



FRANK REED HORTON MEMORIAL LODGE NO. 379, F. & A. M.

UNDER THE JURISDICTION OF THE MOST WORSHIPFUL GRAND LODGE OF FREE AND ACCEPTED MASONS OF THE PHILIPPINES

Lecture No. 08 **MASONIC JURISPRUDENCE**
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By: VW Antonio C. Zeta

Quoted from Brother Ed Halpus' 'Masonic Matter's and Brother Albert Mackey's 'Jurisprudence of Freemasonry'

"He who decides a case without hearing the other side, though he decide justly, cannot be considered just."

Seneca

"One cool judgment is worth a thousand hasty councils. The thing to do is to supply light and not heat."

President Woodrow Wilson, in speech – 1916.

Sir William Blackstone has defined a crime as "a breach and violation of public rights and duties, which affect the whole community, considered as a community." Brother Albert Mackey adds that the whole community could be read as "*the Order*" when read by Masons, and to read it as it might apply to Freemasonry.

Often a feeling of sadness comes when crimes are heard on the nightly news, and especially when it is heard in a Lodge about a Brother Mason being reprimanded, suspended or expelled as punishment for unmasonic conduct.

Brother Albert Bebe in commenting on how brothers can abide by all the Landmarks of Freemasonry, when he might not even be able to tell what they are, says that if a Mason abides by the obligations he agreed to and the charges of the three degrees, he will be living in compliance with the Landmarks.

It can be guessed that almost every Mason will remember the content of his obligations; what he agreed to be obliged to — in respect to Freemasonry, his Brothers and mankind. However, one can never be sure if every Mason will remember what is contained in the Charge of each degree or in the Charge at Closing of the Lodge; if we are a little rusty on the charges it might be a worthwhile project to read them again and see the wisdom contained in them, our Lodge gives copies of these Charges after every conferral of each Candidate.

It is interesting that in civil law there is a distinction "*between juris praecepta, or precepts of the law, which are without any temporal punishment, and the juris regulæ, or rules of law, which are accompanied with a penalty.*" Similarly the laws of Freemasonry can be divided into directive precepts and penal regulations.

Directive precepts are accompanied with no specific punishment, and they can be found in the Old Constitutions as well as in the ritual. They are the kind of thing that tell the Mason the things that mark a good and true Mason. The directive precepts have more to do with the ethics of Freemasonry than with the law.

In the Old Constitutions the first class of offenses that are laid down are offences against the moral law. In the Constitutions of 1723 the first general heading begins with; “*Every Mason is obliged by his tenure to obey the moral law.*” This moral law alludes to the law of nature, (*lex naturæ*.) The law of nature has been defined in ‘System of Moral Philosophy’ and quoted by Brother Mackey to be ‘the will of God, relating to human actions, grounded on the moral difference of things; and because it is discoverable by natural light, is obligatory upon all mankind.’

The moral law of nature has three characteristics:

- First it is said to be eternal, having always existed.
- Second it is universal; all mankind, of every country and religion, are subject to it.
- Third it is immutable, which immutability necessarily arises from the immutability of God, who is the author of the law.

The precept in the first general heading after saying a Mason should obey the moral law continues by saying; “And if he rightly understands the Art, he will never be a stupid Atheist, nor an irreligious libertine.” In the language of the day when the Premier Grand Lodge was beginning, an Irreligious Libertine was a person who denied all moral responsibility. It is a well known fact that a man must believe in a Supreme Being, (God) to be made a Mason. Because of that we, as Masons, know that our new Brother recognizes his moral responsibility to God. Likewise, if a Brother after being made a Mason adopts the view of the Atheist the question that might arise is whether he can in good conscience remain a member of the Freemasons.

“Cruelty to one’s inferiors and dependents, uncharitable-ness to the poor and needy, and a general neglect of our duty as men to our fellow-beings, exhibiting itself in extreme selfishness and indifference to the comfort and happiness of all others, are offences against the moral law,” which is referred to in the Charges of a Freemasons.

Next come the penal regulations, which are always subject to the possibility of a Masonic penalty, and are also transgressions of the municipal law, or the law of the land. Wrongful acts such as these are divided into two classes; *mala en se* and *mala prohibita*. A *malum en se* is universally acknowledged to be a crime, an evil in itself, by all civilized men. A *malum prohibitum* is a prohibited act, and is one which has been made a crime by the enactment of a law; this means that what is a *malum prohibitum* in one country may not be in another. So *mala prohibita* offenses are Masonic crimes only to the extent of the relationship to Masonic Laws and to Laws of the land. *Mala en se*, however, are always considered Masonic offenses because these are violations of the moral law.

Obedience to the laws of the land is one of the first lessons taught to the new Mason through the charge of the first degree, and it is also stressed in the Charges of a Freemason; it is good if the new Mason's mentor makes him aware of these charges. If a Mason violates the laws where he lives he also commits a Masonic offense, because by his actions he not only transgresses the Masonic law of obedience to civil authority he also brings shame upon the Craft.

According to Brother Mackey in his Jurisprudence of Freemasonry the rule in Masonry is "that where a crime is not against the moral, as well as the municipal law, the Order (*Fraternity*) will not exercise jurisdiction over the offender, unless it is required for the vindication of the character of the institution, affected through the wrongdoing of one of its members."

It should also be noted that an acquittal of charges against a Freemason by a civil court may not relieve a Freemason from a Masonic trial for the same offense.

The reference for this was primarily 'Mackey's Jurisprudence of Freemasonry.' This is a good book to read and study if you have an interest in the Charges of a Freemason, the Landmarks, and Masonic Law. In my case I would have said I had no interest in Masonic Jurisprudence, but when I began to read this book I did become interested in what it contained, which led me to other books on the subject for reference as well as to page after page of Brother Mackey's book.

"Four things belong to a Judge: to hear courteously, to answer wisely, to consider soberly, and to decide impartially."

Socrates