, that if a qualified judgment was revived it became thereby an absolute one. Accordingly in Moore v. Garretson, 6 Md. 444, where a judgment had been rendered in 1843, subject to the
150 *defendant's discharge under the insolvent laws, and revived on a default of the defendant in 1847, and a second *scire facias* issued in 1851, which recited the first judgment as an unconditional one, the defendant again pleaded his discharge under the insolvent laws, but the Court held that the original judgment was revived with all the powers, attributes, and conditions which originally belonged to it, and that a judgment taken sub-

[17] But see Wright v. Ryland, 92 Md. 645.

[18] See note 1, *supra.*