

distrainor, as defendant, makes "avowry," that is, he avows taking the distress in his own right or in the right of his wife, and sets forth the reason for it, as for rent-arrear, damage done, or other cause.¹

If he justifies in another's right as his bailiff or servant, he is said to make "cognizance."¹ See COGNIZANCE, 1.

AVULSION.² Alluvion or dereliction of land which is sudden and considerable.

As, where the course of a river is changed by a violent flood and thereby a man loses his ground; in which case he has, as his recompense, what the river has left in another place.³ See further ALLUVION.

AWARD.⁴ 1, v. (1) To allow by judicial determination: as, for a court to award a writ of *habeas corpus* or other process.

(2) To adjudge as due; to allow; to find: as, for a jury or viewers to award damages, for arbitrators to award a claim.

2, n. The decision of a board of arbitrators; the finding of a referee; also, the writing which embodies such determination.

An award is the judgment of the arbitrator upon the matters submitted.⁵

No award. A plea to an action on an arbitration bond, that no legal award was made.

A valid award is equivalent to a judgment on a verdict. Feudal law did not permit a right in realty to pass by a mere award—lest an alienation should be made collusively without the consent of the superior.

. . . A party who disobeys an award is punishable as for contempt of court, unless the award be set aside for corruption or other misbehavior in the arbitrators.⁶

An award is an act of the parties performed through their agents, and assented to in advance.⁷

It can be impeached only for corruption, partiality, or gross misbehavior in the arbitrators, or for some palpable mistake as to the law or the facts. If so uncertain that it cannot be enforced, it is void.⁸

At common law it must be not only certain but final, disposing wholly of the controversy which properly forms the subject of the reference; otherwise it cannot be enforced.⁹

¹ 3 Bl. Com. 150; 21 N. J. L. 49.

² *L. avulsio; avellere*, to tear away.

³ 2 Bl. Com. 262; 3 Washb. R. P. 452.

⁴ Mid. Eng. *awarden*: F. *eswardier*, to examine, judge; *warder*, to take heed, keep. A thing for the parties to observe,—Skeat; Spel. Gloss.

⁵ *Halnon v. Halnon*, 55 Vt. 322 (1883), Royce, C. J.

⁶ 3 Bl. Com. 16-18.

⁷ *Babb v. Stromberg*, 14 Pa. 399 (1850), Gibson, C. J.

⁸ *Herrick v. Blair*, 1 Johns. Ch. 101 (1814), Kent, J.; 2 *id.* 551; *Fairchild v. Adams*, 11 Cush. 550 (1853); *Perkins v. Giles*, 53 Barb. 346 (1869); *Russell v. Smith*, 87 Ind. 466, 468 (1882).

⁹ *Connor v. Simpson*, 104 Pa. 443 (1883); *Morse, Arb.*, &c. 486.

Before a court of review every presumption will be made in favor of the validity of an award, unless flagrant error appears upon the face of the record itself.¹

See further ABIDE; ARBITRATION.

AWAY. See ABSENT; CARRY, 1.

Away-going. See CROP.

B.

B. Referring to a page or note, see A, 1.

In colonial times was imprinted with indelible ink upon the cheek of a person convicted of burglary.²

As an abbreviation, usually denotes bachelor, bail, bankruptcy, baron, bench, bill, bond, book:

B. B. Bail bond. See C. C. *et* B. B.

B. C. Bail court; bankruptcy cases.

B. E. Baron of the court of exchequer. See BARON, 3.

B. F. *Bonum factum*, a proper thing.

Formerly was indorsed upon the paper containing a decree, signifying that it was "approved."

B. R. *Bancus regis*, king's bench; bankruptcy reports; Bill of Rights.

B. S. *Bancus superior*; upper bench.

BABY ACT. A term of reproach originally applied to the disability of infancy when pleaded by an adult in bar of recovery upon a contract made while he was under age, but extended to any plea of the statute of limitations.

BACHELOR OF LAWS. See DEGREE.

BACK. To indorse, sign: as, to back a process or writ.

The warrant of a justice of the peace in one county must be backed, that is, signed, by a justice in another county, before it can be executed there. This practice prevailed for a long period prior to authorization by statute.³

Under extradition treaties, an officer of government, usually the secretary of state, may indorse or back a warrant of arrest.

BACK-GAMMON. See GAME, 2.

BACK-WATER. See MILL, 1; TAKE, 8.

BAD. 1. When applied to "character," the jury must say whether want of chastity or of honesty was imputed.⁴

The charge of incontinency involved in the words "she is a bad, a loose, character," may be sufficiently averred by an *innuendo* without a *colloquium*. Such words of themselves impute incontinency. Whether

¹ *Wilcox v. Payne*, 88 Pa. 157 (1878).

² *Jones v. Robbins*, 8 Gray, 348 (1857), Shaw, C. J.

³ 4 Bl. Com. 291.

⁴ *Riddell v. Thayer*, 127 Mass. 490 (1879); *Kedrolivansky v. Niebaum*, 70 Cal. 218-19 (1886), cases.