Where two are sued, on a joint liability, and one confesses and judgment is rendered below against the other, the objection that there should have been a joint judgment or none, cannot be raised on appeal. Barker *v.* Ayres, 5 Md. 202.

Point held not to have been presented to the lower court; hence it could not be considered on appeal. Williams *v.* N. Y. Life Ins. Co., 122 Md. 145.

Questions sufficiently shown to have been passed on below, to permit the appellate court to consider them. Edelen *v.* State, 4 G. & J. 281; Newcomer *v.* Keedy, 9 Gill, 269; Cushwa *v.* Cushwa, 9 Gill, 248; Brice *v.* Randall, 7 G. & J. 352; Bosley *v.* Chesapeake Ins Co., 3 G. & J. 463.

Under this section the irregularity of a verdict will not be considered on appeal, unless brought up by a motion in arrest of judgment. Standard Co. *v.* O'Brien, 88 Md. 341.

The first clause of this section applied. Kelly *v.* Montebello Co., 141 Md. 205; Buck *v.* Brady, 110 Md. 577; Hamburger *v.* Baltimore, 106 Md. 483; Baltimore *v.* Austin, 95 Md. 93; Muir *v.* Beauchamp, 91 Md. 658; Worcester *v.* Ryckman, 91 Md. 39; Lewis *v.* Topman, 90 Md. 306; Mitchell *v.* State, 82 Md. 531; Burnett *v.* Bealmear, 79 Md. 40; Thorne *v.* Fox, 67 Md. 74; Jackson *v.* Salisbury, 66 Md. 459, McCollough *v* Biedler, 66 Md. 283; Ecker *v.* First National Bank, 62 Md. 519; Lynn *v.* B. & O. R. R. Co., 60 Md. 416; McKew *v.* Duvall, 45 Md. 501; Third National Bank *v.* Boyd, 44 Md. 63; Davis *v.* State, 39 Md. 386; Gabelein *v.* Plaenker, 36 Md. 64; First National Bank *v.* Jaggers, 31 Md. 52; Dorsey *v.* Garey, 30 Md. 499; Horner *v.* O'Laughlin, 29 Md. 470; Hutton *v.* Padgett, 26 Md. 231; Kunkel *v.* Spooner, 9 Md. 462; Manning *v.* Hays, 6 Md. 10; Tyson *v.* Shueey, 5 Md. 552; Coates *v.* Sangston, 5 Md. 131; Bridendolph *v.* Zeller, 5 Md. 63; Cushwa *v.* Cushwa, 5 Md. 54; Morgan *v.* Briscoe, 4 Md. 272; Middlekauff *v.* Smith, 1 Md. 337; Graham *v.* Sangston, 1 Md. 66; Milburn *v.* State, 1 Md. 26; Tuck *v.* Boone, 8 Gill, 189; Carter *v.* Cross, 7 Gill, 46; Sullivan *v.* Violett, 6 Gill, 190; Schleigh *v.* Hagerstown Bank, 4 Gill, 312; Bullit *v.* Musgrave, 3 Gill, 48; Leopard *v.* Chesapeake, etc., Canal Co, 1 Gill, 228; Keefer *v.* Mattingsly, 1 Gill, 186; Wolfe *v.* Hauser, 1 Gill, 92; Gray *v.* Crook, 12 G. & J. 236; Abell *v.* Harris, 11 G. & J. 372; Burgess *v.* State, 11 G. & J. 68; State *v.* Turner, 8 G. & J 133; Nesbitt *v.* Dallam, 7 G. & J. 510; Syles *v.* Hatton, 6 G. & J. 136; Grahame *v* Harris, 5 G. & J. 494; Sasscer *v.* Walker, 5 G. & J. 110; Davis *v.* Leah, 2 G. & J. 307.

Prior to the act of 1825, ch. 117, it was the duty of the appellate court to notice all errors and objections apparent upon the record. Mundell *v.* Perry, 2 G. & J. 207.

Generally.

The opinion of the trial court is no part of the record, and there being no bill of exceptions or agreed statement, the judgment must be affirmed. Methodist Church *v.* Browne, 39 Md. 160.

The grounds of a motion to set aside a judgment and quash the execution thereon, must appear in the record. Cockey *v.* Ensor, 43 Md. 266.

If a demurrer to an indictment is not set out in the record, it is not properly before the court of appeals for review. Broll *v.* State, 45 Md. 359.

Cited but not construed in Havre de Grace *v.* Harlow, 129 Md. 267; Weber *v.* Zimmerman, 22 Md. 168; Warner *v.* Fowler, 8 Md. 30; Gittings *v.* Mayhew, 6 Md. 130; Pierson *v.* Trail, 1 Md. 144; Medley *v.* Williams, 7 G. & J. 70; Shilknecht *v.* Eastburne, 2 G. & J. 126.

For cases now apparently inapplicable to this section by reason of changes in the law, see Dunham *v.* Clogg, 30 Md. 292; Baltimore *v.* Poultney, 25 Md. 34 (distinguishing between the assumption of a fact in a prayer and an insufficiency of evidence to support a prayer).

As to appeals in equity, see secs. 40 and 41.

See art. 33, sec. 27, and notes, and art. 75, sec. 96.

An. Code, sec. 9A. 1914, ch. 110.

11. The fact that a prayer or instruction which refers in general terms to the pleadings, was granted or refused by the Court below, shall not be sufficient to show that the point or question of a variance between the pleadings and the evidence was tried and decided in the Court below, as required by section 10; and the question of such variance shall not be considered as having been raised by any prayer or instruction below, unless