THE BRIDGWATER COURT OF RECORD IN THE EIGHTEENTH CENTURY

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In the 18th century, a court for the trial of civil actions was a feature of most boroughs. This court had different names in the various boroughs: by far the most common was the 'Court of Record' but at Hereford, for example, it was known as the 'Mayor's Court' and elsewhere as the 'Three Weeks' Court', the 'Court of Pleas' and even the 'Court of Passage'. It may well be that this court had developed out of the medieval Court Baron, but Bridgwater, like most other boroughs, had felt it advisable to secure from the king a specific grant confirming the right to hold such a court. The Elizabethan charter of 1587, for example, confirmed the right of the borough 'to hold . . . . one Court of Record on every Monday in each week . . . . before the Mayor, Recorder and Aldermen . . . . three, two or one thereof in the absence of the rest, And that they can hold in that Court by plaint . . . . all manner of pleas, actions, suits and demands personal of all kinds of trespasses personal by force and arms and of all other kinds of trespasses within the . . . . Borough, the Castle ditch and the Franchises without Eastgate the suburbs the liberties and precincts thereof . . . . And of all manner of debts, pleas upon case of deceits, accounts of debts, agreements, detainings of chattels and detentions of cattle and of chattels and other contracts whatsoever . . . . although the same . . . . amount to or exceed the sum or value of forty shillings . . . . And that such pleas . . . . be heard and determined . . . . by such processes, means and methods according to the law and customs of our realm of England as and just as shall be agreeable to our law, and in as ample manner and form as is used and customary in any other our Court of Record in any other city, borough or corporate town . . . .'

The existing records of this court in the 18th century are fairly full. The court books show the progress of each case at the weekly meetings of the court from 1711 until 1847, although there are gaps for the years 1724-1729, 1744-1764, 1784-1804 and 1820-1832. These books give little except the purely legal aspects of the cases and have to be supplemented by the declarations and pleas which are particularly complete for the period 1733-1750. A number of affidavits, lists of jurors, warrants of arrest and notices to appear in court have also survived.

On the first Monday in October each year the mayor-elect took the oath of office before the retiring mayor, aldermen and six chief burgesses and then presided over the court. In 1777 'the old Mayor Robert Balch, Esq., however, held the next court, it being an error, led into from misrepresentation.' The other officials were the prothonotary (who was also the town clerk), two bailiffs, two

serjeants at mace and the crier. In 1835, the recorder replaced the mayor, a registrar was appointed and the number of serjeants at mace was increased to three. The serjeants at mace were by the Elizabethan charter the attorneys of the court and received customary fees for their services. The bailiffs performed many of the duties of a sheriff and served all the processes of the court including arrests and the summoning of juries, while the prothonotary recorded and filed all the proceedings and assessed costs when awarded. The court crier was often the gaoler and by 1840 he was paid £5 a year plus a quantity of coals and candles to the value of £3 a year.

The procedure of the court was long and tedious. The demand of the Elizabethan charter that it should conform 'to such and suchlike processes, means and methods according to the law and customs of our realm of England as and just as shall be agreeable to our law' was met by following fairly closely the practice of the old Court of Common Pleas before 1852. No major changes in procedure were made during this period, except that after 26th March 1733 the records of the court, in conformity with other courts, were written in English instead of Latin. In the large majority of cases the court book records that 'A. complains of B. of a plea of trespass upon the case.' This was a form of action, now obsolete, in which the damage complained of was not direct and immediate but was the consequence of an unlawful act. Having entered the complaint, the plaintiff gave details of his claims in his declaration to which the defendant was allowed at least three weeks to present his replication. Normally the case was decided then, but, if necessary, it would go to trial which would be followed by an inquiry to assess damages. Finally the writ *fieri facias* was issued (i.e. a writ ordering the bailiffs to make out of the goods and chattels of the defendant the sum for which judgment was given), and, if the necessary amount was not collected, the defendant was imprisoned by the writ *capias ad satisfaciendum*. Throughout the case, imparlances (i.e. adjournments ostensibly to allow a private settlement to be reached) were given liberally and seldom did a case go through all these stages.

The length of time which cases lasted varied considerably and it is often difficult to decide from the records when, if ever, some cases were finally settled. Generally from one-third to two-fifths of the new cases each year were discharged immediately and, for these, only one entry appears in the court book. Of the other cases, many continued almost indefinitely. For example, on 1st December 1729 Matthew Mills, Thomas Mills and the executors of John Mills sued William Luffe and the case continued with an entry in the court book each week for seven years until 19th April 1736; even then it was not finished but was 'continued till further proceedings are had therein'. Other cases continued until either the plaintiff or the defendant died. Tristram Bampfield sued Samuel Steare some time between May and October 1736 and the case continued until 14th July 1740: 'The

plaintiff is dead. He died Thurs. 4th July 1740.' The Municipal Corporations Commission reported in 1835 that the average time for judgment and execution was seven weeks if the case went to trial and four weeks if the defendant suffered judgment by default. But, even after judgment had been given, the debt and damages had to be recovered in full before the case could be discharged.

All actions at law tend to be expensive and those in the Bridgwater Court of Record proved no exception. From time to time long lists of fees were issued by the court but, where costs were allowed, it was the prothonotary who assessed or 'taxed' them. It was also customary for judgment to include, besides damages, 'for costs 2d.' It is not possible to give here the full table of fees but the following illustrates typical items:

For every warrant to arrest besides stamps and paper	0 . 6
For every arrest	2 . 6
Motion for every Rule or Order of Court	1 . 8
For entering every Rule or Order of Court	1 . 4
Copy and service of every Rule or Order of Court	2 . 8
Allowance and return of every *Habeas Corpus*	8 . 8
The like for a *Certiorari*	15 . 4
For every *Fi. fac.* or *Capias ad Satisf.* besides stamps	3 . 6
To the Serjeants for executing every *fi. fac.* or *ca. sa.*	2 . 6

One must not forget the expensive item of drawing up a declaration and the other necessary documents. These were hand-written and, like all legal documents, both lengthy and precise. Thus:

Drawing declaration	6d. per folio.
Engrossing to file	4d. per folio.
Copy declaration	4d. per folio.

For every other plea 6d. a folio and also replication, rejoinder or demurrer.

This expense was partially reduced in 1833 with the introduction of standard forms for all declarations and pleas.

In 1835 the Municipal Corporations Commission recorded that costs were heavy. Bailable actions going to trial cost £21, of which between £5 and £6 was for the prothonotary's fees, while if judgment was given by default costs usually amounted to between £7 and £8. The defendant's costs in cases going to trial were £4. Several examples are available of the total costs in actual cases. In the case John Thorne *v.* William Trivett in 1746 the plaintiff claimed for costs £10 18s. 7½d. of which 10s. 8d. was disallowed by the prothonotary. This case lasted some four months and went to trial. In many cases the costs and damages were greater than the debt; to illustrate this the cases Bawn *v.* Gibbs and Luffe *v.* Upham may be given in full:

Bawn *v.* Gibbs

for sumons and serveing	0 . 2 . 6
return of sumons	0 . 0 . 2
affidt. of service	0 . 3 . ½
entering appearance	0 . 4 . 10
do. decl.	0 . 3 . 4
copy on stamps to file	0 . 1 . 8
fileing decl.	0 . 3 . 10
3 Imparlances	0 . 1 . 0
Sollicitors fee	0 . 1 . 5
discont.	0 . 1 . 0
discharge	0 . 0 . 9
Bill and copy	0 . 0 . 7
	1 . 4 . 1½
Debt	0 .18 . 8
	2 . 2 . 9½
Move. for rule for plea	1 . 8
stamps for Judgmt.	2 . 0
	2 . 6 . 5½

Luffe *v.* Upham

process	0 . 1 . 0
Copy and service	0 . 1 . 0
Sollicitors fee	0 . 1 . 8
Return of process and calling	0 . 0 . 4
Drawing declaration	0 . 3 . 4
Tax on stamps to file	0 . 1 . 8
fileing thereof	0 . 3 . 10
Sollicitors fee	0 . 1 . 8
Rule for plea motion and entering	0 . 3 . 0
Discontinuance	0 . 1 . 0
Discharge	0 . 0 . 9
Bill and copy	0 . 0 . 8
Drawing plaintiffes affidavit duty and oath	0 . 4 . 1
	1 . 4 . 0
Debt	0 .14 . 0
	1 .18 . 0

In some cases costs were relatively light as in English *v.* Thorne: 6s. 1d.

Damages were normally claimed in the first instance for the standard amounts of 39s. 11d. and £4 19s., 'as it is said'. This may

be connected with the restricted jurisdiction of similar courts to £2 or £5 although the Bridgwater court could hear actions to any amount. It may have been an attempt to keep costs to a minimum, for solicitors' fees rose sharply with the amount at issue:

Solicitor's fee in every action for Plaintiff or Defendant where the cause of action amounteth to 40s. or upwards	3s. 4d.
Ditto where the cause of action amounteth not to 40s.	1s. 8d.

Certainly some importance was attached to this, for in March 1742 Edward Jarman asked the court's permission to amend his declaration 'by striking out the words two hundred pounds and inserting instead thereof four pounds and nineteen shillings'.

Cases seldom went to trial but, if they did, then a jury was summoned. In fact, two types of jury were used: one to decide the facts in dispute and one, after judgment had been given, to assess the damages to be awarded. The jurors were to have '40s. a year in lands, tenements or chattels' and, by 1835, 42 names were taken for these juries from the grand jury panel. Thus, in the case between John Gill and John Boon in 1736, Serjeant Popham was directed:

> Summon the under persons to appear at the Guildhall on Monday the 3rd of May next to make a Jury to try the issue joined between John Gill plt. and John Boon deft. to appear by nine of the clock in the forenoon.
>
John Maunder	Jonathan Vinicott	Richard Axford
James Chubb	John Bicknole	Thomas Bryant
John Mitchell	John Chapple	John Jackson
John Crandon	John Ody	Lyonel Farley
Christian Vanderborst	Thomas Biggs	John Mounsher
Thomas Woodham	William Laroche	Brazier
John Massiott	Edmund Hardin	Mr. Laver
William Davis	Malster	Richard Boothby
Malster	Benjamin Fisher	John Grabham
>
> Dated at the Court of Record held at the Guildhall on Monday the 26th day of April, 1736. Jam. Bryant, H. Lasher Bayliffes.

Similarly a jury was summoned to assess damages in the case between Sarah Bond and Thomas Luffe in March 1735:

> An Inquisition . . . . upon the oaths of William Harding, Richard Ball, John Lutterell Jun., John Rock, Richard Coles, Wm. Prance, Thomas Popham, John Richards, Rob. Etherton, Alex Escott, John Lovibond and Robert Bulgin Twelve honest and lawfull men of the Borough . . . . who . . . . do say that Sarah Bond Widow . . . . hath sustained damages . . . . to the value of thirteen shillings and for her expenses and costs to the value of two pence.

Although officially summoned, jurors did not always appear and the numbers had to be made up by conscripting bystanders, as in the case between Thomas Bryant and Robert Manchipp on 8th January 1776:

> . . . . and the Jurors of the Jury being summoned some of them came and are sworne upon that Jury and because the residue of the Jurors of the same Jury did not appear therefore other persons of those standing by the Court at the request of the said Thomas Bryant and the command of the said court are newly set down . . . .

A similar situation occurred in the case between Thomas Walker and William Thomas on 17th April 1780:

> . . . . and the Jurors of the Jury impanelled as aforesaid likewise came except two which two were made up by a Writ of *Tales de circumstantibus* and there names indorsed on the said panel . . . .

The summoning of a jury was an expensive item for, apart from the court fees, each juror was paid expenses:

For every *Venire facias* besides stamps	3 . 6
For return of every *Venire facias*	2 . 0
Calling and swearing every Jury on Tryal	2 . 0
To every Juryman either on Tryal or Writ of Inquiry	0 . 4
For summoning every Jury whether on Tryal or Writ of Inquiry	2 . 0

Occasionally, however, juries were not used and certainly in the earlier period cases were put to arbitration. This was a system which might reduce the costs of an action but which was open to abuse. This is illustrated in the case between James Knight and John Roberts in 1723, for John Roberts the younger complained to the court:

> John Roberts the Younger of Bridgwater aforesaid Goldsmith this day appeared in open court and maketh oath that some time in the month of September last he was sent for by Richard Jeanes and William Methwen thelder Arbitrators chosen indifferently between James Knight Clerke and his wife plaintiffs and John Roberts thelder Gent defendant they the said arbitrators asked him this deponent some questions relating to the difference between the parties abovesaid who then misbehaved themselves by telling thim this deponent that they would hear him this deponent another time altho he told them at the same time he had a great deal more to say notwithstanding which they made an award without hearing him any farther what he had to say therein.

The attendance of witnesses at a trial was obligatory and under penalty of £100 for non-appearance. Witnesses had to be summoned personally and, like jurors, their expenses had to be paid, 'for every

witness therewith for conduct money 1s.' In the case between Thorne and Trivett quoted above, for example, the summoning of four witnesses cost 16s. 10d.:

Subpena and duty	3 . 6
4 Subpena tickets	1 . 4
Conduct money with each	4 . 0
Journey to Shapwick to subpena Cross	5 . 0
Service of the other three	3 . 0

Only occasionally did superior courts intervene in cases before the Bridgwater Court of Record, but in 1778 the case Shaddock *v.* Escott was removed by a Writ of Error into the Court of Chancery, as was the case Holloway *v.* Baker in 1784. In 1777 also, after John Bryant had been imprisoned for unjustly detaining cattle, a writ of *Habeas Corpus* was obtained for his release.

It is quite clear that the jurisdiction of the court extended only to actions arising within the boundaries of the borough, a limitation which was strictly enforced. Thus in 1738 Thomas Rossiter defended a case brought against him by John Dudley:

> And the said Thomas Rossiter . . . . defends the force inquiry and damages . . . . and saith that the said court . . . . ought not to take further cognizance of the plea aforesaid because he saith that the promises aforesaid (if any) . . . . were made to the said John Dudley out of the jurisdiction of the court aforesaid (that is to say) at Wells in the County of Somerset . . . .

The court accepted this plea and not only discharged the case but awarded costs to Rossiter.

If judgment was given for the plaintiff, a writ of *fieri facias* was issued for the recovery of the debt, damages and costs awarded. The writ was executed by the court bailiffs who, if necessary, seized and sold the goods of the debtor. This was not always satisfactory. In 1739, for example, the bailiffs seized the goods of William Selway but reported that the goods 'now remain in their hands for want of buyers'. In another case William Davis owed a total of £60 plus 50s. damages. The bailiffs sold his goods but they 'made by the sale thereof at the best prices £33 1s. 10d. and no more which said money they now render to the said plaintiffe here in court and further return that the said defendant hath not at present any other goods or chattels.'

Often, especially in cases where judgment was given by default, it was obvious that the defendant was unable to pay his debts. He would then be imprisoned in the town gaol or in the 'Cockmoyle', a building near the Guildhall. Attention is drawn to these cases by the Insolvent Debtors Act of 1729 which provided for the release of debtors from imprisonment. A debtor, owing not more than £100, could surrender to his creditor all his possessions except his wearing apparel, his bedding and the tools of his trade, and then he could petition the court for his discharge. The creditor could oppose his

release from prison but he would then be responsible himself for paying the gaol fees of up to 2s. 4d. a week. This is well illustrated by the plea of Robert Harding in 1740. Harding had been sued for a debt of £3 and judgment had been given against him with costs and damages amounting to £5 2s. He was unable to pay this amount and was therefore imprisoned in November 1740. In December he appeared before the court and presented a petition for his release. He presented a full statement of his belongings:

> A true and perfect inventory or schedule of all the Goods Debts Credits Lands and Tenements either in possession Revertion or Remainder of me Robert Harding of Bridgwater Butcher now confind. in the Bayliffes ward or prison in Bridgwater aforesaid on an execution for £8 2s. at the suit of John Davis Butcher.
>
> First one Mare one Cow one Table Board one Pack Saddle one pair of Paniards two pair of Fish potts one Hackney Saddle one Bridle one Halter six Chairs one Cradle one pottage pott one Fire pan one pair of Tongs one poker two small Square Table Boards two Iron Spitts one Warming pann one Salter one Trening Box two Heaters one pair of Bellows four Iron Candlesticks one Pack Saddle Girth and Tang three Piggs.
>
> | | |
> |---|---|
> | Due from late Thomas Martin Shipwright deceased for goods sold and money lent | 18 . 0 . 0 |
> | Due from Henry Butterfield for goods sold and delivered | 1 .18 . 0 |
> | Due from Thomas Martin at the Almshouse for Horse Hyre | 0 . 3 . 0 |
> | Due from John Wills Parchment maker for Sheepskins sold and delivered | 0 . 3 . 6 |
> | Due from William Mitchel for beef sold and delivered | 0 . 1 . 4 |
> | Due from William Duddridge for Beef and Mutton sold and delivered | 0 . 3 . 4 |
> | Due from John Hooks for meat sold and money lent | 0 . 1 . 6 |
>
> I have no other Estate or Effects whatsoever except wearing apparell beding and furniture for myselfe or family and the tools or instruments of my trade or calling which are not in the whole of Ten pounds value.

The plaintiff, John Davis, raised no objection and Robert Harding was released, 'haveing taken the oath and in all other things conformed to the Statute'. Such petitions were not always so successful as, for example, in 1773 when Jonathan Chubb prevented the release of William Chilcott by delivering into court 'a promissory note under his hand for payment of the sum of 2s. 4d. weekly for so long as the deft. shall continue in execution of his suit'. The gaol fees at Bridgwater were:

Chamber rent and lodging every night if with a bed	0 . 4
Ditto if without a bed	0 . 2
For diet three meals a day with small beer	0 . 8

Occasionally a dispute would arise over the inventory of the debtor's belongings. George Holbrook had been imprisoned as a result of a suit brought by James and Ann Haviland, and his petition for release in February 1783 was unsuccessful as the Havilands had undertaken to pay 2s. 4d. a week to retain him. On 24th July, however, Holbrook claimed that the Havilands had not paid 2s. 4d. to him for the previous week and therefore petitioned for his release. To this the plaintiffs replied that in his inventory of belongings Holbrook had omitted 'to give an account of a silver watch of which he or some person in trust for him possessed in the time of his first imprisonment.' The court accepted this and Holbrook continued in prison until he eventually obtained his release in September.

Mary Court also obtained her release from prison by this Act in July 1739 but was charged:

Mrs. Court Gaol charges	
For 15 weeks lodging otherways Chamber rent att 2s. 4d. per week	1 .15 . 0
For her fee	3 . 4
	1 .18 . 4

Towards the end of this period the number of imprisonments dropped, for a survey of borough courts in 1839 reported that in 1835 one person, in 1836 two, and in 1837 none, had been imprisoned for debt.

Generally the accepted rules of law were followed in the court and no local or unusual customs were allowed. In 1738, however, John Smith was sued by John Ballam and it was recorded 'The Deft. to be first summoned as a Freeman' although this does not seem to have given him any material advantage. Various aspects and points of law arose in the following cases:

In 1737, Robert Methwen's action against Hugh Aish was dismissed as he was unable to produce evidence of 'business done according as set forth in the declaration or of any bill delivered.'

Edith Luffe was discharged and costs awarded to her in the action brought by Esther Methwen as 'she the said Edith at the time of making of the several promises and assumptions was within the age of one and twenty years.'

Joan Donne, before her marriage to Edward Donne, gave a promissory note to Melliar Hoyle who sued both of them for the amount of the note.

In July 1739, William Luffe the younger admitted the debt for which he was sued and paid into court £1 12s. 7d. debt and £3 3s.

for costs. The plaintiff, Katherine Marten, was given the option of accepting this or continuing the case, but if, as a result, she was awarded less than the amount paid into court, then she would have to pay the defendant's costs.

In April 1736, Thomas Luffe, the defendant, claimed that he did not receive notice of the declaration against him by Sarah Bond. John Popham, one of the serjeants at mace, however, gave evidence that he had delivered 'a paper writeing' to the wife of Jonathan Gyles and daughter-in-law of Thomas Luffe as he had been 'informed by one of the neighbours that that dwelling house was the dwelling house of the said defendt.' The court believed its serjeant at mace and dismissed Luffe's plea.

The defendant was normally allowed bail after his appearance in court to answer the plaintiff's declaration. Bail was often fixed at the amount of the alleged debt. Thus George Holbrook was allowed bail of £10, the amount he owed James and Ann Haviland. The defendant would find two sureties as, for example, Thomas Young, perukemaker, and John Gillard, mariner, who stood surety for John Escott in 1778 in the sum of £10 17s. 6d. Occasionally only one surety appeared and in this case bail was doubled, as, for example, when Thomas Starr stood bail for Robert Horrod: '. . . . the Deft. hath now found special bail to wit Thomas Starr who hath undertaken for him in seven pounds and sixteen shillings being double the sum sworn to, on account of his being single bail.' If the defendant did not appear after being summoned the bailiffs were said to be 'in mercy 2s. 6d.'

The cases brought before the court give an insight into the trade and business life of an eighteenth century town and river port. An extensive credit system must have been in use, for the majority of cases arise from the failure to honour 'promissory notes'. Thus in 1734, James Andrews sued Richard Hooper who:

> to the said James then and there faithfully promised to pay unto him the said 40s. when he should be thereunto afterwards requested . . . . for diverse wares and merchandizes . . . . Nevertheless the said Richard his several promises and undertakings . . . . made in no wise regarding but contriveing and fraudulently intruding . . . . craftily and subtily to deceive and defraud . . . . hath not paid or in any wise satisfied him for the same.

Many cases arose from business deals and contracts. Thomas Fry agreed to buy a horse from Moses Forcey and for this he was to pay £3 3s. of which he paid 1s. 'in earnest' and gave a promissory note for the rest. But Moses Forcey refused to deliver the horse or to return the 1s. and the promissory note. In September 1735 Robert Baster of Bicknoller contracted to buy from Samuel Fry 25 score pounds of clover seed at 4½d. a pound and paid 1s. 'in earnest', but when Samuel Fry delivered the clover seed the following spring, Robert Baster 'refused to receive it or pay for the same'.

One case seems to have arisen from the failure to keep accurate accounts. In 1734 Joseph Nicholls complained that Moses Forcey had owed him £143 2s. 7½d. and various other amounts and of this £4 16s. was still outstanding. Forcey countered this by producing a bill owed him by Nicholls for £151 17s. 2d. Often there were straightforward debts for such matters as provisions, rent, attendance by a surgeon and medicines, 'a Tombstone as also for work, labour, carriage, cutting and engraving', shoeing and farrier's work, 'a wastcoat and breeches', and interest on a loan.

The whole process by which a 'deal' was made is revealed in the evidence of William Luffe when he sued John Upham for a debt of 14s. in June 1735:

> William Luffe the plaintiffe in this cause maketh oath that sometime before Michaelmas last past the said Defendant John Upham came to this Deponents house in Bridgwater aforesaid and asked him if he was disposed to drink a mug of ale to which this Deponent agreeing they went together to the Red Lyon Inn in Bridgwater aforesaid where the said Defendant told this Deponent that the mare which was Mr. Sweetings (meaning a mare which Mr. Sweeting had before desired this Deponent to have the care of in another affair) was now the said Defendant's and that she was lame and desired this Deponent to do his best for her and he would send her to him and desired him to keep her and accordingly the said Defendant soon thereafter sent the said mare to this Deponent and he kept her a month or more and did his best to cure her of the lameness.

In a fairly active river port one might expect to find actions arising from ships and shipping, as for example the dispute between William Hozee and Philip Cox the younger in 1734 over the loan or half share in the ship 'Hannah and Mary' for the journey from Bridgwater to London. In1737 John Curry, master of the 'Providence' on behalf of its owner Joseph Tibbs, complained that a vessel called the 'Seaflower' with James Watt as master:

> run on board the Providence in Swanzey River and broke her Bowsprit and anchor which this Deponent hath since caused to be repaired and . . . . he hath truly paid forty shillings and upwards . . . . for the damage so done to his said vessell by the said James Watts vessell as aforesaid which was occasioned meerly through negligence and might have been prevented by the said James Watts.

In 1733 John Davis, sailor, took the brigantine called 'Mary' without the permission of its owner, Edward Castell, and was sued for £8 damages 'for ill useing the said Brigantine her tackle and furniture and for wasting the goods of the said Edward Castell on board the said vessell and for the loss of time and hindering the said vessell in the course of her ordinary business.' The 'Providence' appears again in 1740, for Jonathan Prior agreed to serve Joseph Tibbs on this

vessel for the voyage from Bridgwater to Swansea and back. For this he was to be paid 20s. and a bag of sea coals but, when the voyage was completed, Tibbs refused to pay.

Finally there are several cases of unjustly taking and detaining cattle. The longest and most celebrated of these was that between John Lilly and Hugh Biffen in 1736. John Lilly claimed that on 23rd July 1736 in a certain close called '2 acres' Biffen took a bull at a 'common mead called Crophill', part of the manor of Haygrove cum Bridgwater. This land had belonged to Sir Thomas Hales who on 18th September 1733 granted it to John Harper for 99 years and he in turn leased it to Hugh Biffen for one year from 2nd February 1735. The bull, Biffen claimed, was causing damage but Lilly denied this. The case went to trial and the jury found for Lilly but the court refused to accept this for the jury 'did not find their verdict according to evidence'. No definite conclusion was reached and the case was abandoned. A similar case occurred in 1735 between John Fisher and Thomas Pepperell who claimed he had detained the two mare colts in question because they were damaging his property. A court order was also made in 1741 to stop John Chinn, yeoman, 'vexatiously impounding or molesting William Mitchell's cattle'.

Certain people were frequent litigants in the court. Between 1734 and 1738, John Gill appeared eight times, four times as plaintiff and four times as defendant. He had also appeared in 1732 with Abraham Gill who had agreed to pay 18d. a week to the churchwardens to support his illegitimate child. John stood surety in the sum of £100 but Abraham broke his agreement and the churchwardens sued them both. John Gill's law suits, often unsuccessful, led him into further debt and in 1735 he was sued by Tristram Bampfield for £40 attorney's fees. Robert Harding appeared in 16 cases between 1732 and 1741. In 12 of these he was the plaintiff, mostly for small amounts, and perhaps it was his lack of success in these that led to his bankruptcy and imprisonment in 1740. Joseph Pople was somewhat similar for on 14th February 1736 he brought cases against William Harding, Sarah Slocombe and John Smith but in the next 4½ years he had to defend nine suits and eventually finished in the debtors' prison.

Not infrequently a person was suddenly called upon to defend several actions and this must have been a sign of impending bankruptcy. For example, at the end of October 1723 cases were brought against Henry Freeman by Richard Porter, William Gandell, Valentine Gardner and William Walford. Similarly on 4th July 1720 Robert Steare brought three separate cases against John Roberts, gent., for the large amounts of £12 8s. 2d., £301 18s. 6d. and £69 18s. 6d. For each of these the writ *capias ad satisfaciendum* was issued and Roberts was imprisoned.

Because of the cost, it is perhaps surprising to find one person bringing a series of actions against several others at the same time.

For example, on 18th February 1739 Arthur Westcombe brought actions against Joseph Taylor, John Mounsher, John Chinn of Bower, John Jerritt, Vincent Boldly and Robert Beach. On 29th April 1765 Betty Handcock sued Mary Harding, Mary Baker, Frances Hozee, John Marks, Ann Monticue, William Bond and Sarah Morse. These actions may have arisen from the closing of a business or the attempt to clear outstanding debts.

It is interesting to note the appearance in the court books of a body of Quakers. Reference is made to the following: John Ogborn, Benjamin Holloway (merchant and builder), Samuel Hann, John Cook, Thomas Starr and Joseph Nichols.

The table below indicates that the court was very active for at least the first half of the 18th century:

		Cases discharged		Cases discharged in one week			Entries in court book	
Year	New cases	Total	% of new cases	Total	% of cases discharged	% of new cases	Total	Weekly average
1711-12	125	79	63	49	62	39	1,055	20
1723-4	193	189	95	125	66	65	1,836	35
1734-5	87	71	82	23	32	26	511	10
1740-1	144	87	60	58	68	40	666	13
1764-5	59	33	56	22	66	37	280	5
1770-1	69	36	52	26	72	38	284	5
1780	19	17	89	7	41	37	296	6
1806	7	1	—	0	—	—	225	4
1833	18	15	83	3	20	17	832	16

One stage in the decline of the court came with the Municipal Corporations Act of 1835 when the recorder took over the responsibility of presiding over the court in place of the mayor. Immediately the weekly meetings of the court were replaced by irregular ones. The borough council, annoyed by this, refused to increase the recorder's salary of £40 a year despite his new duty, for this post 'has hitherto been filled gratuitously'. The council minutes for 5th October 1836 contain a further protest:

> Resolved that in the opinion of the council the value of the Court of Record to the town depends mainly on its being held weekly by which means judgment may be speedily obtained. The council therefore looking to the interest of the trade of the town respectfully urge on the Recorder the necessity of the Court being held weekly as heretofore.

The council's resolution was of no avail and the court continued to meet only occasionally, for example 5 times in 1837 and 7 times in 1839. The court was finally discontinued in 1847, being replaced by the new County Court established under the 'Act for the recovery of small debts and demands', 1846.

This article is based on unpublished documents preserved in the Town Clerk's Office, Bridgwater. Additional material is contained in the following official reports:

Report of the Royal Commission on Municipal Corporations, 1835.
Parliamentary Papers 1839, 43;
1840, 41.