

# "Let Us See What Is Meant by the Word Recorde"

## Concepts of Record from the Middle Ages to the Early 20th Century

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[Aller au sommaire du numéro](#)

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Résumé de l'article

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# “Let Us See What Is Meant by the Word *Recordē*”

Concepts of Record from the Middle Ages  
to the Early 20th Century

GEOFFREY YEO

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**ABSTRACT** Taking as its starting point the discussion of “what is meant by the word *Recordē*” in a 1581 work by William Lambard, this article considers the development of conceptual ideas about records from the Middle Ages to the early years of the 20th century. After examining the medieval understanding of *record* as oral testimony of legal judgments, it discusses how concepts of record in England gradually expanded to embrace written texts, and it traces the shift from an exclusive association with courts of law to a perception that records could be made, kept, and used across a much wider range of contexts. The article also examines the changing terminological relationships between *records* and *archives* and the dissemination of English understandings of records to other Anglophone countries. It concludes with a brief exploration of points of contact between older debates about the scope of the term *record* and those of present-day professional discourse.

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**RÉSUMÉ** En prenant comme point de départ la discussion sur "ce que signifie le mot *Record*" dans un ouvrage de William Lambard datant de 1581, cet article examine le développement des idées conceptuelles autour de la notion anglophone de *records*, du Moyen Âge aux premières années du XXe siècle. Après avoir examiné la conception médiévale du *record* en tant que témoignage oral de jugements légaux, l'article explique comment les concepts de *record* en Angleterre se sont progressivement étendus pour englober les textes écrits, et il retrace le passage d'une association exclusive avec les cours de justice à la perception que les *records* peuvent être créés, conservés, et utilisés dans un éventail de contextes beaucoup plus large. L'article examine également l'évolution des relations terminologiques entre « *records* » et « *archives* » ainsi que la diffusion de la conception anglaise du *record* dans d'autres pays anglophones. Il se termine par une brève exploration des jonctions entre les débats plus anciens autour de la portée du terme *record* et ceux du discours professionnel actuel.

The word *record* has been used in English for more than 700 years. But language constantly evolves, and the connotations of the word have not been static. In recent times, many differing interpretations of *record* have been proposed and debated in the literature of archival studies.<sup>1</sup> In an attempt to supply a historical context for these debates, this article explores how *record* may have been understood by those who used the word in earlier centuries. The article is not a history of recording practices; its aim is to investigate different conceptualizations of records, from medieval times to the era of Sir Hilary Jenkinson.

Diverse and perhaps conflicting uses of language often seem characteristic of discourse in our own age, but the emergence of multiple ways of using or interpreting established terms is not a new phenomenon. The meanings attributed to words have always been subject to transformation as the political and social situations in which words are spoken, written, heard, or read have changed over time. Discussion of varying uses of the word *record* in the past may help us to comprehend or re-evaluate the apparent discordance we encounter in archival literature today.

Although the word *record* has roots in the Latin vocabulary of ancient Rome, the initial development and growth of conceptual ideas about records occurred in the Middle Ages in England. From the beginnings of English colonial expansion until the early 20th century, understandings of *record* in other Anglophone societies were almost entirely derived from English custom and usage; where English custom did not prevail, concepts of record were unknown. Of necessity, therefore, this article focuses chiefly on England and English history. Taking as its starting point a 16th-century account of “what is meant by the word *Recorde*,” it considers the word’s Latin origins and then examines the formation and gradual enlargement of concepts of record in medieval and post-medieval England, tracing a shift from an exclusive association with courts of law to a perception that records could be made, kept, and used across a much wider range of contexts. The article also briefly discusses the changing terminological relationships between *records* and *archives* and the dissemination of English understandings of records to other Anglophone countries – topics that would almost

1 See, for example, Joshua Finnell, “Records Management Theory’s Dilemma: What Is a Record?” *Library Philosophy and Practice* 2011, no. 6 (2011), <https://digitalcommons.unl.edu/libphilprac/567>; Jennifer Meehan, “The Archival Nexus: Rethinking the Interplay of Archival Ideas about the Nature, Value, and Use of Records,” *Archival Science* 9, no. 3–4 (2009): 157–64; Geoffrey Yeo, “Rising to the Level of a Record? Some Thoughts on Records and Documents,” *Records Management Journal* 21, no. 1 (2011): 8–27.

certainly warrant a more detailed survey on a future occasion. It concludes with a short exploration of points of contact between older debates about the scope of the term *record* and those of the present day.

A study of this kind, covering an extensive time period, must draw on an eclectic array of sources: legal treatises and commentaries, dictionaries of legal terminology, manuals of accountancy and surveying, early archival finding aids and handbooks for searchers, antiquarian essays, college statutes, reports of royal commissions, and many others. Perhaps because the sources are so disparate – and perhaps also because some of them seem to be little known to archivists and historians of archives – much of the story that the article tells has not previously been set out at length in archival literature. There is ample potential for further research into many aspects of the story, and it is hoped that this article will stimulate, and provide a foundation for, the investigations that are needed.

## An Elizabethan Perspective

The quotation in the title of the article dates from 1581. It is taken from a book by William Lambard, an English lawyer, antiquary, and (briefly) archivist in the reign of Queen Elizabeth I. Lambard's book was entitled *Eirenarcha*, and he devoted several pages of it to an examination of the meaning or meanings of *record* in the language of his day:

Let us see what is meant by the word *Record*.

The *Latine* men use *Recordor*, when they will signifie, to keepe in minde, or to remember, in which sense the Poet saide,

*Si rite audita recordor:*

And after the same sense also doeth our *Lawe* use it. For, *Records* be nothing else but *Memorialles*, or *Monuments* of things done before *Judges* that have credite in that behalfe. And therefore, where King *E[dward]* I doth in the beginning of the Booke (called *Britton*) set forth the *Judges* of his *Courtes*, he saith of some, that they shall have authoritie of *Record*, and of others, that they shall beare *Record*, all which do meane but one thing, namely, that they shall be trusted in the reporte of causes happening before them: and we yet say in common speeche, *Suche a man shall beare record of a thing*, when we intend to say, that he remembreth

it, and can beare witness of it. So that in the use of the word there is (in maner) no difference.<sup>2</sup>

Having established that the word was used both in English law and in “common speeche,” Lambard continued his account by explaining that, in a legal context, records were believed to have an authoritative status:

One man may affyrme a thing, and another may deny it, but if a *Record* once saye the worde, no man shall be received to *Averre* (or speake) against it. . . . To avoide all contention that may arise, whilest one saith one thing, and one other saith an other thing, the *Lawe* repositeth it self wholly and solely in the report of the *Judge*. . . .

This *Record* or *Testimonie*, is first contained within the brest of the *Judge* (as our Law speaketh) & afterward committed to the *Rolles*, which are therefore figuratively called *Records* also. For you may see . . . that during all the time of that *Terme*, in which any thing passeth before the *Iustices* at *Westminster*, the *Record* therof is . . . in their owne harts, or breasts, so that they may at their own pleasure correct or amend it: But that after the *Terme* ended, it is only in their *Rolles*, over the which they have no controlment. And this agreeth right well with that which *Britton* . . . affirmeth, saying in the *Kings* person: . . . *we have granted to our Iustices to beare Record of the pleas pleded before them.*<sup>3</sup>

In January 1601, two decades after these words were published, Elizabeth I appointed Lambard as Keeper of the Records in the Tower of London, the repository where rolls of the royal Chancery were stored; but Lambard died in August of the same year. During his few months as keeper, he produced in manuscript a summary guide to the rolls, which he presented to the queen two weeks before his death.<sup>4</sup> Although his *Eirenarcha* was written before he became a custodian of records and was aimed primarily at a legal readership, Lambard had long been

2 William Lambard, *Eirenarcha: Or of the Office of the Iustices of Peace* (London: R. Newbery and H. Bynneman, 1581), 70–71 (italics and spelling as in the original).

3 Lambard, 71–72.

4 Nicholas Popper, “From Abbey to Archive: Managing Texts and Records in Early Modern England,” *Archival Science* 10, no. 3 (2010): 259.

interested in records from an antiquarian as well as a lawyerly perspective. His multidisciplinary engagement perhaps adds further significance to his discussion of what was "meant by the word *Recordē*" in the 16th century.

### ***Recordor, Recordatio, Recordum, . . . and Record***

As Lambard noted, the ancient Romans (the "Latine men") had made ample use of the Latin verb *recordor*, but only in connection with processes of mental recall. The words quoted by Lambard, "*si rite audita recordor*," are from the third book of Virgil's *Aeneid*; translated into English, *si rite audita recordor* means "if I rightly remember what I have heard." Roman writers also knew the noun *recordatio*, but always used it in connection with recalling things to mind; a Roman *recordatio* was an act of mental recollection – not a material object or a written text.

Both words remained in use after the fall of the Roman Empire, and the verb *recordor* eventually acquired an additional sense. When ninth-century Lombardic documents reported that oral testimonies had been given in a court of law, the court scribes often employed third-person forms of *recordor* to signify what had occurred: a phrase such as *recordati sunt . . . quod verum esset*, for example, could be used to mean "they testified . . . that it was true."<sup>5</sup>

While the verb *recordor* and the noun *recordatio* have been used by Latin writers for more than 2,000 years, neither the ancient Romans nor the ninth-century Lombardic lawyers knew the Latin noun *recordum*, which first appeared in England in the 12th century. This linguistic innovation, too, developed in a context of legal testimony. *Recordum*, in the usage of English lawyers of the 12th and 13th centuries, was "the testimony of a court . . . as to matters therein transacted";<sup>6</sup> it was the testimony not of individual witnesses but of the court itself. When English lawyers of this period put their concepts in writing, they often wrote in Anglo-Norman French as an alternative to Latin, and *recordum* was rendered in Anglo-Norman French as *record*. Writing in Anglo-Norman French at the beginning of the 14th century, a legal commentator noted that "*record*

5 Cf. Heinrich Brunner, "Das Gerichtszeugnis und die fränkische Königsurkunde," in *Festgaben für August Wilhelm Heffter* (Berlin: Weidmann, 1873), 142.

6 John W. Salmond, "The Superiority of Written Evidence," *Law Quarterly Review* 6, no. 1 (1890): 83.



*est de chose fet en court*" (record is of matter done in court).<sup>7</sup> As the English language gradually superseded the use of Anglo-Norman French, *record* became an English word with a meaning equivalent to that of the Latin *recordum*.

In their primary usage, *recordum* and *record* denoted the testimony of the court regarding its own judgments. *Recordum* (record) and *sententia* (judgment) were closely linked.<sup>8</sup> The legal maxim that *res iudicata pro veritate accipitur* (a matter judicially decided is to be accepted as truth) can be traced back to the Roman jurist Ulpian in the third century,<sup>9</sup> and the emerging English concept of *recordum* was associated with an understanding that judgments in a royal court were definitive and could not be contradicted. This association was firmly established in England by the 12th century. Using the older word *recordatio*, the legal treatise known as the Laws of Henry I, composed about 1115, affirmed that "*recordationem Curie Regis nulli negare licet*" (no-one is allowed to deny the *recordatio* of the King's Court).<sup>10</sup> The treatise attributed to Ranulf de Glanvill, Chief Justiciar of England in the 1180s, similarly asserted that when judges were present in court and were in agreement as to the *recordum* in question, "*necesse est eorum recordo stare sine contradictione*" (it is necessary for their record to stand without contradiction).<sup>11</sup> By the end of the 13th century, as legal historian John Salmond noted, "it was settled . . . that the existence of a judgment could not be proved except by the record." As Salmond observed, "the record of a court . . . [was] conclusive and exclusive. No averment [was] admissible against it and none instead of it."<sup>12</sup>

Scholars have long believed – almost certainly correctly – that ideas about incontrovertibility originated not with the royal courts of law but with the person of the monarch in whose name these courts functioned. Originally, we may assume, kings personally decided the disputes that were brought before

7 G.J. Turner and W.C. Bolland, eds., *Year Books of Edward II*, vol. 19 (London: Selden Society, 1929), 38.

8 Emilie Amt, ed., *Richard FitzNigel: Dialogus de Scaccario* (Oxford: Clarendon, 2007), 20–21; Salmond, "Superiority of Written Evidence," 84.

9 Theodor Mommsen, Paul Krueger, and Alan Watson, eds., *The Digest of Justinian*, vol. 4 (Philadelphia: University of Pennsylvania Press, 1985), 969.

10 L.J. Downer, ed., *Leges Henrici Primi* (Oxford: Clarendon, 1972), 134–35.

11 G.D.G. Hall, ed., *The Treatise on the Laws and Customs of the Realm of England, Commonly Called Glanvill* (London: Nelson, 1965), 100.

12 Salmond, "Superiority of Written Evidence," 82–83.

them. After the conquest of England by the Normans, such disputes were heard in the *Curia Regis* (King's Court), an assembly of royal officers and magnates, in which both legislative and judicial business might be transacted. As the volume of disputes increased, monarchs increasingly found it necessary to delegate this aspect of their role to specialist judges. Beginning in the 12th century, the judicial functions of the *Curia Regis* were devolved to separate and more specialized courts: the Exchequer, the Court of Common Pleas, and the Court of King's Bench. As the royal courts gradually separated from the royal person, English law retained the belief that (in the words of 18th-century lawyer William Blackstone) "his judges are the mirror by which the king's image is reflected."<sup>13</sup> Although the royal person might be absent, his royal office was deemed to be constantly present in the courts, and the courts could thus continue to exercise his privilege of indisputability.

In the language of the 12th and 13th centuries, the courts were said to "have record" or "bear record." Both expressions were used in the late-13th-century legal treatise known as *Britton*, to which Lambard made reference,<sup>14</sup> and both need to be understood in the context of 12th-century ideas about *recordum*. This word carried no implication that any court necessarily used written texts. It was a performative term, alluding to something judges *did*, rather than something they might inscribe or inspect. As Salmond remarked, "to bear record is . . . to testify, and the idea of reduction to writing that now attaches to the word 'record' is historically unessential."<sup>15</sup> Crucially, the 12th-century treatise attributed to Glanvill speaks of the royal courts having *recordum*, but it makes no mention of writing in connection with their proceedings. The record of the court was conclusive, but it took the form of oral testimony and was based upon the judges' mental recollections of their earlier judgments.<sup>16</sup>

The first written rolls documenting English court proceedings seem to have been made in the 1180s, and the earliest surviving roll dates from 1194. Almost certainly, writing practices were adopted because the growing volume of court business was making it more difficult for judges to rely solely on their memories.

13 William Blackstone, *Commentaries on the Laws of England*, vol. 1 (Oxford: Clarendon, 1765), 260.

14 Lambard, *Eirenarcha*, 70.

15 Salmond, "Superiority of Written Evidence," 83.

16 S.E. Thorne, "Notes on Courts of Record in England," *West Virginia Law Quarterly* 40, no. 4 (1934): 351.

But even after the introduction of written rolls, *recordum* continued to be regarded as judicial business preserved in the testimonies of judges. Writing doubtless helped to refresh the judges' memories, but it did not wholly replace them. To litigants in the first decade of the 13th century who sought to appeal to *rotulos et recordum justiciorum* (the rolls and the record of the judges) in support of their cases, the rolls and the record remained distinct.<sup>17</sup>

In the course of the 13th century, however, the rolls of royal courts became more capacious and more detailed. They began to serve a wider purpose than simply jogging memory: the indisputability attributed to the judges' testimonies was gradually attributed to the rolls themselves, and the rolls acquired the characteristics of *recordum*. Several litigants in the second quarter of the 13th century invoked the *recordum rotulorum* (the record of the rolls), and the use of the rolls alone to prove earlier judgments seems to have become settled practice by the middle of the century. Litigants' counsel sometimes saw things differently: in a court case of 1342, a lawyer sought to argue that "*ceo quest ore entre en roulle ne put neynt estre dit recorde*" (what is entered on the roll cannot be called *record*),<sup>18</sup> but by this date such appeals to an older tradition were becoming obsolete. To most observers, it must have been evident that the rolls were assuming a new character as formal records.<sup>19</sup>

By the 14th century, the courts that "bore record" had come to be known – at least, by the lawyers who frequented them – as "courts of record" (*courtes de record* in Anglo-Norman French, *curiae de recordo* in medieval Latin). Courts of record were generally the most prestigious courts in England. As Blackstone observed, "all courts of record are the king's courts."<sup>20</sup> Less prestigious or "inferior" courts did not enjoy the royal privilege of incontestability – in the Middle Ages, such authority as they possessed was derived from local gentry rather than directly from the monarch – and because their proceedings were controvertible, they were denied the status of "courts of record."

17 Thorne, "Notes on Courts of Record in England," 352.

18 Luke Owen Pike, ed., *Year Books of the Reign of King Edward the Third: Year XVI, Second Part* (London: HMSO, 1900), 133.

19 Julius Goebel, "The Matrix of Empire," in Joseph Henry Smith, *Appeals to the Privy Council from the American Plantations* (New York: Columbia University Press, 1950), xxix; S.E. Thorne, "Courts of Record and Sir Edward Coke," *University of Toronto Law Journal* 2, no. 1 (1937): 29–30. Cf. M.T. Clanchy, *From Memory to Written Record: England 1066–1307*, 3rd ed. (Chichester, UK: Wiley-Blackwell, 2013), 78–79.

20 William Blackstone, *Commentaries on the Laws of England*, vol. 3 (Oxford: Clarendon, 1768), 24.

This principle was already established in the late 12th century, when the author of the treatise attributed to Glanvill wrote that "*nulla curia recordum habet generaliter praeter curiam domini regis*" (no court has *recordum* in general except the court of the monarch).<sup>21</sup> From the 13th century onward, inferior courts made increasing use of writing, but the writings of such courts – like their oral pronouncements made on the basis of human memory – were always open to challenge. By way of contrast, later lawyers began to make increasingly dogmatic claims not only about the incontrovertibility of the records kept by courts of record but also about their veracity. In 1581, Lambard was simply echoing the treatise attributed to Glanvill when he wrote that "if a *record* once saye the worde," no-one "shall be received to speake against it."<sup>22</sup> But other lawyers of the 16th and early 17th centuries went further, asserting that the records of a court of record "import in themselves inviolable truth" and that "matters of record, in respect of their highness, are presumed in law to carry truth."<sup>23</sup> Where "matters of record" were concerned, the rule against admitting dissent came to be equated with the presence of truth itself.

## In the Breast of the Judge

Long after it was established that the rolls of a royal court could be spoken of as records, acknowledgement of their record status continued to function alongside the traditional understanding that records were founded upon the memory of the judges. An enduring attachment to older methods for ascertaining what had occurred in court led lawyers to invent what a 20th-century scholar called the "transparent fiction" that the record of a judgment did not lie "in the roll" until the completion of the legal term in which the judgment was given.<sup>24</sup> Apparently first enunciated by a judge in the Court of King's Bench in 1428–29, this mode of thinking underpinned Lambard's contention that the record was "first contained

<sup>21</sup> Hall, *Glanvill*, 100.

<sup>22</sup> Lambard, *Eirenarcha*, 71.

<sup>23</sup> Edward Coke, *The Reports of Sir Edward Coke*, vol. 2 (London: Joseph Butterworth, 1826), 463; Edmund Plowden, *Les comentaries ou reportes de Edmund Plowden* (London: William Rawlins, Samuel Roycroft, and H. Sawbridge, 1684), 491.

<sup>24</sup> Thorne, "Courts of Record and Sir Edward Coke," 31.

within the brest of the *Judge*,” but was to be found only in the rolls “after the *Terme* ended.”<sup>25</sup>

For Lambard, writing in 1581, the rolls of a court seem to have been records only in a “figurative” sense.<sup>26</sup> But John Cowell, Regius Professor of Law at Cambridge University, writing a quarter of a century later, made no mention of figurativeness: in the royal courts, Cowell affirmed, once the term had ended, “an act committed to writing . . . and . . . duly enrolled . . . is a record.”<sup>27</sup> In 1628, former Chief Justice Edward Coke, who had been Speaker of the House of Commons under Elizabeth I, gave a similar explanation of *record* and laid considerably more emphasis on the rolls than on human recollection:

Record . . . is a memoriall . . . in Rolles of Parchment, of the proceedings and acts of a Court of Iustice . . . which we call Courts of Record, . . . the Rolles being the Records or memorialls of the Iudges. . . .  
During the Terme wherein any iudiciall act is done, the Record remaineth in the brest of the Iudges of the Court, and in their remembrance, and therefore the Rolle is alterable during that Term . . . but when that Term is past, then the Record is in the Rolle, and admitteth no alteration, averment, or prooffe to the contrarie.<sup>28</sup>

By the latter part of the 17th century, legal writers felt able to characterize records solely as writings, without referring to human remembrance. The 1685 edition of John Rastell’s glossary of legal terms defined *record* as “a Writing or Parchment . . . in any Court of Record . . . held by the Kings Grant”<sup>29</sup> and said nothing about records that resided in judges’ memories. But later revisers of Rastell’s work perhaps thought this a dangerous omission, since the 1721 edition added further sentences, largely copied from Coke, which reintroduced the idea

25 Lambard, *Eirenarcha*, 71–72.

26 Lambard, 71.

27 John Cowell, *The Interpreter* (Cambridge: John Legate, 1607), unpaginated, s.v. “Record.”

28 Edward Coke, *The First Part of the Institutes of the Lawes of England, or a Commentarie upon Littleton* (London: Society of Stationers, 1628), fo. 260.

29 [John Rastell,] *Les termes de la ley: Or, Certain Difficult and Obscure Words and Terms of the Common Laws and Statutes of This Realm Now in Use, Expounded and Explained, Now Corrected and Enlarged. With Very Great Additions throughout the Whole Book* (London: W. Rawlins, S. Roycroft, and M. Flesher, 1685), 577.

of a record "in the breast of the judges."<sup>30</sup>

This idea, however, did not outlive the 18th century: widely read legal works of 1729 and 1768 defined records in terms of writing on parchment and made no mention of remembrance or of records in judges' breasts. For Giles Jacob, whose *New Law-Dictionary* was published in 1729, *record* signified "an authentick Testimony in Writing, contained in Rolls of Parchment, and preserv'd in a Court of Record."<sup>31</sup> According to Blackstone's *Commentaries* of 1768, the records of a court were "enrolled in parchment for a perpetual memorial and testimony."<sup>32</sup>

Jacob and Blackstone also stressed the supposed connections between written records and incontestable truth. Jacob affirmed that "*Records* being the Rolls or Memorials of the Judges, import in themselves . . . incontrollable [incontrovertible] Verity"; Blackstone, in defining a court of record, claimed that its records "enrolled in parchment" were "of such . . . authority that their truth is not to be called in question."<sup>33</sup> Jacob's and Blackstone's definitions survived into the Victorian era and were widely quoted in legal circles.

## Judgment, Enrolment, and Testimony

Despite the pervasive legal tradition of a close connection between *recordum* and *judicium* (record and judgment) – a connection encapsulated in a belief that *recordum* and *judicium* were, or could be, synonyms<sup>34</sup> – the term *record* began to gain wider meanings in the Middle Ages. Notions that *record* might not be wholly confined to judgments and judicial acts acquired currency at an early date. Just as the principle of the indisputability of the king's judgment was extended to judgments recorded in the king's name in courts of law, a related understanding – that things done in the king's presence could not subsequently be disputed or denied – also seems to have become associated with the royal courts and the legal concept of record. It came to be accepted, for example, that

30 [Rastell,] *Les termes de la ley: Or, Certain Difficult and Obscure Words and Terms of the Common and Statute Laws of This Realm Now in Use, Expounded and Explained. Corrected and Enlarged, with the Addition of Many Other Words* (London: Elizabeth Nutt and R. Gosling, 1721), 512.

31 Giles Jacob, *A New Law-Dictionary* (London: E. and R. Nutt and R. Gosling, 1729), unpaginated, s.v. "Record."

32 Blackstone, *Commentaries*, vol. 3, 24.

33 Jacob, *New Law-Dictionary*, s.v. "Record"; Blackstone, *Commentaries*, vol. 3, 24.

34 John Skene, *Regiam majestatem* (Edinburgh: Thomas Finlason, 1609), cited in C. Du Cange, *Glossarium mediae et infimae latinitatis, editio nova aucta*, vol. 7 (Niort, FR: L. Favre, 1886), 55.

matters acknowledged in the presence of royal judges could not be repudiated. The 12th-century treatise attributed to Glanvill declared that anyone who made an acknowledgement in a royal court should be held bound to the acknowledgement in question.<sup>35</sup> The words of this treatise were composed before courts kept records in writing, but we can detect in them the origins of the form of written record known in English common law as a *recognizance*: a bond or obligation acknowledged before a court of record and subsequently enrolled in the court.

The same, or very similar, understandings of the binding power of proceedings in royal courts underlay the widely used conveyancing procedure known as *final concord*. This procedure generally took place in the Court of Common Pleas and was often collusive. The purchaser claimed the vendor's property in the court, but no judgment was expected and none was reached. Instead, the judges allowed the parties to make an agreement, by which the property was transferred from vendor to purchaser. From the 1170s, and perhaps earlier, two written copies of the agreement were made, one for each of the parties. A small but important change was introduced in 1195, when a third copy of each agreement began to be made for preservation by the court. A written agreement of July 1195 bears a note on the back stating that it was the first to be made in triplicate "so that by this form a record can be made."<sup>36</sup> The procedure remained largely unchanged from 1195 until it was eventually abolished in the 1830s. Throughout this period, its location in a court of record was considered crucial: because the agreement was made and recorded in the court, it was deemed incontestable and the parties were legally bound to it.

In the middle years of the 13th century, perhaps inspired by the security that the final concord procedure had been shown to offer, vendors and purchasers began to ask the courts to enrol copies of other deeds of conveyance. From the 13th to the 19th centuries, increasing numbers of deeds relating to property transactions were copied onto the backs of court rolls; every royal court of common law allowed the practice.<sup>37</sup> In an era without formal systems of land registration, enrolment in a court of record supplied a valuable safeguard for evidence of private transactions.

35 Hall, *Glanvill*, 98.

36 Clanchy, *From Memory to Written Record*, 70; John Hudson, *The Formation of English Common Law*, 2nd ed. (Abingdon, UK: Routledge, 2018), 133.

37 R.F. Hunnisett, "What Is a Plea Roll?" *Journal of the Society of Archivists* 9, no. 3 (1988): 109.

Eventually, the practice of enrolling copies of private deeds gave rise to questions about the meaning and legal scope of the word *record*. In 1523, Derbyshire landowner John Fitzherbert wrote that "yf a dede or a patent be inrolled, there it remeyneth of recorde,"<sup>38</sup> and English lawyers of the late 16th and early 17th centuries also sensed that enrolled deeds were, or could be described as, records. In 1604, in a report on a case dating from 1588, Coke implicitly admitted that interpretations of *record* in legal circles had become more diverse. "Matter of record," he wrote, "is either by record judicial, as attainder, &c., ministerial on oath, as office, or by conveyance of record by assent, as fine, deed enrolled, &c."<sup>39</sup> This is not the place to attempt to unravel the precise meanings that might be attached to this cryptic sample of 17th-century legal jargon, but little unravelling is necessary to see that Coke's concept of record could – sometimes, at least – extend beyond a "record judicial" to embrace a "deed enrolled" in a court of record. The view that private deeds enrolled on the backs of court rolls were records also surfaced in the legal glossary compiled by Cowell in 1607<sup>40</sup> and reappeared in several later legal dictionaries.

In 1719, another English lawyer, John Lilly, took a different view. Lilly denied that a "deed enrolled" could be described as a record, on the grounds that a record must be "made up in the Proceeding" of a court; citing a case in the Court of King's Bench in the reign of Charles I, he argued that a "deed enrolled" was a "thing recorded," but not a record. "Though every Record be a Thing recorded," Lilly wrote, "yet every Thing recorded is not a Record."<sup>41</sup> In the *New Law-Dictionary* of 1729, Jacob reported Lilly's argument but offered a definition that reflected a different perspective. As we have seen, Jacob defined a record as "an authentick Testimony in Writing, contained in Rolls of Parchment, and preserv'd in a Court of Record."<sup>42</sup> A very similar definition had already appeared in a dictionary of 1670.<sup>43</sup> By the fifth (1744) edition of his work, Jacob had added a few more words and made a small adjustment to his spelling, defining a record as

38 [John Fitzherbert,] *The Boke of Surveyeng* (London: Richard Pynson, 1523), fo. 20.

39 Coke, *Reports*, 427.

40 Cowell, *Interpreter*, s.v. "Record."

41 John Lilly, *The Practical Register: Or, A General Abridgment of the Law*, vol. 2 (London: Elizabeth Nutt and R. Gosling, 1719), cited in Jacob, *New Law-Dictionary*, s.v. "Record."

42 Jacob, s.v. "Record."

43 Thomas Blount, *NOMO-AEIKON: A Law-Dictionary* (London: T. Newcomb, 1670), unpaginated, s.v. "Record."



“a Memorial or Remembrance or an authentick Testimony in Writing, contained in Rolls of Parchment, and preserved in a Court of Record.”<sup>44</sup> Jacob’s definition, with further minor variations in wording, was reused in many legal dictionaries published in the 19th century.

The debate that Lilly instigated was short-lived, and later generations of lawyers did not maintain his distinction between “records” and “things recorded.” Compilers of legal dictionaries in the late 18th and early 19th centuries were often content to repeat what Coke, Cowell, and Jacob had said, without attempting any further analysis. But Lilly’s intervention remains of interest because, to some degree, it prefigures the debates in our own time about how far records are characterized by their connection to activities and business procedures and how far – if at all – their status as records is determined by decisions about their place or mode of retention. In the 18th century, Lilly’s view was that enrolled copies of private deeds were not records: they were retained in a court of record, but they were not created in the course of court proceedings. The transactions that they documented had taken place outside the court, and the deeds had merely been brought to court for enrolment after the transaction was complete.

Jacob’s definition pointed in a different direction: it continued to stress the long-standing association between records and courts of record, but it did not restrict records to those “made up in the Proceeding” of a court. Although many elements of his definition reflect traditional legal understandings of records, Jacob’s emphasis on *preservation in*, rather than *proceedings of*, a court of record is more significant than it may at first appear. It marks a shift toward a more expansive understanding of what a record might be.

We can see earlier traces of this shift in the work of Lambard. In 1591, ten years after *Eirenarcha*, Lambard wrote about Domesday Book and described it as a record: “It is confessed by all Writers, that [King William] the *Conquerour* . . . did . . . cause the whole *Realme* to be exactly surveyed by *Shires* and *Hundreds* severally; . . . the Record of which Survey was then called *Doomes-day Book*.”<sup>45</sup> Composed in 1086–87, Domesday Book did not easily conform to Lambard’s earlier definition of a record as a “memorial or monument of things done before

44 Giles Jacob, *A New Law-Dictionary*, 5th ed. (London: Henry Lintot, 1744), unpaginated, s.v. “Record.”

45 William Lambard, *Archeion: Or, a Discourse upon the High Courts of Justice in England* (London: Henry Seile, 1635), 24. *Archeion* was written in 1591 but remained unpublished until 1635.

judges."<sup>46</sup> It was created by commissioners for the monarch, and the scribes who engrossed it may have been clerks of the royal *curia*,<sup>47</sup> but its origins did not lie in what Lambard would have recognized as judicial proceedings. It was argued in a legal case of 1341 that Domesday Book, being a *secretum* (private resource) of the monarch, was *non de recordo* (not of record).<sup>48</sup> Since the 12th century, however, there seems to have been general agreement that its contents could not be challenged or controverted,<sup>49</sup> and in this sense Domesday Book undoubtedly possessed a characteristic that lawyers of Lambard's day attributed to records. The name *Domesday*, which had first been applied to it in the 12th century, was said to mean "day of judgment," and the book had been kept in the Court of Exchequer, a court of record, since the 13th century or earlier. It is not difficult to understand why Lambard called it a "record"; he was probably not the first, and certainly not the last, writer to describe it in this way.

The growth of an expanded conceptualization of records can also be seen in the terminology used in early finding aids. In 1323, when Bishop Walter de Stapeldon instigated the cataloguing of the papal bulls, treaties, letters, and other memoranda kept in the royal treasury, the officials who catalogued these documents described them using words such as *instrumenta* (instruments), *carte* (charters), *munimenta* (muniments), and *scripta* (writings).<sup>50</sup> Although the treasury was attached to the Exchequer, and the documents in question were presumably deemed to be in Exchequer custody, Stapeldon's officials never referred to them as *records*.

By the early 1600s, when new catalogues of the treasury documents were made, a different conceptualization is apparent. The first of these catalogues was produced in 1610 by Arthur Agard, Deputy Chamberlain in the Exchequer, and Agard seems to have had no compunction in calling it *Compendium Recordorum* (Compendium of Records): the documents that he described are referred to as *records* throughout his work.<sup>51</sup> A further catalogue of records "in the palance

<sup>46</sup> Lambard, *Eirenarcha*, 70.

<sup>47</sup> Cf. V.H. Galbraith, *Studies in the Public Records* (Edinburgh: Thomas Nelson, 1948), 89.

<sup>48</sup> Galbraith, 108.

<sup>49</sup> Amt, *Dialogus de Scaccario*, 98–99.

<sup>50</sup> The National Archives [of the UK], E36/268, transcribed in Francis Palgrave, ed., *The Antient Kalendars and Inventories of the Treasury of His Majesty's Exchequer*, vol. 1 (London: Record Commission, 1836), 1–155.

<sup>51</sup> Palgrave, *Antient Kalendars*, vol. 2, 311–35. For Agard, see Maggie Yax, "Arthur Agarde, Elizabethan Archivist: His

treasury” was compiled in the 1620s or early 1630s, and its anonymous compiler entitled it a “calendar” or “repertory” of “the records in the custody of the Chamberlains of the Receipt” of the Exchequer. The items listed in it included a “booke of the charges” of Queen Mary’s household, a survey of the lands of the Countess of Salisbury, a view of the ordinance in the Tower of London, a memorandum of “New Yeares giftes given to Prince Edward,” and much else besides.<sup>52</sup> The Chamberlains of the Receipt, or their deputies, were the keepers of these documents, but the catalogues do not indicate how items such as these came into Exchequer custody. Many of them may have been stored in the treasury simply for safe keeping;<sup>53</sup> they were certainly not created as part of court proceedings. However, their identification as records accorded with an emerging understanding of records as memorials or testimonies *preserved* in a court of record. Recognition that a multiplicity of writings could be described as records also underlay Thomas Powell’s book *The Repertorie of Records*, published in 1631; largely derived from notes made by Agard, *The Repertorie* emphasized the need for the Deputy Chamberlains “to understand the Records, and to know the diversitie of their natures.”<sup>54</sup>

## Beyond the Courts of Common Law

The status of a court of record was denied not only to the so-called inferior courts but also to courts that did not proceed according to the common law of England, as 17th- and 18th-century writers such as Coke and Jacob observed. The Court of Admiralty and the ecclesiastical courts, although of high standing, were not considered to be courts of record because their procedures resembled those of the civil law of continental Europe. As a consequence, in these courts, “their Registry of Proceedings are not properly called Records,” as the revisers of Rastell’s legal glossary explained.<sup>55</sup> Other lawyers, however, were unconvinced.

Contributions to the Evolution of Archival Practice,” *American Archivist* 61, no. 1 (1998): 56–69.

52 F. Taylor, “An Early Seventeenth Century Calendar of Records Preserved in Westminster Palace Treasury,” *Bulletin of the John Rylands Library* 23, no. 1 (1939): 230, 244–6.

53 *Guide to the Contents of the Public Record Office*, vol. 1 (London: HMSO, 1963), 110.

54 Thomas Powell, *The Repertorie of Records* (London: B. Alsop and T. Fawcet, 1631), 131.

55 [Rastell,] *Termes de la ley: With Very Great Additions*, 577.

In 1607, Cowell questioned the denial of record status to the ecclesiastical courts, on the grounds that “bishops certifying” were “credited without farder enquiry or controlment.”<sup>56</sup> In practice – as the phrase “not *properly* called records” in Rastell’s glossary implies<sup>57</sup> – it had evidently become customary to use the word *record* to describe their “Registry of Proceedings.”

Similar uncertainties arose in connection with the ancient institution known as the Chancery. In a dispute brought to trial in 1459, the defendants’ counsel claimed that the Court of Chancery was a court of record, but the Chief Justice of Common Pleas responded that “*il est a veier ene quex chosez le Chauncere est court de recorde*” (it remains to be seen in what matters the Chancery is a court of record), arguing that it sometimes functioned as a court of record and sometimes did not.<sup>58</sup> In the 18th century, lawyers affirmed that the rolls of the Chancery were not records.<sup>59</sup> Nevertheless, a warrant issued by Elizabeth I in 1567 had referred to “the records of our Chancery,”<sup>60</sup> and the supposition that records of the Chancery existed had seemingly been formalized in the position of Keeper of Records, which Lambard held in 1601. By the 17th century, the Tower of London – or that part of it where Chancery rolls were stored – had become known as an “office of records,” a phrase that soon metamorphosed into “record office.” Two decades after Lambard’s death, a handbook for legal searchers advised its readers that “the Office of Records of *Chancerie* . . . hath diverse Records of diverse and sundry Natures.”<sup>61</sup>

In the 16th and 17th centuries, there was also a long-running argument as to whether the English Parliament (the “High Court of Parliament”) was a court of record, and the question was still a matter of occasional dispute in the 20th

56 Cowell, *Interpreter*, s.v. “Record.”

57 [Rastell,] *Termes de la ley: With Very Great Additions*, 577 (emphasis added).

58 M. Hemmant, ed., *Select Cases in the Exchequer Chamber before All the Justices of England* (London: Selden Society, 1933), 152. As a so-called court of equity, the Court of Chancery was not bound to the English common law.

59 [Jefferay Gilbert,] *The Law of Evidence*, 3rd ed. (London: W. Owen, 1769), 49.

60 R.B. Wernham, “The Public Records in the Sixteenth and Seventeenth Centuries,” in *English Historical Scholarship in the Sixteenth and Seventeenth Centuries*, ed. Levi Fox (London: Oxford University Press, 1956), 18.

61 Thomas Powell, *Direction for Search of Records Remaining in the Chancerie, Tower, Exchequer, with the Limnes Thereof* (London: Paul Man, 1622), 1; cf. Elizabeth M. Hallam, “The Tower of London as a Record Office,” *Archives* 14, no. 61 (1979–80): 3–10.

century.<sup>62</sup> But the phrase *records of . . . Parliament* has been in use in England since 1399 and has apparently remained unchallenged.<sup>63</sup>

The word *record* continued to acquire an expanded scope and eventually came to be applied to governmental writings that had no immediate connection to any court of law. In the late 1500s, the State Paper Office was established in London as a repository for the letters and papers of the monarch's Secretaries of State. These papers were not records in the sense in which English lawyers had traditionally used this term. Nevertheless, in 1610, Levinus Muncke and Thomas Wilson were appointed as "Keepers and Registrars of the Papers and Records" in the State Paper Office. In 1612, Wilson was instructed to swear an oath "truly and faithfully to serve in the place of Clerke, Keeper, and Register of his Majesties papers & records for matters of state" and "to keepe and conserve the said papers & records . . . from all harme and damage."<sup>64</sup>

Questions about the boundaries of the concept of record arose again in the 1830s, when it was proposed that a single large repository be constructed to replace some or all of the numerous smaller repositories in which records, or items said to be records, had been stored. The proposal received considerable support, but agreement on precisely what should be housed in the new repository was not easily obtained. In 1838, antiquary John Bruce claimed that "our record offices are lumbered up with documents which have no pretence whatever to be regarded as Records; . . . we ought to be careful that we do not keep as records things which are really not so."<sup>65</sup> Citing the examples of "private deeds and papers" that had been surrendered to the Crown "upon the attainder of persons of importance," and deeds of properties vested in the Crown "by escheat, purchase, forfeiture, or other causes," Bruce argued that items of this

62 Jack K. Weber, "The Power of Judicial Records," *Journal of Legal History* 9, no. 2 (1988): 188, 198.

63 Chris Given-Wilson, Paul Brand, Seymour Phillips, Mark Ormrod, Geoffrey Martin, Anne Curry, and Rosemary Horrox, eds., "Henry IV: October 1399, Part 2," in *The Parliament Rolls of Medieval England* (Woodbridge, UK: Boydell, 2005), <https://www.british-history.ac.uk/no-series/parliament-rolls-medieval/october-1399-pt-2>; cf. Given-Wilson, Brand, Phillips, Ormrod, Martin, Curry, and Horrox, "Henry VII: November 1485, Part 1," in *The Parliament Rolls of Medieval England*, <https://www.british-history.ac.uk/no-series/parliament-rolls-medieval/november-1485-pt-1>.

64 Historical Manuscripts Commission, *Calendar of the Manuscripts of the Most Hon. the Marquis of Salisbury*, vol. 1 (London: HMSO, 1883), iv; The National Archives [of the UK], SP45/20, fo. 27.

65 [John Bruce,] "The Public Records: What They Are, and What Ought to Be Done with Them," *Gentleman's Magazine* new series, 9 (1838): 16, 19.

kind were not records and should therefore be sent "to the only proper place for them – the great national collection of manuscripts at the British Museum."<sup>66</sup> A similar proposal had already been made in reports of the Board of Commissioners appointed to recommend "amendments and improvements" in "the care, custody, or management of . . . public records": duplicate items, or those of purely antiquarian interest, it had been suggested, might perhaps be transferred to the museum.<sup>67</sup>

In the event, "amendments and improvements" were introduced without any large-scale transmission of deeds or other items to the British Museum. In August 1838, the Parliament of the United Kingdom passed an *Act for Keeping Safely the Public Records*, which led to the establishment of the institution that became known as the Public Record Office. The Act offered a definition of records that was considerably wider than the strict legal usage of the term and was also very different from the view propounded by critics such as Bruce. In the Act, records were said to be "all Rolls, Records, Writs, Books, Proceedings, Decrees, Bills, Warrants, Accounts, Papers, and Documents whatsoever of a public Nature belonging to Her Majesty [Queen Victoria]."<sup>68</sup>

Although this definition may not seem wholly adequate today, it demonstrates that, by 1838, the state recognized a concept of records that transcended the lawyers' traditional constraints. By defining records in this way, legislators acknowledged that – in the words of the Secretary of the Public Record Office eight years later – "the name of records . . . could not be denied to other rolls, . . . public documents, memorials, and memoranda."<sup>69</sup>

Nevertheless, only the records of the legal institutions fell within the immediate scope of the Act. The new Public Record Office was allowed to take responsibility for the records of the Courts of Chancery and Exchequer (including records of their executive as well as their judicial functions), the Courts of Queen's Bench and Common Pleas, and certain other courts of law. The Act specified the courts whose records were to be subject to its terms, but

<sup>66</sup> [Bruce,] 19-21.

<sup>67</sup> See, for example, Record Commission, *Papers Relative to the Project of Building a General Record Office* (London: Record Commission, 1835), 32; *General Report from the Board of Commissioners on the Public Records* (London: Record Commission, 1837), xiv.

<sup>68</sup> *Act for Keeping Safely the Public Records*, 1838, 1&2 Vict., c. 94, s. 20.

<sup>69</sup> F.S. Thomas, *Notes of Materials for the History of Public Departments* (London: HMSO, 1846), 115.

it made no mention of the materials in the State Paper Office or the records of more recently established government departments. In a plea that seems to resonate with the principle that would later be known as respect des fonds, Sir Francis Palgrave, the first Deputy Keeper of Public Records, argued in 1839 that separation of the state papers risked destroying “the unity of character which should distinguish . . . our national archives.”<sup>70</sup> Nevertheless, the state papers and other departmental records remained outside the Public Record Office’s authorized remit for several years. Not until 1852 were its powers extended to the records of all government departments. The state papers were brought under the control of the Public Record Office in 1854, when the State Paper Office became known as the State Paper Branch Record Office, the change of title providing a further formal acknowledgement that the state papers – despite their non-judicial character – were indeed records.

## Records and Corporate Bodies

Over time, the word *record* – and the concepts associated with it – were also adopted outside the royal courts and the departments of government. The first of these adopters were municipal corporations. In the Middle Ages, many English municipalities had civic courts that were, or were claimed to be, courts of record. In the City of London, wills and deeds were copied into the rolls of the civic Court of Husting from the middle of the 13th century, in much the same way as deeds were enrolled in the royal courts, and Londoners came to believe that the wills and deeds enrolled in their local court were *de recorde* (of record).<sup>71</sup> Recognizances, too, began to be enrolled in civic settings in London and several other English towns in the late 1270s and early 1280s, following the precedent set by the enrolment of recognizances in the royal courts.<sup>72</sup>

70 John Cantwell, “The 1838 Public Record Office Act and Its Aftermath: A New Perspective,” *Journal of the Society of Archivists* 7, no. 5 (1984): 284.

71 G.H. Martin, “The Registration of Deeds of Title in the Medieval Borough,” in *The Study of Medieval Records: Essays in Honour of Kathleen Major*, ed. D.A. Bullough and R.L. Storey (Oxford: Clarendon, 1971), 151–73; Henry Thomas Riley, *Munimenta Gildhallae Londoniensis*, vol. 1 (London: Longman, Brown, Green, Longmans, and Roberts, 1859), 180.

72 Christopher McNail, “The Recognition and Enforcement of Debts under the Statutes of Acton Burnell (1283) and Merchants (1285)” (doctoral thesis, University of Oxford, 2000), 42, 120.

Royal courts did not always accept that civic institutions possessed the degree of authority that could occasionally be claimed for them. In a case heard in a royal court in 1330 regarding disputed property in Northampton, a litigant who cited a will as evidence affirmed that the will could not be gainsaid because "*solonc les usages de la ville est de record*" (it is of record according to the customs of the town); but the judge ruled that the will's record status was local to Northampton and that "*ceo nest pas de record en ceste place*" (it is not of record in this court).<sup>73</sup> Nevertheless, the Crown was sometimes willing to acknowledge that civic and borough courts could function in a similar way to the central courts of law: under a statute of 1283, London, York, and Bristol were formally granted the privilege of enrolling recognizances.<sup>74</sup>

In the 14th century, some English cities had officers known as Recorders, who were responsible for recording civic customs and court proceedings. This office almost certainly originated at a time when records were primarily oral testimonies. In the 1330s and 1340s, Recorders of London were expected to "make record" by word of mouth.<sup>75</sup> But in 1303–4, the Recorder of London had been charged to "oversee, order, and cause to be enrolled" the judgments of the Court of Husting and to take responsibility for the enrolment of wills and deeds there.<sup>76</sup> The use of written texts was increasingly the norm in the 14th century, both in London and in other urban centres. In Exeter, the individual responsible for directing the civic court and documenting its proceedings had been known as the Chief Bailiff, but his title was changed to Recorder in 1352. In Coventry, in 1421, instructions were given that civic ordinances were to be "sought up and wryton in a regestre" and that the city's Recorder would oversee this task.<sup>77</sup>

73 Donald W. Sutherland, ed., *The Eyre of Northamptonshire, 3–4 Edward III*, vol. 2 (London: Selden Society, 1983), 561–62.

74 Christopher McNall, "The Business of Statutory Debt Registries, 1283–1307," in *Credit and Debt in Medieval England, c.1180–c.1350*, ed. P.R. Schofield and N.J. Mayhew (Oxford: Oxbow, 2002), 68–88.

75 G.F. Chapple, "Correspondence of the City of London, 1298–1370" (doctoral thesis, University of London, 1938), cited in "Recordour (1321)," *Anglo-Norman Dictionary* (2018), <https://www.anglo-norman.net/entry/recordour>; Luke Owen Pike, ed., *Year Books of the Reign of King Edward the Third: Years XVII and XVIII* (London: HMSO, 1903), 554–57, 564–65.

76 Thomas Allen, *The History and Antiquities of London, Westminster, Southwark, and Parts Adjacent*, vol. 2 (London: George Virtue, 1839), 282.

77 Kitrina Bevan, "Clerks and Scriveners: Legal Literacy and Access to Justice in Late Medieval England" (doctoral thesis, University of Exeter, 2013), 111–12; Mary Dormer Harris, *The Coventry Leet Book*, vol. 1 (London: Kegan Paul, 1907), 33.



It is scarcely surprising, then, that many cities and boroughs followed the practice of the royal government and referred to their rolls and registers as *records*. In the early 15th century, the City of London instructed its Common Clerk that “*nulles recordes nautres munimentz, par qeux la citee purra estre empeyre, a nully ne monstrez ne deliverez, ne nulle record qe contient droit du persone malement concelerez ne deneyerez*” (you shall show or deliver no records or other muniments, by which the city may be hurt, to anyone; no record that contains the right of any person shall you wrongfully conceal or deny).<sup>78</sup> By the 16th century, the usage had spread to other municipalities: allusions to *records* seem to have been commonplace both in cities such as Exeter, where an order was made in 1510 that “everye Mayor . . . shall cause the Recordes of the yere past to be brought yn to the Counsell Chamber,” and in smaller towns such as Yarmouth, where orders were given in 1542 for eight men to search the “Charters Recordes & wrytynges” in the town chest.<sup>79</sup> In Leicester, in 1611–12, a carpenter was paid “to make a conveynent roome in the towne hall to lay upp the Town Records.”<sup>80</sup>

In the 17th century, the word *records* was also employed by other English corporate bodies, such as cathedrals and colleges, which made no claim to possess “courts of record.” In the 15th and 16th centuries, these institutions had generally used other terms, such as *writings*, *papers*, *registers*, *evidences*, or *muniments*. In 1447, for example, St. Paul’s Cathedral, London, referred to its documentary holdings as *evidentiae* (evidences); the terms used at Lincoln Cathedral in 1499 were *evidenciae et munimenta* (evidences and muniments).<sup>81</sup> A statute of Magdalen College, Oxford, dating from 1479–80, used typical terminology of this era when it decreed the provision of “*cistae tot diversae quot ad evidentias, munimenta, et scripta securius conservanda sufficient*” (as many different chests as suffice for keeping secure the evidences, muniments, and writings); almost identical wording was used in the statutes of the short-lived Cardinal

78 Riley, *Munimenta Gildhallae*, 311.

79 Historical Manuscripts Commission, *Report on the Records of the City of Exeter* (London: HMSO, 1916), vi; Paul Rutledge, “Archive Management at Great Yarmouth since 1540,” *Journal of the Society of Archivists* 3, no. 2 (1965): 89.

80 A.K.B. Evans, “The Custody of Leicester’s Archives from 1273 to 1947,” *Transactions of the Leicestershire Archaeological and Historical Society* 66 (1992): 111.

81 W.M. Atkins, “The Archives of St Paul’s Cathedral in 1447,” *Society of Local Archivists Bulletin* 14 (1954): 58–59; Peter King, “A Fifteenth-Century Inventory of Lincoln Chapter Documents,” *Archives* 5, no. 26 (1961): 84–87.

College 45 years later.<sup>82</sup> *Muniments* and *evidences* remained widely used terms in Oxford colleges in the 1610s and 1620s.<sup>83</sup> In 1656, lexicographer Thomas Blount defined a "muniment house" in a cathedral, church, or college as "a house or little room of strength . . . for keeping the . . . Evidences, Charters, &c., . . . such Evidences being called in law *Muniments*."<sup>84</sup> By this date, however, the word *records* had also begun to be used in contexts of this kind. In the early years of the 17th century, the Sacrist of St. Paul's was instructed to conserve the cathedral's "records and evidences."<sup>85</sup> In the 1620s or a little later, antiquary Brian Twyne wrote about searches that he had made, or could make, in "the University *Records*" of Oxford and "the *Records* of Lyncoln Church."<sup>86</sup> At Exeter College, Oxford, in 1631, a volume of transcripts was entitled "Evidences and *Records* belonging to Exeter College in Oxon."<sup>87</sup> Although the older usages lingered on – a few traditionally minded institutions, including Magdalen College, Oxford, and Westminster Abbey, still refer to *muniments* and *muniment rooms* today – the notion that an institution's muniments or evidences might usefully be described as its *records* became widespread between the 17th and 19th centuries.

## Personal Papers or Personal Records?

By 1700, concepts of record had transcended the strict limits to which they were originally confined; potentially, at least, they embraced the writings of any corporate body. Their further extension to private writings seems to have been long resisted. Nevertheless, an accounting manual published in London in 1588 had advised merchants and shopkeepers to maintain a "booke of record" to "make . . . remembrance of such things as . . . might happen to losse if they

82 *Statutes of the Colleges of Oxford*, vol. 2 (Oxford: J.H. Parker, 1853), section 8, 75, and section 11, 115.

83 Cf. Robin Darwall-Smith and Michael Riordan, "Archives for Administrators or Archives for Antiquarians? A History of Archive Cataloguing in Four Oxford Colleges," *Journal of the Society of Archivists* 30, no. 1 (2009): 96; C.M. Woolgar, "Two Oxford Archives in the Early Seventeenth Century," *Archives* 16, no. 71 (1984): 264–65.

84 Thomas Blount, *Glossographia: A Dictionary Interpreting All Such Hard Words* (London: Thomas Newcomb, 1656), unpaginated, s.v. "Muniment."

85 Geoffrey Yeo, "Record-Keeping at St Paul's Cathedral," *Journal of the Society of Archivists* 8, no. 1 (1986): 30.

86 Strickland Gibson, "Brian Twyne," *Oxoniensia* 5 (1940): 107–8.

87 *Second Report of the Royal Commission on Historical Manuscripts* (London: HMSO, 1871), 127.

were not perfectly specified.”<sup>88</sup> Another early example of the use of *record* in a private context is the diary kept by the Earl of Strathmore at Glamis Castle, Scotland, in 1684–85 and 1688–89. Known as the Glamis “Book of Record,” the diary resulted from Strathmore’s conviction that persons of his standing needed to provide “their owne vindicatione to posterity of there not being idle and useless.” In an entry from 1688, explaining the lacuna in his diary, Strathmore wrote that he had “delayed making . . . the record of what I did, trusting the same to my memory”; but finding that his memory had failed him, he resolved “to be punctuall by wreating down and here recording all I doe.”<sup>89</sup>

At this date, however, describing a personal document as a “record” remained unusual. Writers and diarists of the 17th century, such as John Evelyn, Robert Hooke, and John Aubrey, often mentioned their own “papers” and occasionally referred to them as “manuscripts,”<sup>90</sup> but they seldom called them *records*. Formal documents – such as title deeds – in private custody might be described as *writings* or *evidences*, but again it was not customary to refer to them as *records*.

In the 19th century, when the Royal Commission on Historical Manuscripts was established to inspect and catalogue “manuscripts and papers of general public interest” outside the Public Record Office, its inspectors’ published reports almost always respected traditional usage. Most inspectors meticulously reserved the word *records* for the records of cathedrals, colleges, municipalities, and other corporate bodies, and wrote only of *papers* or *manuscripts* when referring to materials in private hands. Nevertheless, the inspectors’ reports occasionally used the word *records* to describe private papers. In 1871, one inspector described a volume that he saw at Wrest Park, Bedfordshire, as “extracts from the records of noble English families”; another referred to “records belonging to the family of Machel”; and a third wrote a report on “the Records and Manuscripts . . . belonging to his Grace the Duke of Sutherland.”<sup>91</sup>

The vocabulary of the commission’s reports illustrates an ongoing tension

88 John Mellis, *A Briefe Instruction and Maner How to Keepe Bookes of Accompts* (London: John Windet, 1588), unpaginated, chap. 24.

89 A.H. Millar, ed., *The Book of Record: A Diary Written by Patrick First Earl of Strathmore* (Edinburgh: Scottish History Society, 1890), 23, 91–92.

90 Elizabeth Yale, “With Slips and Scraps: How Early Modern Naturalists Invented the Archive,” *Book History* 12 (2009): 3–6.

91 *Second Report of the Royal Commission on Historical Manuscripts*, 7, 125, 177.

between traditional narrow understandings of *records* and the newer habit of allowing a wider range of meanings. Similar tensions can be observed in the work of English archivist Herbert Fowler in the early 20th century. Fowler's book *The Care of County Muniments* reflects many of the ideas expounded in Jenkinson's 1922 *Manual of Archive Administration*. In the opening chapter of his book, first published in 1923, Fowler insisted that "a record is a document prepared or used by an official in the course of an official transaction and preserved continuously in official custody" – a definition that almost certainly shows the influence of Jenkinson on Fowler's thinking – but elsewhere in his book he wrote of encouraging "the deposit of family and other unofficial records."<sup>92</sup> In the 1930s, Jenkinson himself referred to "the preservation of local and private records" when he presented a paper on the work of the newly formed British Records Association.<sup>93</sup> Although both Fowler and Jenkinson instinctively saw records as the products of official or institutional activities, they could also unselfconsciously use the word in a broader sense.

### **Archives: Dredged from a Dictionary?**

Jenkinson was also a tireless advocate of the word *archives* as an alternative to *records*. Despite its widespread use in other countries, this word had long been seen in England as esoteric. In the 1950s, Jenkinson recalled that, when he joined the Public Record Office in 1906, "the word 'Archives', if it had occurred to anyone to employ it, would have been dredged from the depths of a Dictionary."<sup>94</sup> But in his *Manual*, Jenkinson argued in favour of *archives* as a word that had "the advantage of being common to many languages."<sup>95</sup> He employed the word liberally in his other writings and successfully encouraged its wider use.

Allusions to *archives* were not unknown in England before Jenkinson's era. As Jenkinson noted, Thomas Smyth, Secretary of State to Elizabeth I, had used the

<sup>92</sup> G. Herbert Fowler, *The Care of County Muniments*, 3rd ed. (London: County Councils Association, 1939), 8, 57.

<sup>93</sup> Hilary Jenkinson, *The Work of the British Records Association for the Preservation of Local and Private Records* (London: British Records Association, 1934).

<sup>94</sup> Hilary Jenkinson, "The Future of Archives in England," *Journal of the Society of Archivists* 1, no. 3 (1956): 57.

<sup>95</sup> Hilary Jenkinson, *A Manual of Archive Administration* (Oxford: Clarendon, 1922), 2–3.

Latin phrase *Custos Archivorum Regis* (Keeper of the King's Archives) in 1583.<sup>96</sup> Oxford University had appointed its first *Archivorum Custos* in 1634.<sup>97</sup> In fact, the Latin word *archivum* had been used in England as long ago as the 11th century, before concepts of *recordum* had emerged: in 1072 or 1073, Archbishop Lanfranc had written to two other English bishops, instructing them to preserve his letters “in *archivis aecclesiarum vestrarum*” (in the archives of your churches).<sup>98</sup>

In medieval England, the word appears to have been most commonly used in the phrase *in archivis* (in the archives). Archives were understood as repositories, and the phrase *in archivis* represented them as locations where things might be placed, stored, searched for, or found. By the 17th century, it was evidently accepted that the things held *in archivis* were, or might be called, records: Agard gave his 1610 catalogue the title *Compendium Recordorum in Archivis Domini Regis Jacobi* (Compendium of Records in the Archives of the Lord King James),<sup>99</sup> and English copyists working about 1630 described their materials as “*recorda ex archivis de cancellaria*,”<sup>100</sup> much as today we might speak of “records from the archives of the Chancery.”

Throughout the Middle Ages and beyond, *archivum* and its plural form *archiva* seem to have been conceptualized in England only as Latin words. Although *recordum* had been anglicized as *record* by the early 14th century, *archive* and *archives* did not emerge as English words until the 1600s. The English phrase “Archives of the Universitie” was used by Twyne, who died in 1644,<sup>101</sup> and the 1671 edition of Edward Chamberlayne’s *Present State of England* used *archive* as an English word when it described the Tower of London as “the great Archive, where are conserved all the Records of the Court.”<sup>102</sup> But *archive* and *archives* were primarily used in 17th-century English to refer to

96 Thomas Smyth, *De republica Anglorum* (London: Henry Midleton, 1583), cited in Jenkinson, *Manual*, 2.

97 Gibson, “Brian Twyne,” 105. The Keeper of the University Archives in the early 20th century – as Jenkinson must have known – was Reginald Lane Poole, a noted historian of the Exchequer.

98 Helen Clover and Margaret Gibson, eds., *The Letters of Lanfranc Archbishop of Canterbury* (Oxford: Clarendon, 1979), 82–83.

99 H.O. Coxe, *Catalogue of Manuscripts in the Library of All Souls College* (Oxford: T. Combe, 1842), 55, 61.

100 British Library, Mss. Hargrave 240, 249; Harley 93; Stowe 415.

101 Gibson, “Brian Twyne,” 107.

102 Edward Chamberlayne, *The Second Part of the Present State of England* (London: John Martyn, 1671), 214.

repositories in continental European countries rather than those in England.<sup>103</sup> In 1656, the word *archive* (in the singular, defined as “the place where antient Evidences, Charters and Records are kept”) was included in a dictionary of “Hard Words . . . used in . . . English,” a work “intended for . . . Women and . . . Men . . . who can but finde . . . [a] word they understand not.”<sup>104</sup> It was evidently perceived as unfamiliar and difficult to comprehend.

Eventually, the Latin word *archiva* and the English word *archives* came to be used to describe documentary materials as well as the repositories where such materials were located. The circumstances in which this semantic shift occurred remain uncertain, but when Twyne wrote in the 17th century that he had searched “the publike Recordes of the Tower of Lundo[n], . . . besides our owne Bookes and Archives of the Universitie” of Oxford,<sup>105</sup> *archives* must be assumed to refer to documentary holdings. In 1841, Palgrave – who, as we have seen, had used the phrase “our national archives” in 1839 – wrote that a “general repository” for “consolidation of the Records” should be “the Treasury, not merely of . . . Legal Records, but of the Archives, in the most extended application of the term.”<sup>106</sup> But all these usages were to some degree exceptional; it was Jenkinson – and to a lesser extent his colleagues Hubert Hall and Charles Johnson – whose advocacy of the word *archives* made it widely accepted in the United Kingdom.<sup>107</sup> For Jenkinson, archives were primarily documentary materials rather than repositories. In 1948, he claimed that the words *records* and *archives* were “practically interchangeable.”<sup>108</sup> Whether he was correct remains a matter of debate, but it seems indisputable that, by 1948, the word *records* had acquired a powerful rival in English usage.

103 Margaret Procter, “What’s an ‘Archivist’? Some Nineteenth-Century Perceptions,” *Journal of the Society of Archivists* 31, no. 1 (2010): 17, 24–25.

104 Blount, *Glossographia*, s.v. “Archive” and “To the Reader.”

105 Gibson, “Brian Twyne,” 107.

106 *Second Report of the Deputy Keeper of the Public Records* (London: HMSO, 1841), 80.

107 Geoffrey Yeo, “Sir Hilary Jenkinson,” in *Encyclopedia of Archival Writers, 1515–2015*, ed. Luciana Duranti and Patricia C. Franks (Lanham, MD: Rowman and Littlefield, 2019), 322.

108 Hilary Jenkinson, *The English Archivist: A New Profession* (London: H.K. Lewis, 1948), 2.

## The Travels of Record

The concept of record was first developed in medieval England and remains characteristic of English law and culture. Courts of record, too, are distinctive of English legal tradition. The notion of a court that bears record, “*la cort . . . tele qu’ele porte recort*,” appeared briefly in northern France in the 13th century,<sup>109</sup> at a time when English and French rulers were struggling for control of what is now French territory; with this exception, the terms *record* and *court of record* seem to have been confined to England until their use was disseminated, first to Ireland, and later to other colonial territories in what became the British Empire.

The vocabulary of records was introduced to Ireland in the late Middle Ages. Courts of Exchequer, King’s Bench, and Common Pleas – all courts of record, like their English counterparts – were established there in the 13th and 14th centuries.<sup>110</sup> Protestations to the Irish Parliament could be “entered of record” in the Parliament roll in the 15th century, and the office of Recorder of Dublin – with mainly judicial functions – had been instituted by 1485. Irish civic documents also came to be described as records: in 1549, the Dublin City Assembly agreed that orders relating to Dublin’s hospitals were to be “enrollid in the records of the said cittie.”<sup>111</sup> Among the ruling elites, notions of *record* in 16th-century England and Ireland were practically identical.

By the time that Gabriel Archer was appointed Recorder of the colony of Virginia in 1607, the Recorders of English towns and cities had largely lost their connection with the making and keeping of records; they had become legal advisers with significant judicial and political roles. But the link between Recorders and recording was to be revived in the American colonies: in Massachusetts, the Recorder of Boston was given responsibility for recording conveyances of property in 1640, and the practice of appointing County Recorders (or “Recorders of Deeds,” as they often became known) was established across much of America in the

109 Brunner, “Gerichtszeugnis,” 152; William Laurence De Gruchy, *L’ancienne coutume de Normandie* (St. Helier, Jersey: Charles Le Feuvre, 1881), 153–54 and passim. Cf. Thorne, “Notes on Courts of Record,” 349.

110 Robert H. Murray, *A Short Guide to the Principal Classes of Documents Preserved in the Public Record Office, Dublin* (London: SPCK, 1919), 44–48.

111 C. Litton Falkiner, “The Parliament of Ireland under the Tudor Sovereigns,” *Proceedings of the Royal Irish Academy* 25 (1904–5): 558–59; John T. Gilbert, *Calendar of Ancient Records of Dublin*, vol. 1 (Dublin: Joseph Dollard, 1889), 32, 421.

decades and centuries that followed.<sup>112</sup>

Like the office of Recorder, the concept of a court of record crossed the Atlantic. Colonial charters, such as the Georgia charter of 1732, could authorize their recipients to "erect and constitute judicatories and courts of record,"<sup>113</sup> and the practice of identifying certain courts as courts of record continued and proliferated after American independence. Blackstone's 18th-century definition of these courts also had a long life in America: in 1965, it was reported in the Supreme Court of Georgia that "most of the courts" of the United States had applied Blackstone's definition of a court of record – including, apparently, his affirmations that its records are "enrolled in parchment" and that their truth "is not to be called in question."<sup>114</sup>

Besides these specialist usages, a more generalized concept of records also spread from Britain to North America. In colonial Virginia, "public records" were kept by the Secretary of the colony; after the implementation of an *Act for Erecting a Building for the Preservation of the Public Records and Papers* in 1747, the Secretary's Office was a discrete building in Williamsburg, which apparently remained in use as a record repository until 1779–80, when Alexander Wyllly was "charged with the business of packing up the public records, & moving them" from Williamsburg to Richmond.<sup>115</sup> In Anglophone North America in the 19th and early 20th centuries, "private writings" were not usually considered to be records,<sup>116</sup> but the word *record* was used in the context of public administration as widely as it was in Britain.

However, the name *record office* did not win such wide acceptance in North America. Although the Secretary's Office in Williamsburg is now sometimes shown to visitors as the "Public Records Office," it was not known by this name when it was in operation as a repository; the curators of Colonial Williamsburg

112 George L. Haskins, "The Beginnings of the Recording System in Massachusetts," *Boston University Law Review* 21, no. 2 (1941): 281–304; P.H. Marshall, "A Historical Sketch of the American Recording Acts," *Cleveland-Marshall Law Review* 4, no. 1 (1955): 56–68.

113 Erwin C. Surrency, "The Courts in the American Colonies," *American Journal of Legal History* 11, no. 3 (1967): 262.

114 *DeKalb County v. Deason*, 221 Ga. 237 (1965), <https://law.justia.com/cases/georgia/supreme-court/1965/23022-1.html>.

115 Helen Bullock, *The Public Records Office* (Department of Research and Record, Colonial Williamsburg, Incorporated, 1938), <https://research.colonialwilliamsburg.org/DigitalLibrary/view/index.cfm?doc=ResearchReports\RR1372.xml>.

116 Cf. Oliver W. Holmes, "'Public Records' – Who Knows What They Are?" *American Archivist* 23, no. 1 (1960): 8, 13.



relabelled it when it became a visitor attraction in 1938.<sup>117</sup> To the best of my knowledge, the title of Public Record(s) Office has never been given to a functioning institution in mainland North America.

In Canada, pioneering archivist Arthur Doughty held the title of Dominion Archivist and Keeper of the Records from 1904 to 1935, but the word *records* did not feature in the name of the institution that Doughty managed from 1912, which was known as the Public Archives of Canada. Although proposals to establish a Canadian Public Record Office were put forward on five occasions between 1877 and 1936, none was successful.<sup>118</sup> In the United States, the counterpart of the Public Archives of Canada was the National Archives, founded in 1934. Many institutions established in other Anglophone countries in the 20th century were also called *National Archives*.

Nevertheless, the name *Public Record(s) Office* was exported from Britain to a number of localities in other parts of the world where British legal or administrative systems were in place. In 1954, for example, a *Report on . . . the Establishment of a Public Record Office in Nigeria* led to the formation of the Nigerian Record Office in Ibadan; in 1957, the Public Records Office of Malaya was inaugurated in Kuala Lumpur, with an administrative structure modelled on the Public Record Office in London.<sup>119</sup> Members of the International Council on Archives in the 1970s included the Public Record Offices of Victoria (Australia), Cyprus, The Gambia, and Ireland; the Public Records Offices of the Bahamas and Hong Kong; and the Central Records Office of Sudan.<sup>120</sup>

117 Richard J. Cox, "Public Memory Meets Archival Memory: The Interpretation of Williamsburg's Secretary's Office," *American Archivist* 68, no. 2 (2005): 283.

118 Bernard Weilbrenner, "The Public Archives of Canada, 1871–1958," *Journal of the Society of Archivists* 2, no. 3 (1961): 108, 110–11; Ian E. Wilson, "'A Noble Dream': The Origins of the Public Archives of Canada," *Archivaria* 15 (Winter 1982–83): 20, 23.

119 Abiola Abioye, "Fifty Years of Archives Administration in Nigeria," *Records Management Journal* 17, no. 1 (2007): 52–62; Samsiah Bte Muhamad, "Archives and Research in Malaysia: The Development and Challenges Ahead, 1900–1995" (doctoral thesis, University of London, 1996), 43–45.

120 International Council on Archives, *Directory/Annuaire 1979* (Paris: ICA, 1979), 27–35.

## Records and "Common Speech": Continuing the Story

"We say in common speeche," Lambard wrote in 1581, that "a man shall beare record of a thing, when we intend to say, that he remembreth it, and can beare witness of it."<sup>121</sup> Most English people in Lambard's day were probably familiar with the words spoken by John the Baptist in William Tyndale's translation of the Bible: "I sawe yt, and have borne recorde, that thys ys the sonne of God."<sup>122</sup> As Lambard noted, there were obvious parallels between this manner of speaking and the use of the phrase *bear record* in legal contexts. But "common speech" had a long history of using the word *record* and had never confined it to royal judges or formal courtroom settings. In 16th-century popular usage, we may assume, anyone could bear record. Today, the phrase *bear record* is practically obsolete, but other popular uses of *record* have replaced it, and Lambard's remark serves as a reminder that lawyers – and, more recently, archivists – who have wanted to give *record* a specialized meaning have always had to contend with a proliferation of wider meanings in everyday language.

As we have seen, legal and institutional use of the word *record* underwent gradual but perceptible change between the 14th and 17th centuries. Retaining a rigorously narrow interpretation of a word that popular speech used more broadly proved impossible. By the 1800s, some lawyers were openly questioning the relevance of older definitions that sought to confine it to the proceedings of a select group of law courts. In 1836, English barrister Richard Newcombe Gresley noted that, although the memorials of proceedings in the Court of Chancery were "said not to be, strictly speaking, Records," the "distinction appears to be . . . of no practical importance."<sup>123</sup> Legal dictionaries of the late 19th and 20th centuries began to offer definitions that did not limit records to courts of law. The 1883 edition of the *American Law Dictionary* by John Bouvier noted that "the proceedings of the courts of common law are records" but defined a record more broadly as "a written memorial made by a public officer . . . and intended

<sup>121</sup> Lambard, *Eirenarcha*, 70.

<sup>122</sup> John 1:34, in Tyndale's translation (1526).

<sup>123</sup> Richard Newcombe Gresley, *A Treatise on the Law of Evidence in the Courts of Equity* (London: Saunders and Benning, 1836), 101.

to serve as evidence of something written, said, or done.”<sup>124</sup> Bouvier’s dictionary said nothing about the incontrovertibility of records or their supposed ability to import inviolable truth, a notion increasingly hard to defend at a time when historians such as J.H. Round were starting to demonstrate that records could be prone to inaccuracy and error. In 1999, *Black’s Law Dictionary* explained that a record might be “the official report of the proceedings in a case” but could also be defined simply as “a documentary account of past events” or “information that is inscribed on a tangible medium.”<sup>125</sup> These definitions reflected lawyers’ changing perceptions of the nature of records. Although they might not have satisfied archivists, the definitions effectively acknowledged that records could no longer be restricted to the proceedings of particular law courts, and they largely accorded with the usages of everyday speech.

This article does not attempt to offer a full account of newer concepts of record that emerged among archivists and their colleagues in the late 20th century, after the birth of what was initially called *records administration* – a term soon replaced by *records management* – in the United States in the 1940s. Adopted in other countries from the 1950s or 1960s onward, records management became increasingly professionalized and seemingly took the word *record* in new directions, associating it with current organizational business needs while seeking to confine *archives* to materials kept for historical or cultural reasons. In the 1980s and 1990s, and in the early years of the 21st century, records professionals began to explore connections between records and other phenomena of contemporary interest, such as evidence, memory, representation, and community identity. In an informal survey conducted in 2014, I collected more than 50 different definitions of *record*, dated from 1974 to 2013, reflecting numerous different conceptualizations found in professional literature. A comprehensive study of the understandings of *record* that have proliferated in the late 20th and early 21st centuries has not yet been made, and it must await another occasion.

Nevertheless, a few points are worth noting here by way of conclusion, continuing some of the threads examined earlier in this article and extending the discussion of them into the 21st century. *Record* remains a concept of the English-speaking world, and most other languages have no obvious equivalent term.

124 John Bouvier, *A Law Dictionary, Adapted to the Constitution and Laws of the United States of America*, 15th ed., vol. 2 (Philadelphia: J.B. Lippincott, 1883), 520.

125 Bryan A. Garner, ed., *Black’s Law Dictionary*, 7th ed. (St. Paul: West, 1999), 1279.

Although the practice of records management has arguably become globalized in the 21st century, the absence of a word corresponding to *records* has hampered many of its advocates in non-English-speaking regions. Some have adopted the English term – in France, for example, Marie-Anne Chabin and Françoise Watel published an article in 2006 entitled “L’approche française du records management”<sup>126</sup> – but most have sought to avoid using it. In many linguistic communities, translations of “records management” have been constructed in recent years using a term such as *documents*: for example, *gestion des documents* has become the preferred translation in Québec, and *gestão de documentos* in Portugal and Brazil. In contexts other than records management, translations of “records” are rarely thought necessary: in languages of continental European origin, *archives*, *arquivos*, *archivi*, or *archieven* remain the preferred terms. Records are still widely perceived as characteristic of Anglophone societies.

In Britain, however, *record office* has largely fallen out of favour as a name for institutions holding records of continuing cultural value. Both in Britain and in other English-speaking countries, many institutions that were called *record offices* in the 1960s or 1970s renamed themselves as *archives* in the years that followed. The Public Record Office of the United Kingdom became The National Archives in 2003. The Scottish Record Office, after renaming itself National Archives of Scotland in 1999, reverted to *records* in 2011, when it joined with the Scottish registration service to become National Records of Scotland; but this latter move was an exception to the general trend. More recently, the word *records* has also declined in popularity among some records managers, who have attempted to reinvent their discipline as “information management.”<sup>127</sup> Nevertheless, in the past two decades, growing numbers of international standards have addressed aspects of the making and keeping of records, and the word remains a keystone of Anglophone professional discourse in the 21st century. It was used more than 270 times in a recent issue of *Archivaria*, and discussion of its interpretation, meanings, and scope continues to be buoyant.

Finally, it seems possible to draw some comparisons between the conceptual tensions examined in this article and those found among records professionals in our own era. Although records professionals are now unlikely to confine their

126 Marie-Anne Chabin and Françoise Watel, “L’approche française du records management: concepts, acteurs et pratiques,” *Gazette des Archives* 204 (2006): 113–30.

127 Geoffrey Yeo, *Records, Information and Data* (London: Facet, 2018), 61–83.

understanding of records to those created in law courts, expansive concepts are still in competition with more restrictive modes of thought. Some 21st-century professionals limit their conception of records to present-day organizational settings, where they typically seek to make a rigid demarcation between records and “non-records”;<sup>128</sup> some insist that records must be limited to materials “declared” or captured in an organization’s formal control system.<sup>129</sup> At the opposite pole, others seek an inclusive view of records across space and time, affirming that concepts of record extend beyond institutional and personal writings to embrace non-textual materials kept by informal or marginalized communities;<sup>130</sup> that the traditions, songs, dances, and rituals of Indigenous cultures can be understood as records;<sup>131</sup> or that records and recording practices can be identified in early societies such as Mesopotamia, Shang-dynasty China, and the Inka Empire.<sup>132</sup> The gulf between these different perceptions – which seems to correspond largely, though not entirely, to the pragmatic division between records managers and archivists – often appears almost unbridgeable. Further tensions arise because, just as in Lambard’s day, the word *record* is used today in “common speech” as well as in specialist discourse. Historical precedent suggests that, when specialists propose closely circumscribed definitions, everyday speech is likely to disdain them. It also suggests that, when wider and narrower concepts of record coexist, more expansive usages can eventually be expected to prevail.

128 Jesse Wilkins, “Records vs. Non-Records,” *AIIIM* (blog), March 25, 2021, <https://info.aiim.org/aiim-blog/records-vs-non-records>.

129 See, for example, United Nations Archives and Records Management Section, *What Is a Record?* (New York: UN ARMS, n.d. [ca. 2018]), accessed October 1, 2021, [https://archives.un.org/sites/archives.un.org/files/1-guidance\\_what\\_is\\_a\\_record.pdf](https://archives.un.org/sites/archives.un.org/files/1-guidance_what_is_a_record.pdf).

130 Anne J. Gilliland, “Archival and Recordkeeping Traditions in the Multiverse and Their Importance for Researching Situations and Situating Research,” in *Research in the Archival Multiverse*, ed. Anne J. Gilliland, Sue McKemish, and Andrew J. Lau (Clayton, VIC: Monash University Publishing, 2017), 54–55.

131 Michael Piggott, *Archives and Societal Provenance: Australian Essays* (Oxford: Chandos, 2012), 251–70.

132 Geoffrey Yeo, *Record-Making and Record-Keeping in Early Societies* (Abingdon, UK: Routledge, 2021).

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