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In the first installment of a three-part series on our trial records, we're examining the history of trials by ordeal and combat. This episode has witch trials, defamation lawsuits from accused witches, myth-busting, strong-men for hire, Irish landowners fighting to the death in a castle, and some facts about duels. Tune in to hear stories and historical insights that can only be found in the documents preserved at The National Archives.

Documents from The National Archives used in this episode: ADM 106/313/424; E 372/13; JUST 1/1092, m.3; KB 26/223; SP 16/269 f.172, ff.174-5; SP 16/271 f.227; SP 63/104, f.163; STAC 8/149/24

The recordings of witch trial records used can be found, alongside others, in our [early modern witch trials](#) classroom resource.

If you're interested in finding out more about our trial records take a look at our [criminals, courts and prisons research guides](#). For help navigating our catalogue you can watch our [top level tips on using Discovery](#).

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Transcript

[Intro – clips taken from the episode set to music]

Euan Roger: This is On the Record at The National Archives: uncovering the past through stories of everyday people.

I'm Euan Roger

Laura Robson-Mainwaring: And I'm Laura Robson-Mainwaring.

Euan and I are both historians at The National Archives in Kew, West London, where we research, look after, and help our audiences better understand the archives' collections of historical government and public records.

You're listening to the first installment of a three-part series examining some of our most sensational, significant, and intriguing trial records.

A content warning: this episode does contain descriptions of violence that may not be suitable for all listeners.

Euan: The subject of our episode today is trial by combat and trial by ordeal. Of course the first two things that probably spring to mind for many of you when you hear that are duels...aaannnnndd....witch trials.

Laura: So, the good news is that you're about to hear about a particularly sensational witch trial from the 1600s; the bad news is that – despite what Euan just said about our episode theme – witches weren't actually tried by ordeal.

Euan: Come to think of it, we probably should have put witches in our next episode on trial by jury. But...since the association between witches and trial by ordeal is so strong....and because we need to save room in the jury episode for a famous cannibalism case...we're going to start with a little myth-busting from our colleague Jessica Nelson, who agreed to share some of our best witch trial stories...but only if she got to set the record on straight on what actually happened to accused witches.

Laura: And after we talk to Jessica, we'll call up another historian at The National Archives to find out about actual trials by combat and ordeal.

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But first...witches!

[outgoing ringing tone]

Jessica Nelson:

I'm Dr. Jessica Nelson and I am the head of medieval, early-modern, legal and map collections at The National Archives.

Laura: So Jessica, we're jumping right into one of the most sensational and complicated types of trials found in our collections, and that's the witch trials. But thanks to all the popular culture surrounding these events, the actual history has gotten a bit muddled. So could you give us a brief overview of what the witch trials were and what they weren't?

Jessica: Yeah, that's a great place to start, Laura. Because, as you say, things have got a bit muddled. So when we talk about historical witch trials, for a start we're really talking about the trials that took place in the early-modern period, which was kind of 'peak witch'. So Elizabeth I enacted legislation in the mid 16th century that made prosecuting witchcraft the business of the secular courts rather than the church courts. So it's from that time that we start to see an increase in the number of prosecutions of alleged witches. And in England, most of these prosecutions took place in the assize courts, which were the predecessors of what we would call the crown courts today. And we hold the English assize records at The National Archives. So where those assize records survive and have witch trials in them, we have those records.

And we also have at The National Archives, other associated records such as letters between government officials discussing the outcomes of these witch trials, which can add really interesting background detail.

You referred to these trials being quite sensational and complicated, but actually trials for witchcraft, held in the assize courts, were in effect ordinary criminal trials. Causing harm by witchcraft was a crime and was therefore tried like a crime. So even though the subject matter was quite sensational, the normal legal processes were generally followed.

And it certainly wasn't the case that anyone accused of witchcraft was automatically found guilty and hanged. Several hundred people, mostly women, were found guilty and hanged for witchcraft in England, in this period. But many hundreds more were acquitted. In fact, most people tried for witchcraft were acquitted. And also lots of people were given jail sentences rather than being sentenced to death. And lots of people also were sentenced to death, but were reprieved. That

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was also quite common. So we shouldn't imagine that an accusation of witchcraft automatically led to somebody being hanged.

And another popular misconception is that these were trials by ordeal. And there's been a myth hanging around for a long time that witches, or alleged witches, in England were habitually dunked in water as a way of determining their innocence or guilt. And that those that drowned were innocent. And those that didn't drown were guilty and were therefore hanged anyway. There is a grain of truth in there.

There was a practice called the swimming test, whereby suspected witches were tied to a rope and put in a body of water to see if they would float or sink. And those that floated were considered to be witches. But this sort of trial by ordeal, where it happened, was usually carried out by the local community taking the law into their own hands. And it didn't form part of the formal legal process. So where we have these records of witchcraft trials in the assizes, they don't include this swimming ordeal.

And actually, just as a point of interest, we have in a different collection of records, a letter sent in to the Navy Board in 1675, where the writer mentions in passing that a woman suspected for a witch was "put aswimming" by her neighbors for trial until they had drowned her. And he says, "This was a piece of such cruelty as I have rarely heard of." So it's really clear that, where this practice did take place, it wasn't widely considered acceptable and it wasn't widely approved of.

Laura: Ok. Do you have any specific examples of witch trials in our records that you can share with us?

Jessica: Yeah. So I'd quite like to talk about a case that relates to a trial for witchcraft held at the Lancashire Assizes in the 1630s.

A little boy called Edmund Robinson, who was only about 10, accused a number of people within his community in Pendle, in Lancashire, of witchcraft. And he was going around churches making these accusations and other people started coming forward with similar accusations. And the result was a mass trial held at Lancashire Assizes in early 1634. As a result of which about 19 women and a few men were found guilty and sentenced to death, but it came to the attention of the Privy Council because it caused such a hoo-ha across the whole country. And the Privy Council ordered that a further investigation was undertaken, led by the Bishop of Chester who was considered a very reliable, a very steady churchman.

So we have the letters that the Bishop writes back to the Privy Council, sort of talking about his investigations.

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Laura: And one of them begins like this:

[Recording of the document]

My it please your honour

I received a letter from yourself and others the Lords of his Majesties most honourable privy council dated the last of May wherein I was commanded to examine 7 of those persons which lay condemned for witches in Lancaster [jail]....

...But thereof those persons mentioned in the letter died lately in the [jail], namely John Spencer, Alice Higgin and Jennet Loyd. A fourth named Jennet Hargrave laid sick, past hope of recovery (as the keeper and the rest affirmed). The other 3 I examined and have here enclosed sent your honour their examinations I used the utmost of my ability to persuade them to a free confession laying before them their miserable estate both for body (subject by the law to death) and for soul (in extreme danger of damnation).

Laura: And if you want to hear the whole letter, you can find the full recording, along with recordings of other documents from the Pendle investigation, on the education section of our website in a collection titled Early Modern Witch Trials.

Jessica: He interviewed three of the women involved, who had been found guilty of witchcraft. There was an elderly woman called Margaret Johnson who actually confessed to being a witch. And he said she had tears in her eyes. And he writes that, "Often acknowledging that she was a witch, but more often faulting in the particulars and circumstances of her actions, as one having a strong imagination of the former, but also of too mean a memory to retain, or relate to the other". He's making it quite clear, this woman's quite confused. She doesn't really have a great hold on what's happening.

And then he goes into a little bit more detail. So Margaret Johnson, the elderly woman, she says that she has been a witch for about six years and she goes into quite a lot of detail about how she became a witch. She was approached by a man wearing black, who said that, "If she would give him her soul, she would want nothing, but she should have power to hurt whom she wants, both man and beast."

And this woman refused, but he came back to her again and again, and eventually she gave in and she tells the Bishop that, "He hath the use of her body and she had some lust and pleasure thereby." And after this, he appeared to her in other shapes and she describes how he appeared

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to her as a dog and a cat and a hare, and as those shapes, "He did suck her blood at 2 duggs or papps in her privy parts".

And this is a really quite an interesting feature of English witchcraft, this idea of sort of the demonic familiars, who sucked the blood of the witches who they worked with. But although this woman considered herself to be a witch, she also told the Bishop that she never hurt man or woman by witchcraft. And she also refuses to incriminate any of the people who were tried and condemned alongside her.

The other two examinations by the Bishop are very illuminating as well, but for slightly different reasons. So he talked to one woman called Mary Spencer, who's about 20. She completely denied having any knowledge of witchcraft or that she'd hurt anybody. And instead she turns her attention to the neighbor that had accused her, a man called Nicholas Cunliff, and she said that he had borne malice to her and her parents for several years and that's why she had been accused by him. She would have explained this at the Assizes, "But the wind was so loud and the throng so great, that she could not hear the evidence against her."

This is taking place in a courtroom, but it's quite a sensational case. There's lots of people who've come in. People are talking, there's lots of noise. And this poor woman can't even hear the evidence against her. And in this period, she wouldn't, of a matter of course, have had a defense lawyer. She would've had to have defended herself, and relied upon the judge to make sure that the trial was fair.

Also interesting is the third examination of another woman called Frances Dickenson. She also completely denies being a witch, she says that she had a disagreement with Edmund Robinson's father about the purchase of a cow. And she'd also had a disagreement with another of her accusers about the purchase of butter. So you can see, these are quite little local arguments, which have really spiraled out of control.

And the Privy Council – who were being quite thorough – then send a different official to interview Edmund Robinson, the little boy who kind of kicked all this off. And the reports of two of these examinations survive. As I say, Edmund was 10 or 11. I would assume that he was probably examined alone, it certainly wouldn't have been the same safeguarding measures that you'd have now if a child was being interviewed. And basically he appears to have admitted pretty quickly that he just made it all up.

His initial tale, he explains, he had been sent to do some chores and he hadn't done them because he'd just gone out to play instead. And in order to deflect his parents' anger, he says that he was,

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in fact, kidnapped and taken to a meeting of 60 witches in Pendle Forest. And that's where the first story came from. And then he explains that he realised that after he told this story, lots of people were really interested in it. And so he grew more confident and he told the story several times, sometimes adding one thing to it, and sometimes another.

And again, there's a really interesting detail here. Pendle, where this little boy grew up, 20 odd years before, there'd been another big witch trial there, which had resulted in the hanging of a large number of people...one of the most sensational witch trials in English history, and obviously little Edmund has heard stories about this. So he's kind of familiar with some of these ideas of witchcraft and what's some of the things they're supposed to do and where they're supposed to hang out and all these meetings that they have. And he says he's also overheard his neighbours grumbling about each other and making accusations against one another, and he's kind of mashed all of these things in together to make his own tall tales. And it's made his accusations all the more believable and his examination ends rather pathetically with a note that, "He sayeth he is very sorry for that he hath said." So you end up feeling rather sorry for him. It's spiraled completely out of control.

Laura: Yeah. That's terrifying, isn't it? That just a little boy's sort of testimony can go that far as well. And it sounds like a very distressing time to be a woman, I think, in society, especially those that are more vulnerable and those maybe on the fringes of society as well.

So I'm also wondering, what do these cases, and others like them, tell us about how people at this time thought about justice and fairness and the role of the courts?

Jessica: Yeah, I mean, as I said, there's lots of layers and complexities to these beliefs and the role of the courts is really interesting. Partly, because it kind of renders these fantastical accusations into potentially quite a mundane legal process.

So another case I could talk about which shows this process from a slightly different angle is of a woman called Joan Guppie. She was accused in 1605 by her neighbours of being a witch and they attacked her. And Joan and her husband, Thomas, actually took her accusers to court, accusing them in turn of assault and of defaming her character by claiming she was a witch, and we have the bill where they make their initial kind of accusations. And it says that this group that they're accusing, "Did plot, practice and combine to bring an imputation upon your said subject Joan Guppie, that she should be a witch..."

[Recording of the document]

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“Thereby to bring your said subject Joan into contempt and disgrace amongst her honest neighbours. And the more notoriously to defame and abuse your said subject Joan. They...out of their said inveterate and causeless hatred and malice towards your said subject Joan Guppie and desiring by all means to make some mischievous revenge upon your said subject Joan Guppie, although she never gave them any cause of hatred or malice against her....

....did confederate conspire and agree between themselves to watch and waylay your said subject Joan Guppie...

....whereupon the said confederates according to their pretended plot and confederacy, did...being armed and arrayed with long piked staves, swords, daggers and other warlike weapons and having all provided great overgrown brambles to tear and rend the flesh of the said Joan Guppie...

...did then and there beset and waylay your said subject Joan Guppie and did then and there in most riotous and barbarous manner set upon and assault your said subject...

...and the said Judith came also and assaulted your said subject Joan Guppie and did with pins prick your said subject, and thrust them into the body and legs of your said subject Joan Guppie and took the said great overgrown bramble and drew them about the face of your said subject Joan Guppie, and did therewith rent and tear the flesh from the face of your subject Joan Guppie saying that your said subject Joan Guppie was a witch, and that they came for the blood of your subject Joan Guppie, and they would have it and her life also before they left her”

Jessica: In some ways, what I think is really interesting is that these are very standard court records. They all follow kind of the accepted formula.

And as I say, I think it's really interesting that Joan and her husband want to have their day in court. It certainly suggests to me that although witchcraft was clearly a very serious crime, they did have a certain faith in the court that they would be fairly treated despite the accusations against Joan.

I mean, I suppose the flip side of that is the accusations against her neighbours suggest that they wanted to exact their own justice on Joan. So for whatever reason, they didn't trust the legal process, so they seemed to be taking this into their own hands.

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And the reference to pricking her by pins is quite interesting because that harks back to the idea of trial by ordeal, that we mentioned earlier. Pricking, like swimming, was a method of proving whether or not a person was a witch. So it seems perhaps that her local community are trying to try her themselves; whereas Joan herself went to the formal legal processes to try and get justice.

So yeah, there was so many layers and so many complexities, and I think you can really see using our records that it's such an interesting and layered picture and that we really shouldn't just think about witch beliefs and witch accusations in terms of ignorant, old-fashioned people accusing each other of being witches and then old people being hanged. There's so much more to it than that.

Laura: Yeah, definitely, like we usually think of it as such a distressing history, but our records show that people would actually use the court process to kind of fight back against the accusations. Like they weren't just kind of cast aside and deemed a witch forever, they can kind of fight back.

Jessica: Absolutely. And thinking a little bit as well about these trials by ordeal that were occasionally carried out by the local community—particularly 'swimming' where people could very easily end up dead— we do have evidence that the people who carried out this local justice could then find themselves on trial for murder. So, it wasn't, as I say, it wasn't something that was kind of normal and accepted and there was indeed potentially recompense for the victims.

Euan: So, if we're defining 'trial' as a legal proceeding, then trial by ordeal – be it pricking or swimming – was not a routine part of witch trials, even as far back as the 14- and 1500s.

Laura: Of course, as we've heard, some people – like Joan's neighbours – took the law into their own hands at times, often leading to really tragic results. But these assaults and murders weren't trial by ordeal any more than Joan's neighbours getting together to decide she was a witch was trial by jury.

But of course, real trials by ordeal and combat did exist, both before and after the rise of trial by jury.

Euan: But before we go to our next story...I kind of need to know what happens to the Pendle witches and Joan...

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Laura: I'm sorry to say, we don't really know the final outcome in either story. We know many of the Pendle defendants ended up spending time in jail, but – as far as Jessica can tell – the verdict in Joan's case against her attackers has been lost to history.

Euan: That's so disappointing.

Well, anyway, to learn more about the true history of ordeal and combat in the legal system, we called up our colleague Dan Gosling, one of our Legal Records Specialists.

[outgoing ringing tone]

Dan Gosling: Hi, I'm Dr. Dan Gosling. As the repository for the nation's governmental and central court records, The National Archives hold hundreds of thousands of legal records, which include the trial of Anne Boleyn, the will of William Shakespeare, and countless other records relating to court cases from the medieval to the modern period. So part of my job is to make these records more accessible by explaining how and why these records were created and describing the often complex legal systems that these courts are a part of.

Euan: ...which is exactly what we need here. So, Dan, can you give us a primer on trial by combat and ordeal and how they were used by England's courts?

Dan: Yeah, of course. So the two main forms of trial in use in England and the early medieval period, other than the jury system, were trials of ordeal and combat. So in a trial of ordeal, the guilt or innocence of the accused was determined by a physical trial. So they subjected them to some form of painful or unpleasant experience. And in England, the most common forms of ordeal were the trials of iron, sometimes called trial of fire, and the trial of water. A trial by iron required the accused to hold a red hot iron for a certain amount of time, and the wound would then be bandaged and re-examined three days later. If the wound was clean and healing nicely, then a priest would proclaim that God had judged them innocent and allowed the wound to heal. But if the wound were infected and inflamed, then the accused was judged guilty.

In a trial by water, the accused was bound and lowered into a body of sanctified water. And the belief was that water repelled sin. So if you floated, you were full of sin, you were sinful, and therefore guilty, and if you sank, you were innocent.

Euan: But you didn't have to drown to prove you were innocent, right?

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Dan: Yeah they weren't keeping you under until you drowned, but basically it was long enough to determine if you were floating or if you were sinking. It wasn't, 'congratulations you've won a trial by water and therefore died'.

This might seem a bit crude compared to our modern trial system, but it was a useful option when the guilt could not be easily proved, so if there was no sign of any stolen goods or no marks on the accused from committing any alleged assault.

A trial by combat, on the other hand – which is more commonly called 'trial by battle' in England – was technically a form of ordeal in that judgment lay ultimately with God. Two individuals would fight to determine the guilt or innocence of the accused. Trial by battle likely came to England with William the Conqueror in 1066, and the earliest reference to such a trial in England was in the laws of William the Conqueror, which discussed what happened when Englishmen challenged Frenchmen to combat on charges of theft or homicide.

Euan: So people are literally fighting to decide...and God decides the victor?

Dan: Yes. And it didn't have to be you that was fighting for your honor or for your guilt or innocence. You could have a second or a champion and vice versa, the accused could also bring a second or a champion. So you could have people fighting on your behalf for the case.

Euan: I was just thinking, yeah, if someone's really old, then it's not particularly fair, is it.

Dan: Exactly. It wouldn't be a fair fight.

Euan: Cool. So you mentioned that those are kind of... God deciding the outcome there. So it's obviously related to the church. How does that come out in our government legal records, and do you have any examples of these trials that you can tell us about?

Dan: Yeah, well so trials of ordeal predate the records we hold at The National Archives. So for the earliest English cases, we actually have to look outside our collections. So there were really early chronicle accounts. The account of Henry of Huntingdon's *Historia Anglorum*, he also gives an account of the Bishop of Lincoln, in William the Conqueror's reign, trying to clear himself of the charge of treason by sending a man to the iron. So he's sending a man to be tried by hot irons to prove his innocence of treason.

But when we get to The National Archives' earliest records, we do have evidence of ordeal in those records. So our earliest public record, Domesday Book, lists accounts and lands from the late 11th

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century, but it also lists land disputes and how lands came into certain people's hands. So these are sometimes settled by trial ordeal in this period.

So Domesday book contains several references to things like trials by battle or ordeal. And we have a particularly lengthy account in Domesday Book which describes a dispute between Bishop Gundulf and Picot who was the Sheriff of Cambridgeshire. And the Bishop claimed a piece of land which the Sheriff had already granted away, believing it to be the King's land. But it was suspected that Picot, the Sheriff, was intimidating the judges and the jury. So Odo, who was acting as one of the justices, doubted the correctness of the decision and asked the court to elect 12 members of their number to confirm his decision. These 12 men then did confirm the decision. But again, it was believed that the Sheriff was intimidating them to get a positive response. So the Bishop brought another suit of false judgment against the previous case to recover this land, and he did recover those lands. But also as part of that, he brought further judgment against the 12 men and that judgment was an ordeal of hot iron. So to judge their innocence, he put them to the iron, those 12 men that have said that he shouldn't have the land.

Euan: That's really interesting. I think a lot of people would necessarily link that sort of case with Domesday Book, because I think about property and rents and so on. But yeah, there's more in there than meets the eye sometimes.

Dan: Absolutely. And one of these things about trials by ordeal and trials by battle is they're sometimes part of what we would understand to be normal court process. So there are jury trials as part of the wider dispute, but it just happens that part of it is an ordeal or trial by battle.

Euan: Cool. So what about trial by battle? Can you tell us some... Do you have any cases about that?

Dan: Yeah. So the records of trial by battle are a little more detailed because trial by battles lasts for longer in England. So an assize account in The National Archives series JUST 1 describes a 1292-93 dispute which was between the chapter of Southwell versus a man called Ralph de Frenchenville or Frechenville. The chapter decided that to prove their innocence they would have a trial by combat, and they engaged the services of a champion who was called Roger de Moton to fight on their behalf.

And the reason we know about this trial is because in the assize records, they have an acknowledgement that Moton has agreed to fight for the chapter and list his fees and says, 'I'll fight for the chapter as long as they pay these certain monies'. So it was two pounds just for him appearing, or 33 pounds, six shillings, and eightpence to actually fight the battle itself. And then 10 pounds for traveling costs, things like that.

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Euan: So the lesson here is if you're going to get into disputes, you need a big man to come and fight for you just in case.

Dan: Yeah. You've got to be willing to pay for the biggest man possible I think.

Euan: Do you know anything about how these trials actually took place?

Dan: So we're lucky that there are two Common Pleas cases – and we do hold the records of Common Pleas – from 1355 and 1422, which were written about by lawyers at the time and published as law reports.

The second Common Pleas case in 1422 gives real details about the ceremony of trial by battle. So in this case, the two parties had decided they were going to settle the dispute by trial by combat, and each of the champions had to walk up to the Common Pleas Court, and they had to ceremonially throw one of their gloves into the court. And each of their gloves had a penny in each of the glove's fingers. So it was one glove per side, so five pence of each side. And then the clerk of the court had to fetch those gloves up, give them to the Chief Justice of Common Pleas, who had to search to make sure there were five pence in each. Then he returned the gloves to the champions and sent them to pray that God would grant victory to who was there in the fight.

Euan: Is that where the phrase throwing down the gauntlet comes from?

Dan: Yes.

Euan: That's really interesting. So all the cases we talked about so far have been related to England. Does this occur elsewhere in the British Isles?

Dan: Yes, so outside of our court records at The National Archives, we also have things like eyewitness accounts of trials by battle, which are kept in places like the State Papers. And the most detailed one of these is from a trial by battle conducted in Ireland in 1583. So in this case there was an Irish man called Connor McCormick O'Connor, and another Irish man called Teague McGill Patrick O'Connor, and they both appeared in Dublin accusing the other of several treasons, and this is all described in the State Paper account.

And they both agreed that they would have no trial by jury, but instead would have trial by combat. And then we get quite a detailed description of the fight itself. So the two men fought with swords and were described as both showing great courage in a desperate fight. However, it was Teague that won out, despite being hurt in the fight, and he succeeded in killing Connor.

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Though this specific wrong was satisfied by the trial by battle, the State Papers go on to say that the kinsmen of Teague and Connor continue to dispute lands in Ireland through various courts, and it's all described in the State Papers.

Euan: Seems really brutal for the 16th century. You had this idea of it being a more just, a more fairer legal system, but it's still this brutal fight.

Dan: It is really brutal, and it's also judicially sanctioned by the Crown.

Euan: Are there any misconceptions or myth-busting you want to do about trial by combat, trial by ordeal?

Dan: There are a few. I think the main one is...when we've been describing these trials by combat and ordeal, they sound like quite horrible practices, like almost punishment themselves. But of course they weren't punishment, they were trials, which if you lost, you were then punished. So they were designed to be modes of proof, a way to discern whether the accused was guilty or innocent, and they weren't designed to be torturous or punishment. That came later.

So if you were judged innocent in a trial by ordeal or by combat, the other party could be punished for perjury, because if you're innocent, then their claims are false and therefore they can be punished for that. But similarly, if you lost your trial by ordeal or combat, assuming the trial by combat wasn't to the death, and that therefore you were found guilty, you would then be punished according to the offence you committed, which admittedly was usually death. So if you survived the trial by combat, but lost, you would probably then be killed.

But then there are more common misconceptions relating to ordeal and combat.

So the main misconception is when you think of trials by battle or combat, your mind initially goes to those great duels of the 18th century between gentlemen that defend their honour, or usually the honor of a woman. Recent examples of this, you've got the musical Hamilton and also the TV series Bridgerton famously defending the honor of someone.

But again, though these duels shared characteristics with trial by battle, they were not judicially sanctioned. So it was actually illegal to perform these duels, and it's why they always took place on the outskirts of town or the early hours of the morning, or just as the sun's setting, so that they can run away quickly if they're spotted.

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Euan: It's almost taking that idea of what's happening in the judicial sphere and employing it in everyday life to settle minor disputes.

Dan: Absolutely. If you look at them, they look very much like trials by ordeal and battle, but they're not because they're not part of the legal process. So I think if you're trying to describe what a trial by battle was to someone that didn't know anything about it, you could say, 'Look at this duel'. But at the same time, we'd have to say, 'but it's not a trial by battle'.

Euan: Yeah. That's really interesting. So how long does this idea of trial by combat, trial by ordeal...how long does that go on judicially?

Dan: Okay, so judicially, trial by ordeal actually falls out of use very early on, which is one of the reasons we hold relatively few records of this type at The National Archives. So in 1215, the same year as Magna Carta, but complete coincidence, the Pope at the time, Pope Innocent III, declared that canons could not bless participants before ordeals. Now the ordeal process in England had to be administered by a priest, so this essentially ended the practice in England.

Euan: So yeah, you can't do a church punishment if the Pope doesn't agree with it, essentially.

Dan: Exactly.

Euan: What about trial by battle?

Dan: Well trial by battle is a really interesting one. It persists for much longer, actually. So though trial by battle was technically a form of ordeal, it didn't require any clerical participation, so it wasn't abolished at the same time as the other forms of ordeal in the 13th century. However, it was distrusted by complainants and judges compared to the jury system because it appeared a little antiquated that you're saying you're fighting to prove innocence rather than a trial of your peers.

But trial by battle wasn't actually abolished then and persisted for centuries after that, and it's not formally abolished until the 19th century by the 1819 Appeals for Murder Act.

Euan: So if you're accused of murder nowadays, you can't invoke trial by battle to try and get out of that or any other crime?

Dan: You could try but now it's no longer on the books.

	Show Notes – Series 5, Episode 1 Trials: Ordeal and Combat	THE	
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[Musical transition]

Laura: Thanks for listening to On the Record, a production of The National Archives at Kew.

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Euan: Thank you to all the experts who contributed to this episode. The reading of records was done by Andrew Ashmore & Associates. This episode was written, edited, and produced by Hannah Hethmon for Better Lemon Creative Audio.

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