

were left to his remedy by bringing his action on the award, it would be competent to the defendant to take advantage of any illegality appearing upon the face of it. And see *Zachary v. Shepherd*, 2 T. R. 781, where the Statute received a like construction, the charge being, not fraud or corruption, but that the award was made on insufficient materials. The time is computed from the day on which the award is *published*, i. e. notice given to the parties by the arbitrator that the award is ready to be delivered on payment of his costs, *Musselbrook v. Junkin*, 9 Bing. 605, and that whether they be exorbitant or not, *Macarthur v. Campbell*, 5 B. & Ad. 518.

Remedies on award.—The remedies on the award are either by action of debt or *assumpsit* upon it, or debt on the bond for the performance of the award, or in some cases by a bill in equity,³² *Cromwell v. Owings*, 6 H. & J. 10, see *Howard v. Warfield*, *supra* (for there seems no reason why, for instance, a bill should not be entertained for a specific performance of an agreement to sell property at a price ascertained by an award), or by attachment under the Stat. of W. 3, or by execution or attachment under our Act of Assembly.

631 *It would appear from *Shriver v. the State*, 9 G. & J. 1, and *Caton v. McTavish*, 10 G. & J. 192, that upon the entry of the judgment upon the award, the process to compel its performance depends upon the terms of the award. Thus if the award directs the payment of money, the delivery over of the possession of lands, or the restoration of a chattel, the writs of *feri facias*, *habere facias possessionem*, or *retorno habendo* might be an adequate and proper means of enforcing the judgment. If the award should direct a matter, for the enforcement of which the ordinary writs would not avail, such as the execution of an instrument of writing, then, *ex necessitate*, the attachment must be resorted to, as before the Act of Assembly.

It is held to be discretionary with the Court to execute the award by attachment under the Stat. of W. 3, and see *Caton v. McTavish supra*. And the award must contain an express order of the arbitrator on the party to do the act awarded to be done, see *Edgell v. Dallimore*, 3 Bing. 634. The submission must have been previously made a rule of Court, *Mayor, &c., v. Pinch*, 4 Scott, 299, and if the time of award has been enlarged, the enlargement ought also to be made a rule of Court, but it is not necessary to produce an affidavit of the enlargement of the time, *Dickins v. Jarvis*, 5 B. & C. 528. In the matter of *Bower*, 1 B. & C. 264, it was held that personal knowledge of an award and rule of Court makes the party liable to an attachment for not performing the award, without personal service. But the general rule is that there must be positive affidavit of a positive demand. And where there was an award that one

³² Equity has jurisdiction to enforce an award when the thing ordered to be done by the award is such as a court of equity would specifically enforce if it had been agreed upon by the parties themselves. *Witz v. Tregallas*, 82 Md. 363. In an action on an award the fact that both the submission and the award have been lost is immaterial, if their contents are supplied by secondary evidence. *Boor v. Wilson*, 48 Md. 315.