

## ATTORNEYS

The court records were kept in such a way that it is often not possible to know whether litigants were represented by *attorneys at law* or by mere *attorneys in fact*. Both, especially in the earlier years, appeared before the court. Attorneys in fact can usually be recognized by a letter of attorney (power of attorney) filed in court, authorizing some person to appear in court and act for another in a given cause, or to execute a deed, or to perform some other specified legal function. Following the restoration of the Province to the Calverts in 1658 the legal work conducted before the court passed more and more into the hands of professional lawyers. By this it is not meant that the attorneys at law practicing in the Provincial and county courts devoted themselves exclusively to its practice, for nearly all of them were planters as well. During the period covered by this record, the great bulk of the business before the Charles County courts came to be carried on by a comparatively small group of local attorneys at law.

The *attorneys at law* who most frequently appear in Charles County at this time are Benjamin Rozer, Samuel Cressey, and John Jones. Rozer, Cressey, and Jones first appeared as attorneys in the years 1662-1663. Cressey died in 1675. Jones was in active practice when this record closes. Rozer, when sheriff, did not practice. Richard Boughton and Henry Bonner, both of whom had held the office of clerk of the court, after their retirement as clerks, frequently represented clients before the court. The act of 1666 prohibited county justices, clerks, and sheriffs from practicing as attorneys before their own court (*Arch. Md.* II; 132). Just before the close of the 1666-1674 period we find a few formal entries in the court minutes of men sworn in as attorneys. Thus at the September, 1674 court, Mr. Henry Bonner and Mr. John Jones were "sworne as Attorney of this Court by th<sup>e</sup> Worshipfull th<sup>e</sup> Comission<sup>rs</sup> of th<sup>e</sup> s<sup>d</sup> Court" (p. 586). This formal action was the result of the recent passage of a law with the amusing title, "an act to reform the attorneys, councellers and solicitors at law of this Province", passed at the May-June, 1674, General Assembly, restricting practice by attorneys before the county courts to those sworn in respectively by each county court (*Arch. Md.* II; 409-411).

That the court believed that lawyers stirred up trouble between servants and their masters is indicated by an order of the Charles County Court at the March, 1673, session, prohibiting any attorney from appearing for a servant against a master without having first obtained the approval of the court (p. 496). The act of 1674, which fixed 200 pounds of tobacco as the maximum fee that might be charged by an attorney in a case, had the result which might have been expected. Prior to its passage, when costs of suit were assessed against the losing litigant, a fee of 60 pounds of tobacco was invariably allowed by the court to the lawyer of the successful litigant as one of the "costs". But immediately after the passage of the 1674 act invariably the maximum fee permitted under the act, 200 pounds of tobacco, was allowed in the bill of costs as the fee to be paid by the loser to the attorney of the successful litigant. Beginning with the September, 1674, session, the new ceiling figure of 200 pounds appears on the record. But it is not disclosed whether the unsuccessful litigant