**Introduction**

We are told:

"Grand Lodge alone has the inherent power of enacting laws and regulations for the Government of the Craft, and of altering, repealing and abrogating them, in manner prescribed only by the Book of Constitution, always taking care that the Ancient Landmarks of the Order be preserved." [Rule 16 B. of C.]

The powers are not absolute, but must be exercised within certain bounds. Likewise it is part of the duty of the Grand Registrar:

"to examine the Bylaws of Lodges and to certify to the Board of General Purposes if they are in accordance with the Book of Constitution and the Ancient Landmarks."

Other examples about with the Book of Constitution, which indicate that there are laws, regulations, powers and duties which apply to Grand Lodge, Lodges and Brethren, details of which are not found within the cover of the Book of Constitution. What are these other Rules and Regulations? Where can they be found? What is their importance when compared with the Book of Constitution?

The answer is to be fond in that all embracing title "Masonic Jurisprudence" and my task is to here sketch an outline of its various sources.

The Dictionary tells us that "Jurisprudence is the science or philosophy of the law" . . . When then is "Masonic Jurisprudence?" Josiah Drummond, a leading American Masonic Jurist, defines it this way –

"Masonic Jurisprudence is not the invention of new laws, or the procuring of their enactment, but the knowledge of the ancient usages of the Craft, and of the Landmarks and Laws of the Institution. Our laws are in many cases the usages of the Craft for many years, and it is only by a careful study of our history, policy and customs, that knowledge of these laws is obtained."

To assist in an understanding of this very complex and interesting subject I have prepared three charts analysing the breakdown of Masonic Jurisprudence into various subjects.
'Masonic Jurisprudence' is divided into three principal groups named: Ceremonial Law, Moral Law, and Judicial Law. Refer to Chart A.

Ceremonial Law will not be touched except to enumerate the sources which create the rules making ceremonial law. They are Usages and Custom; Ritual; Masonic Etiquette; Order of Precedence; Edicts of the Grand Master; and the Decisions of the Ritual Committee.

I will for the present purposes, concentrate on the analysis of Judicial Law, although I note that Moral law and Judicial Law are closely intertwined and regularly overlap. The source of Moral law are the Volume of the Sacred Law; the Ritual; and Custom. Let me turn my attention then to Judicial Law.

The most logical division of Judicial Law is into the Written Laws and the Unwritten Laws. Charts B & C.

The Laws, customs and usages of Freemasonry may be classified, like the laws, customs, and usages of our Parliament into two divisions - the "written laws" and the "unwritten laws". Blackstone (a well known English legal authority) defines "the unwritten laws of England" as those "whose original institution and authority are not set down in writing, as Acts of Parliament are, but receive their binding power and the force of law by long and immemorial usage, and by their universal reception throughout the kingdom"; and he defines "the written laws" to be the "statutes, acts or edicts made by or with the advice and consent of, the Lords Spiritual and Temporal and Commons in Parliament assembled."

These definitions are generally applied to the "written" and "unwritten laws" of Freemasonry.

1. The Unwritten Laws

Although at present our law is shifting gradually to the written "enactment", the "unwritten law" is still by far the more important. In the first instance, we must rely upon it to meet all new problems, for the legislator acts only after they attract attention. But even after the legislator has acted, it is seldom if ever that his foresight extends to all the details of his problem or that he is able to do more than provide a broad outline. Hence even in the field of enacted law, the unwritten element of the legal system plays a chief part. We must rely upon it to fill the gaps in legislation, to develop the principles introduced by legislation and to interpret them. Accordingly the unwritten or traditional element of the legal system is and must be used even in an age of copious legislation to supplement, round out and develop the enacted element. Moreover large areas are often untouched by enactment, and here the traditional element is supreme. Here fundamental ideas change slowly, and may be held back at times in the interests of uniformity and consistency, through the influence of the traditional element. In Masonry, the most important of our jural materials are in the "traditional element."
Firstly, we must rely upon the traditional element to meet all new problems. Secondly, we must rely on the traditional element to fill all gaps in Masonic Legislation. Thirdly, we must rely on it to interpret and to develop legislation and fourthly, above all, as we are a universal institution and ought to legislate cautiously, we must rely on the traditional element to furnish the principles of legislation and as a means of criticising legislation.

The "unwritten laws" of Freemasonry may be summed up as comprising
(1) The Ancient landmarks;
(2) The Moral law;
(3) Masonic Usages and Custom;
(4) Grand Master's Prerogatives; and

I will now deal individually with each of the five classifications into which the "unwritten laws" are divided.

*Ancient Landmarks*

What are "Landmarks"?

Numerous attempts have been made to enumerate and to define the Landmarks of Freemasonry but as one leading Masonic writer has said "No one has been able, or ever will be able, to compile a list of Landmarks that will prove to be acceptable or satisfactory to all concerned. The basic principles of Freemasonry, which are presumed to be embodied in the Landmarks, cause little trouble, for the Grand Lodges of English speaking countries are in practical accord in this respect. The chief difficulty lies in the determination of what a Landmark, and therefore binding upon the entire Craft and permitting of no departure from its provisions, and what is merely a regulation, subject to modification or repeal at the pleasure and judgment of Grand Lodges."

We should not, however, confuse "Landmarks" with Fundamental Principles. Landmarks are of human origin and fundamental principles are God's Law. As an example of something which might be universally accepted as a Landmark, perhaps the essential requisite for a candidate to believe in a Supreme Being before he may be admitted to the Craft, would be as good an example as any.

The Craft ritual contains many references to Landmarks. The Initiate is told that his fidelity must be exemplified by his strict observance of the Constitutions of the Fraternity and by adhering to the Ancient landmarks of the Order. The Fellow Craft is told in the course of a lecture that he may offer his opinions under the superintendent of an experienced Maser who will guard the Landmarks against encroachment. The Master Elect is required to be well-skilled in the Landmarks and has to promise that he will not permit or suffer any deviation from them and that it is not in the power of any man or body of men to make innovation in the body of Masonry.
Many of the best known Masonic writers have expressed themselves on the subject of Landmarks, all of whom acknowledge the difficulty in defining a Masonic Landmark. Just as there is no authoritative definition, so no Landmarks are named by Grand Lodge which, in its wisdom has neither defined nor specified them. It has been suggested that, if the Landmarks were approved by Grand Lodges, then the same authority could "disapprove", alter, change or obliterate the Landmarks - whereas Landmarks are unchangeable. Unfortunately there is a tendency to use the work "Landmark" as a convenient name or description of something not having definite meaning. Examples abound of attempts to correct a grammatical error in the Ritual as being classified as "the Landmarks being in danger" an incorrect usage of the term.

Masonic writers often quote a list of some twenty-five so called landmarks offered by the well-known American Mason, Albert G. Mackey (listed in an Encyclopedia of Freemasonry (1858). Whilst I do not personally agree with all the "Landmarks" identified by Mackey, I would list the following, purely as examples of Masonic Landmarks:

1. A belief in a Supreme Being.
2. The V.S.L. having a place in every Lodge.
3. A Candidate for Initiation to be a man of mature age.
4. The division of symbolic Masonry into three degrees.
5. The Government of the Fraternity by an elected Grand Master.

**The Moral Law**

We now come to the "Moral Law". It is suggested that there are three main sources from which a Freemason can obtain the answer to the question, "What constitutes Moral Law?" The sources suggested are 'The V.S.L., the Ritual and Custom.

Without going into the moral teachings contained in the V.S.L., or the Ritual, the term "Moral Law" is accepted by various authorities as resting upon an awareness of the difference between what is "right" and what is "wrong".

In these modern days of enlightenment there can be no excuse for normal people being ignorant of the difference between right and wrong. From childhood onwards we are surrounded by the influences of parents, home, friends, the school, church, etc., all of which agencies held up to know definitely what is right and hence as members of human society it is incumbent on us to do the right thing, if we except the same be done to us.

Thus, masonically speaking, the "Moral Law" can be summed up in three principal duties:

1. Our duty to God;
2. Our Duty to your Neighbour;
3. Our Duty to Ourselves.
Masonic Usage and Custom

Next we come to "Masonic Usage and Custom" or what may be called "Tradition". Tradition has been defined as "That which is handed down at all times, and in all places and by all persons". Tradition is one of the world's most powerful forces. Men of all ages and in every sphere of activity have to reckon with it. No one can move without encountering it in family and commercial life, in business and in society, in the legal world and in religion, as well as in Freemasonry.

Along with the Landmarks, the traditions which control and direct the usages of the Fraternity form no small part of its "unwritten law", and they are of considerable use in the interpretation of doubtful points of its unwritten law. The law which thus has antiquity, universality and common sense for its purport, must over-ride all subsequent laws which are modern, local and have only partial agreement.

A custom, once established and recognised, breeds authority both in belief and procedure. Their tenacity and insistency make it difficult and almost impossible to break away from them.

Tradition possesses the element of experience and it carries authority. There is no logical argument for perpetuating a custom because it is old, and yet one cannot get away from the act that tradition makes for orderliness and decorum. These customs develop inevitably and naturally into traditions, the worth of which we, as masons, are bound to recognise. They ultimately coalesce as unwritten laws through begin universally accepted over a long period.

Grand Masters Prerogatives

Annexed hereto in Schedule A are examples of the Grand Master's powers and prerogatives (not an exhaustive list) but from the examples you will no doubt more fully appreciate what is meant when, at the Installation of a new Grand Master, the Installing Grand Masters says - "you will be invested as Grand Master with powers and prerogatives which will be well nigh absolute and the interests of the Craft for weal or woe will be in your hands."  Powers of the Worshipful Master

As Worshipful Master he holds supreme power over his Lodge but no matter what the non-masonic social rank of the Master may be, he should remember that although he is elevated beyond his brethren as what one writer has described as "an autocratic dictator, or an amiable Democracy" his only ambition should be to increase knowledge, foster intelligence, advance education, relieve distress, and promote all good and patriotic works, without reference to political opinion, personal motives, or religious creed.

One salient fact that must not be lost sight of, however, is that the Craft Lodge and its Master antedate the Grand Lodge and its powers, as the powers possessed by Grand Lodge have been transferred to it by the Craft Lodges. At the present time the constituent elements of a Lodge, the power of meeting, the membership of Grand Lodge, and
uncertain broad lines of conduct, both of Lodges and of individuals are circumscribed by the regulations of Grand Lodge. However, there are ancient rights and privileges inherent in the office of Worshipful Master which remain as the peculiar powers of that office and no by-law may be passed which restricts those inherent powers.

Annexed hereto in Schedule B are examples of the powers of the Worshipful Master (again not an exhaustive list, but indicative only).

2. Written Laws.

What, then, are the "written laws" which bind a Freemason? This heading which needs no further explanation, may be divided into the following headings –

(1) V.S.L.;
(2) Edicts of the Grand Master;
(3) Decisions of Grand Lodge;
(4) Book of Constitution;
(5) Ancient Charges and Regulations;
(6) Ritual; and may be further divided into the sub-headings of
   (1) Decisions of the Board of General Purposes;
   (2) Lodge By-Laws; and
   (3) Resolutions of the Lodge. Chart C. refers.

The Volume of the Sacred Law

The Volume of the Sacred law is no mere Addendum to our ceremonies - no mere acceptance of an old tradition. As one of the three Great Lights of Freemasonry it is vital to our whole structure and is the very foundation upon which everything else is built. For the great majority of masons in the world the Volume of the Sacred Law is the Bible and it is not necessary to deal with the divine laws it contains as it is assuredly well known to all.

Edicts of the Grand Master.

In Roman times the Edict was a pronouncement by the "Magistrate" of the course which he proposed to take in the administration of his office. It was a sort of post-election platform from which the citizen might know what to expect from the officer in question. In this same sense we use it in Masonry. An edict is a general administrative (as distinguished from a judicial) order prescribed the conduct of masons is some matter of administrative knowledge.

Thus, the will of the Grand Master may become an Edict and as such it has the force of law. It is proclaimed, or promulgated, to the brethren throughout the Jurisdiction and it is incumbent upon them to obey any such Edict of the Grand Master.

Decisions of Grand Lodge
The functions of a Grand Lodge may be divided into three classes. They are:

(1) Legislative;
(2) Judicial;
(3) Executive.

In its legislative capacity, a Grand Lodge can make the laws; in its judicial, it explains and applies them; and in its executive, it enforces them.

Although by its legislative powers the Grand Lodge may make laws, these laws must never contravene the Landmarks (Rule 16 Book of Constitution); for the whole power of the Grand Lodge, great as it is, is not sufficient to subvert a Landmark. The legislative powers are therefore limited only by the Landmarks, and beyond these it can never pass.

In its judicial functions, a Grand Lodge becomes the interpreter and administrator of the laws which it has enacted in its legislative capacity.

In the performance of its executive functions, the Grand Lodge carries its laws into effect, and sees that they are duly enforced.

Whilst the Book of Constitution contains the laws and regulations enacted by Grand Lodge for the government of the Craft, brethren and lodges are just as much bound to abide by the decisions of Grand Lodge on matters which come before it. Although these decisions may not be embodied in the Book of Constitution they may be found in the printed proceedings of the Grand Lodge which are available to all members of Grand Lodge.

The Book of Constitution

The Book of Constitution contains the fundamental rules for the government and guidance of the Craft and Grand Lodge itself is bound by the Book of Constitution and must abide by its provisions. The Rules it contains are self evident.

The Ancient Charges and Regulations.

In 1722 the necessity for collating the many records containing the Ancient Regulations of the Fraternity was realised by the Grand Lodge of England and it was directed that they be collected and, after being properly digested, be annexed to the Book of Constitution. This was accordingly done and that portion in front of the Book of Constitution known as "The Charges of a Freemason" or "The Ancient Charges and Regulations" constitutes, by universal consent, a part of the fundamental law of our Order.

These Charges concern the moral conduct of a Freemason, and in their turn represent the crystallised public (Masonic) opinion of successive ages, since the experience of the ages
has shown that certain courses of conduct are most conducive to personal happiness and
general welfare.

*The Ritual*

"The mode of opening and closing a Lodge, of conferring the Degrees, of installation,
and other duties", says Mackey, "constitute a system of ceremonies which are called the
Ritual."

It is our proud boast that Freemasonry has existed from time immemorial, but our ritual
has only been committed to writing within comparatively recent times. When Lodges
were few and each one more or less self-contained, the language used in the ceremonial
was handed down by word of mouth, and there was no need for a written ritual. When,
however, owing to the increased popularity of the Craft, it became necessary to organise it
under the direction of Grand Lodges, the need arose for uniformity in the ceremonial, so
that a written ritual became necessary.

The origin of the Craft Ritual is thought to be in the lectures which were used by
operative Lodges and which were continued and turned into ceremonial by the
Speculative Masons who were becoming more and more numerous in the operative
Lodges. Much of the symbolical teaching of today was consolidated by the end of the
18th Century. Decisions of the Board of General Purposes

As our Grand Lodge only meets annually to transact business, many of its administraive
powers are delegated to its Grand Officers, and to its various Boards and Committees.

This system had its origin in the Committee of Charity which was formed in the Grand
Lodge of England in 1724. The duties of the Committee were, as its name indicates, the
administration of the General Charity Fund of the Grand Lodge, and this Committee still
functions under the name of the Board of Benevolence. This Committee evidently
discharged its duties to the satisfaction of the Grand Lodge as it was not long before
Grand Lodge took advantage of its existence to refer other questions to it for
investigation, altogether outside its original scope. In fact, the general business of the
Charity Committee soon over-shadowed its original special duties; with the natural result
that a second Committee was formed for "general purposes". These two Committees have
since been raised to the dignity of "Boards" and the younger body has now come to
assume a very important part in the affairs of Grand Lodge.

The power and responsibility of the Board of General Purposes are many and varied and
it has charge of the finances and the care and regulation of all the concerns of Grand
Lodge, lodges and brethren.

Whilst the Board of General Purposes is entrusted with administrating the policy of
Grand Lodge, all business transacted by it is, of course, subject to confirmation by Grand
Lodge, unless the Book of Constitution otherwise provides.
By-Laws

Every lodge is permitted to make its own By-Laws, provided they do not conflict with the regulations of the Grand Lodge, nor with the ancient usages of the Fraternity. Of this, the Grand Lodge is the only judge, and therefore the original By-Laws of every lodge, as well as the subsequent alterations to them, must, after being adopted and confirmed by the members be submitted to the Board of General Purposes for approval and confirmation before they can become valid.

Resolutions of the Lodge A resolution has been called a formal expression of opinion by a legislative body or public meeting. A proposition, when first presented, is called a motion, and if adopted it becomes a resolution. Many Lodges adopt, from time to time, certain resolutions on important subjects, and these resolutions carry as much authority as the Book of Constitution or By-Laws until such time as they may be rescinded.

Conclusion

This introductory foray into Masonic Jurisprudence has identified the sources of the laws which affect the Craft and the brethren. If nothing else, I trust I have dispelled any myth that the Book of Constitution is a complete self-contained Code of Masonic Law.

This preliminary overview, covering as it does a wide range of topics in a very condensed fashion, will undoubtedly do an injustice to some of the more complex areas of Masonic Jurisprudence, and may inadvertently have overlooked other areas. It is perhaps for this reason that Collected Ruling 50 was introduced into the "Written laws" of Masonic Jurisprudence.

Acknowledgements:


SCHEDULE A

EXAMPLES OF SOME OF THE POWERS AND PREROGATIVES POSSESSED BY THE GRAND MASTER

It would not be possible to enumerate or define all the powers and prerogatives possessed by the Grand Master, but some of them are as follows:

1. To convene Grand Lodge at such time and place as he may deem expedient.
2. To preside over every assembly of the Craft and at all meetings of the Grand Lodge. From this prerogative is also derived the principle that The Grand Master may assume the chair of any lodge at which he may present, and govern the lodge as its Master. He is, in brief, the Head of the Craft in his own Jurisdiction, and cannot, at any meeting of the Fraternity for masonic purposes, be placed, without his consent, in a subordinate position.
3. The right of appointment.
4. A second or casting vote on all questions before the Grand Lodge.
5. To authorise the formation of new Lodges and the issue of Charters therefore.
6. To grant Dispensations, that is, the dispensing with a law or regulation, or the exemption of a particular person from the obligation to comply with its injunctions. Such Dispensation to be granted for:
   [i] Reduction of the interval between Degrees.
   [ii] Initiation of a Lewis.
   [iii] Initiation on night of ballot.
   [iv] Number of candidates who may be initiated.
   [v] Period of acquaintance.
   [vi] Period of residence.
7. To prohibit the Initiation, Passing or Raising of a candidate.
8. To prohibit the Installation of a Master-Elect of a Lodge.
9. To issue Edicts which are mandatory for all members of the Craft to obey.
10. There can be no appeal against the decision of the Grand Master.

**SCHEDULE B**

**EXAMPLES OF THE POWERS OF THE WORSHIPFUL MASTER**

1. The Master is absolute in his lodge. The lodge cannot remove, censure or suspend him, vote him from the Chair, or prevent him from taking it. No individual possesses the right of appealing to the members against any act of the Worshipful Master, however wrong it may be. The brother's only redress is by way of appeal to Grand Lodge.
2. Meetings of the lodge are under his full control and he may, if he so desires, vary the business set down for a Regular Meeting provided that the provisions of the Book of Constitution are observed. He may also, where he considers it necessary, convene an Emergency Meeting of the lodge but may only transact the business set down on the Business Paper for the meeting, no variation being permissible.
3. To control the admission of visitors and to refuse to admit a visitor whose presence he feels would disturb the harmony of the Lodge, or be offensive to any one of the members. His decision in this regard cannot be questioned.
4. To refuse admission to a member of his lodge (to be exercised with great caution. Only in cases of intoxication, improper clothing, or some unmistakable good reason, would its exercise be justified).
5. To postpone a ballot should he see the necessity for further enquiry.
6. To declare a motion out of order and decline to submit it to the lodge. From his decision there is no appeal, except to Grand Lodge. He has the right to regulate and terminate all discussion and decide points of order.
7. To have direct and absolute charge of the finances of the Lodge.
8. The Master is exempt from trial by his lodge, while he is Master. Grand Lodge alone has any penal jurisdiction over him.
