

least equally illegal. To prove the impropriety of this order, a very short reference to the Statute will suffice. The discretionary power of the Committee is relied on in the order itself. Now what discretion is allowed the Committee? Section 145 gives a power of this nature in certain cases; but not when by affirmative and negative terms the Statute indicated a certain course, and no other, as the one to be followed. All discretionary power is expressly excluded, if the proper course be thus indicated: and no other latitude of the kind is allowed to the Committee in any other Section of the Statute. Now by Sections 79, 80, and 81, the Statute *affirmatively* orders that lists shall be filed *on a certain day*; unless otherwise ordered by the Committee, on an application *made on that day*:—And by Section 82 it *negatively* provides that no evidence shall be received against any vote not included in lists filed as directed by the previous Sections. Here are *negative* and *affirmative* terms, indicating a certain course and forbidding any other, which course it is admitted was not followed in this case. Where then is the discretionary power of the Committee? The Statute expressly excludes it in a certain state of things: and exactly in that state of things the Committee assume it, unasked: and grant an unsolicited permission to do exactly what the Statute declares shall not be done, viz: to file lists after the period fixed by its terms.

The circumstances under which this illegal permission was granted really appear to make the matter worse. Had the Sitting Member been taken by surprise in any way: had the proceedings been unusually rapid, and the delay beyond the prescribed time but small, it might have been said that equity dictated the order, and that a sense of justice would excuse the breach of the law which it involved. But so far from that being the case, a year and a half had elapsed, during which nothing had been done by the Sitting Member towards scrutinizing the Petitioner's votes. The whole period between the first and second Sessions had been suffered to pass by without the slightest intimation of his intention to attempt to do so: and it was not till he found himself in a minority, near the end of the second Session of the Parliament, that he made the application in question. The mere order to issue a commission of course gave him peaceable possession of his seat for the remainder of the second Session, and the beginning of the third: while under the law he was bound to take proceedings towards a scrutiny in the beginning of the first. In the consideration of the equities of the order, too, it would not have been out of place for the Committee to recollect that they had already denied to the Petitioner, for one Session, the right of shewing his majority; and that even if they were right in their decision setting aside the first commission, it was not on account of any error committed by *him*: that those proceedings were

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