

a fault. Whereupon, Mr. Story excused himself by ignorance of any such order, and since had considered it, and doth acknowledge it not to be well done, and accordingly required the House to remit it, which willingly by the House was remitted.^(a) Subsequently the practice was expressly prohibited by a standing order passed on the 6th November, 1666, ^(b) in the following words:—‘That such members of the House as are of the long robe shall not be of counsel on either side in any Bill depending in the Lords’ House, before such Bill shall come down from the Lords’ House to this House.’ This rule has been relaxed only on rare occasions—once when the King’s and Queen’s Attorneys and Solicitors-General, then members of the House, were permitted to plead before the House of Lords for and against the Bill against Queen Caroline, and then it was understood they should not vote on it in the Commons; and again when Mr. Roebuck was allowed to appear against the Sudbury Disfranchisement Bill, which had passed the Commons, and then only because it was held to be a Bill involving a matter of public policy.

The foundation of this rule is the unwritten law of Parliament, which declares that ‘a member is incapable of practising as counsel before the House or any Committee, not only with a view to prevent pecuniary influence upon his votes, but also because it would be beneath his dignity to plead before a court of which he is himself a constituent part. Nor is it consistent with parliamentary or professional usage for a member of Parliament to advise as counsel upon any private bill, petition, or other proceeding in Parliament’ ^(c).

But although the unwritten law of Parliament had enabled the House to punish by expulsion members who had

received moneys ‘for their pains and services’ in promoting private bills in Parliament, the House, on the 2nd May, 1695, affirmed the common law of Parliament, ‘making it a high crime and misdemeanour for any one to presume to offer money to any member of the House to stimulate him in the discharge of his duties’ ^(a), in the following words:—‘That the offer of any money or other advantage to any member of Parliament for the promoting of any matter whatsoever depending, or to be transacted, in Parliament, is a high crime and misdemeanour, and tends to the subversion of the English Constitution.’ ^(b)

Prior to this, and about 1571, complaint was made to the House that some members had been guilty of some gross breaches of parliamentary law in taking ‘fees or rewards for their voices in the furtherance or hindrance of Bills offered in the House,’ and a Committee was forthwith appointed to examine the matter, and on the following day they reported, ‘That they cannot learn of any that hath sold his voice in this House, or in any way dealt unlawfully or indirectly in that behalf’ ^(c).

In 1677, complaint was made to the House that Mr. John Ashburnham, a member, had received £500 for promoting the business of French merchants in connection with legislation. His was the first case of the kind recorded in the journals of the House. The charge was investigated and proved, and he was expelled under a resolution which declared that he had ‘committed an offence to the dishonour of the House, and contrary to his duty as a member thereof’ ^(d).

But this precedent before their eyes did not prevent a Speaker of the House (Sir John Trevor), who also held the judicial office of Master of

(a) 1 Commons Journal, 58.

(b) 8 Commons Journal, 646.

(c) May’s ‘Parliamentary Practice,’ 377.

(a) 151 Hans. 3rd, S. 177.

(b) 11 Commons Journal, 331.

(c) Ibid. 93.

(d) 9 Commons Journal, 24.