

tion to deputize other attorneys.¹ In some instances the distinction between the attorneys in fact and the trained attorneys at law is not easily applied; some of those who acted as agents developed a business of serving as attorneys in the courts and overstepped and obscured the dividing line. But there were, and continued to be, attorneys in fact only, or proxies, who were not and did not pretend to be attorneys at law, even if set down as "attorneys" without distinction.

The attorneys at law, those who may be said to have formed a truly professional bar, were not at that time, nor for a century afterwards, men whose sole occupation in life was their work in the law. The chief occupation of substantially all men was the cultivation and marketing of tobacco. Work in the law was only periodic, having been, with possible minor exceptions, taken up only at the brief court terms in each year; pleadings were filed only when the courts opened their terms, and whole terms intervened between successive steps in the pleading. The attorneys at law were, indeed, men of expert training in the law, but not exclusively practitioners of it. Just what were the beginnings of this truly professional bar is the subject of uncertainty. As early as 1637 opinions of leading men were taken on questions of law, and brief notes of the earliest provincial court sessions show an observance of the distinctions between causes of action at common law and an approximate adherence to the rules of procedure in England. There is a reported instance of the requirement of special qualifications for an attorney in 1657; a Captain William Mitchell was refused permission to act as attorney in other men's causes because he did not possess the qualifications required by the English statute of 1605,² which provided that none should be admitted attorney in any of the king's courts unless brought up in the same, or otherwise well practiced in the soliciting of causes, and found by their dealings to be skilful and honest. In the following year, one Luke Gardner, in a petition to the governor and council to compel Thomas Gerrard and his wife to give him a deed of land in place of one found to be insufficient, said: "yo^r Pet^r hath severall times shewed the Deed to divers persons well skilled in the law, to have their Opinions Whither or noe it were sufficient."³

Whatever the beginnings, in the decade of the 1660's the courts are found admitting what were denominated "sworn attorneys of the court," evidently men of special training in the law; and these constituted a professional bar. There is a traditional belief in Maryland that uncertainties and errors in the original definition of boundaries of lands caused an extraordinary amount of litigation, and drew to the province a supply of lawyers larger than that in other colonies.⁴ In the preambles of several statutes

¹ *Archives*, XLI, 233.

² Stat. 3 James I, ch. 7; *ibid.*, XLI, 10.

³ *Ibid.*, XLI, 143.

⁴ J. T. Scharf, *History of Western Maryland* (Philadelphia, 1882), pp. 380 *et seq.*