The Right to Be a Freemason: Secret Societies and the Power of the Law in the Early Republic

In June 2008, Frank Haas had a brief moment in the national spotlight when *New York Times* columnist Dan Barry told his story. It wasn't cast as news, really. It was more of a human-interest piece about an unhappy man, a former Freemason who had been kicked out of a fraternity that meant the world to him. The readers learned how Haas had devoted much of his life to being a model Mason since he had joined his lodge in Wellsburg, West Virginia, more than 20 years earlier. He was an engaged and active citizen in his community, and within Freemasonry he served as leader of his local lodge and, beginning in 2005, as Grand Master of the Ancient Free and Accepted Masons of West Virginia.

It's almost impossible for any non-Mason living today to read phrases like that– "Grand Master of the Ancient Free and Accepted Masons"–without, however briefly, thinking of an aging group of men, in costumes, who are completely and utterly out of step with the times. To be sure, that idea is unfair in a lot of ways: Freemasons in particular have almost always appeared a bit removed from the mainstream, in ways that were and are largely deliberate. From their still somewhat hazy origins in sixteenth- and seventeenth-century stonemasons' guilds, lodges of Freemasons have long appealed to ancient traditions and mythical origins even while they instilled habits of self-discipline and sociability that were suited to life in the modern world. Since its formal organization in 1717, men have joined, taken oaths of secrecy, and participated in often elaborate rituals, many set in and around Solomon's Temple, that were nonetheless intended to teach precepts of real utility in their own time. The

regalia, strange symbols, esoteric dogma, and pompous titles seem odd to outsiders, but they undergird what is to Masons a coherent philosophy of self-improvement and social consciousness that they insist is largely unchanged time out of mind. In the ways that matter, they might say, they *intend* to be men out of step with their historical moment.

But they appeared anachronistic in all the wrong ways in West Virginia when Haas became Grand Master. He was elected in one of a handful of states with no formal relationship between the "Prince Hall," or African American, Freemasons and the overwhelmingly white Grand Lodge. (All of the rest are in the former Confederacy.) It wasn't only race: Discrimination seemed to be pervasive. Many disabled men—even veterans who may have lost a limb in the service of their country—were prohibited from joining for reasons that might have made sense centuries ago, in a lodge of working masons, but were now obscure and centered on ritual, not practicality.

Haas tried to change this, and his proposals rankled many of his more conservative brethren. He met, for the first time, with the state's Prince Hall Masons, and he sought a new rule to end race-based prohibitions on who can visit a lodge. He worked to allow lodges to support external, non-Masonic charities. He endeavored to end the prohibition on disabled men as candidates for membership. And he won every fight. A majority of the Grand Lodge approved what became known as the Wheeling Reforms in his last days in office.

Reaction came swiftly in 2007. His successor set aside the reforms on allegations of voter fraud. They have never been reintroduced. And when Haas and others continued to speak out about the need for change, the new grand master Charlie Montgomery issued an edict summarily expelling Haas and two other men from Freemasonry without a trial.

The inner workings and political contests within West Virginia Freemasonry, however, were mere prelude. Haas sued. At the very end of last year, he walked into a courtroom in West Virginia and made his case before judge and jury that he had been wrongfully expelled. He sought damages, and he sought a court order to compel the fraternity to readmit him.

When he filed suit, Haas laid claim (unwittingly, as best I can tell) to a facet of our national past that has been nearly forgotten, though it is visible if you blow the dust off of several key early American legal precedents and nineteenth-century treatises. In the decades following the Revolution, a surprisingly large number of Americans did exactly what Haas did. Members and former members called on courts to enter all of those ostensibly private arenas that Alexis de Tocqueville went on and on about—mutual aid associations, fraternities, political clubs, and the like—to correct injustices, to adjudicate internal squabbles, and frequently to decide whether an expelled member had a legally enforceable right to belong again.

The fact that so many people in this "nation of joiners" did so—and that courts

in cities and towns across the new nation so often heard their pleas with eager ears—is important in ways that go beyond any narrow interest in explaining the rise of American "civil society" and the roots of our national propensity to join things, however fascinating those questions are. It tells us something about the reach and power of the law in the new republic. It even tells us, really, about early American ideas of how societies could be held together. And though any exploration of this subject ventures far beyond the closed door of the Masonic lodge, Freemasonry and these notions of public and private, legality and illegality, justice and injustice, have crossed paths more than a few times.

Fig. 1. "Wm. Morgan" from an original picture by A. Cooley. Frontispiece, Light on Masonry: A Collection of All the Most Important Documents on the Subject of Speculative Free Masonry…, by Elder David Bernard (Utica, 1829). Courtesy of the American Antiquarian Society, Worcester, Massachusetts.

A safer place to fight

If Thomas Paine's America in 1776 was already a land where "THE LAW IS KING," as he shouted in capital letters in *Common Sense,* then scholars of the last couple of decades have shown that "THE LAW" became somehow more important, more powerful, more culturally pervasive in the early nineteenth century. That is, law, not merely or even primarily as institutionally embodied, but rather as a way of *thinking* about interpersonal relationships on the small and the large scale, became what Christopher Tomlins has called "*the* paradigmatic discourse explaining life in America."

Increasingly, the first generations of American citizens thought in legalistic (or, to use John Philip Reid's softer term, "law-minded") ways about efforts to function in groups, be it in the state, the church, or the small, self-created society. And that tendency among American men and women (particularly in urban

areas, but also in smaller and smaller communities in New England, the Mid-Atlantic, and even the South) to act within their*own* voluntary associations in ways that emphasized procedural fairness, legalistic formalities, and compliance with their own originating documents, which they almost always called constitutions, had a number of consequences. Some of them we understand pretty well by now. We know a great deal, for example, about how civic associational life could be a training ground for democratic citizenship.

But the kinds of knowledge gained in associations—emphases on fair procedure, distinctions between ordinary versus supreme law, the gravity of amendment, for example—also helped to nourish the belief among the joiners and organizers of a wide array of associations that members had a right to expect legal protections and judicial interventions when things went wrong. It produced a litigiousness that has, as its direct heir, litigants like Frank Haas.

The drift toward increasingly legalistic modes of self-organization in the early republic can be traced in a number of ways: the kinds of organic documents that joiners drew up, their adherence and non-adherence to their own rules and bylaws, the ways that they talked about procedural formalities to one another and to outsiders. The Connecticut Historical Society has preserved a record book from one women's reading club—the Ladies' Literary Society of Norwich, Connecticut, founded in 1800—that contains traces of all of these things. And even though none of these women ever sued the others, it serves to illustrate the growth of a certain mindset among typical joiners in the early national period.

A women's reading society is a good specimen to examine, because there was certainly nothing necessary about their embrace of procedural formalities. Detailed studies of such groups have shown how closely connected the members generally were. They usually shared religious backgrounds and social status; they were usually friends, often even family. In this post-Revolutionary period, however, what could begin as a society founded on shared friendships, social networks, and familial relationships would be cast, almost instantly, in constitutional, procedurally bound forms. The consequence was a new way of thinking about old relationships, even in voluntary societies founded by women who shared sincere sentimental bonds. This is not to say that participants in small, tightly knit associations of this period cared less for one another after they had drawn up their organizational documents than they had before: it is only to say that they made conscious decisions that, in a formal sense, affection was to have little or nothing to do with their membership.

On March 12, 1800, the Ladies' Literary Society, some six weeks after they first met, appointed a committee of six women "to frame a set of rules to be laid before the society which they approving shall pass into laws binding on every member of the society." When the rules were reported on March 19, copies were made for all the members to read closely for discussion at the next meeting. Not coincidentally, one can presume, one of the women's assigned readings for the day was the U.S. Constitution. By April 2, after some debate,

their own constitution “was read and then passed almost unanimously.” It had all those characteristics described above, including a clear distinction between ordinary rules or bylaws, which could be changed by majority vote, and the crucial sections of this fundamental, formative document, which could not.

First and foremost, the women in the club were insistent about the importance of procedural regularity. When delivering the second annual address, in 1802, Miss Mary Tyler made clear that the Ladies’ Literary Society of Norwich had, quite purposefully, chosen to create constitutional rules to give shape to their proceedings. “We shall do well,” Tyler said, “if we pay a strictattention to the rules of our institution: they were formed by the most judicious of our society, and calculated for the good of the whole. We have an equal right to petition for an amendment of any of the articles (two or three excepted) when ever we see room but in departing from them while they are in forced—we are sure of creating uneasiness for our selves and others.” Indeed, at the very next meeting, they, with no intentional irony, showed a real reverence for their constitutional edicts by breaking one: in derogation of their constitutionally unalterable requirement that each meeting begin with a Bible reading, the women began by reading their own constitution aloud, first, and only then moving on to read a passage from First Corinthians.

In short, as Americans at unprecedented rates formed and joined any of the thousands of voluntary associations for mutual aid, for social reform, for profit, for self-edification or for the worship of God, they not only drew up constitutions but also came to favor process over camaraderie, formalities over friendship. And in so doing—and in so often seeking out state-issued charters, thereby connecting associational authority with state authority, as the legal historian William Novak argued a decade ago—they revealed that they conceived of those groups not only as constitutionally organized bodies, but also as organizations that fell within a broader regime of rights and remedies.

It was a mutually reinforcing development: as more joiners in early national fraternal groups came to conceive of their participation as one of well-defined rights and obligations, legal institutions occupied an increasingly important position in the monitoring of those internal relationships—precisely because those institutions were so frequently called upon to intervene by individuals aware of the importance of their own rights. And each time that irrationally disgruntled or legitimately aggrieved members and former members filed suit, voluntary groups and corporations saw still more reason to play by the rules or, at the very least, to always be prepared to make the case in court that they had done so.

One result? Stability. Conflict need not tear associations apart. It could be channeled into legal modes of resolution. Something quite similar had been seen in the corporate boroughs of seventeenth-century England, as historian Paul Halliday has shown, when the court of King’s Bench, a superior court of the common law, began to act as superintendent of corporate disputes and began to order the readmission of political minorities who had been expelled in ways or

for reasons not legally justifiable. Raging partisan conflict became transmuted into niggling disputes over procedure, and battles that might otherwise threaten to tear everything apart were fought in a safer place—in court.

A similar tendency appeared in American private associations, with the same result. When John Binns was expelled from the St. Patrick's Benevolent Society in 1807 owing to a political tiff with fellow printer William Duane, for instance, he called on external authorities—public opinion, at first, and then the courts—to right the wrong. Chief Justice William Tilghman ordered Binns's readmission in 1810, by writ of mandamus, the same instrument that King's Bench had so often used in England. He was clear that "the right of membership is valuable, and not to be taken away" without legitimate authority. Such action did not make Binns and Duane friends again: anyone who has read about their feud knows that no power on earth could have done that. But it did mean that those ways of joining together voluntarily that Francis Wayland would soon call "the peculiar glory of the present age" in the antebellum United States might not be torn asunder by internal conflict. People could find, in law, a way to cohere.

Procedural regularity was key, such as the absolutely essential requirement that a member be given notice of any hearing affecting his membership status, and a right to present his side of the story. In 1821, a North Carolina man expelled from a corporation without a hearing won a court-ordered readmission, for instance, on the grounds that "no man shall be condemned or prejudiced in his rights, without an opportunity of being heard." Courts in the post-Revolutionary decades borrowed liberally from precedents derived from English municipal corporations regarding notice and due process in cases of expulsion, and in about a dozen key cases—ones cited again and again, in court and in the expanding legal literature of the mid-nineteenth century—an American jurisprudence governing the rights of membership took shape.

Throughout the nineteenth century, courts remained ready to intervene if a society expelled a member in a way that was patently unjust or did not adhere to its own stated rules. Some important details would change, however. By the late 1830s, for instance, jurists were in basic agreement that an expulsion would not be reevaluated on the merits: what was decided in the regular course of proceedings would not be overturned, so long as the proper procedures were followed and no malice tainted the process. Courts, however, remained involved, in ways that bore the imprint of the legal culture of the early American republic, a time when the expanding associational world of the post-Revolutionary United States was made to be, not a bastion of arbitrary, private power, but rather a sphere in which all authority was fully bounded by law.

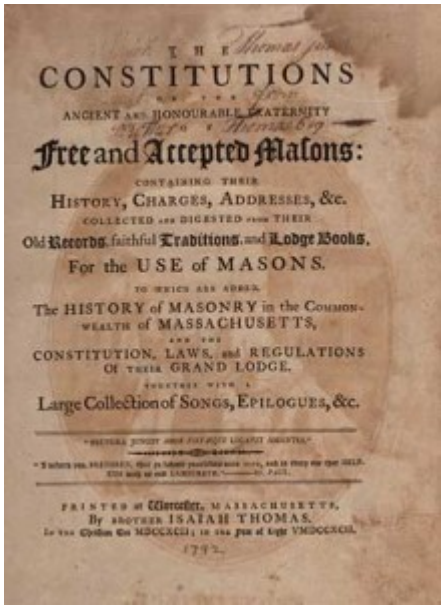
THE
CONSTITUTIONS
OF THE
ANCIENT AND HONOURABLE FRATERNITY
OF
Free and Accepted Masons:
CONTAINING THEIR
HISTORY, CHARGES, ADDRESSES, &c.
COLLECTED AND DIGESTED FROM THEIR
Old Records, faithful Traditions, and Lodge Books,
For the USE of MASONS.
TO WHICH ARE ADDED,
The HISTORY of MASONRY in the COMMONWEALTH of MASSACHUSETTS,
AND THE
CONSTITUTION, LAWS, and REGULATIONS
Of THEIR GRAND LODGE.
TOGETHER WITH A
Large Collection of SONGS, EPILOGUES, &c.
PRINTED at Worcester, MASSACHUSETTS,
By BROTHER ISAIAH THOMAS.
1792.

Fig. 2. Title page from The Constitutions of the Ancient and Honourable Fraternity of Free and Accepted Masonry… which follows the structure and incorporates much of the content of James Anderson's Constitutions, first published in England in 1723 and in North America in 1734. Courtesy of the American Antiquarian Society, Worcester, Massachusetts.

Will the real Grand Lodge of South Carolina please step forward?

One of the great legal thinkers of the first half of the twentieth century, Roscoe Pound—dean of Harvard Law School, one of the leading proponents of a sociological understanding of law—was also an active Freemason, and over the course of his long career he made frequent forays into the study of its history and philosophy. When he looked at the Craft (a common nickname for Freemasonry among insiders), his eye was inexorably drawn to its jurisprudence and to "what we in America would call the constitution of Masonry." His perspective on what are called the *landmarks,* or the "fundamental precepts of universal Masonic validity, binding on Masons and Masonic organizations everywhere and at all times," is still quoted, debated, challenged, and embraced by Freemasons today.

That idea—that there are certain core principles to which one must adhere if he wishes to call himself a Freemason, or to which any group of men must adhere if they wish to label themselves a Masonic lodge—is, indeed, distinctly constitutional in the American sense of a supreme law of the land, to which all other laws must conform. That there was something "constitutional" in the conduct of Freemasonry should not be surprising, of course. The very term *constitution* was introduced to much of the world via the exportation of Freemasonry from England: the first time it appeared in French, in 1710, was in a Masonic context, for instance. And James Anderson's *Constitutions of the Free-Masons*—the first Masonic book printed in America, when Ben Franklin reprinted the book in Philadelphia in 1734—emphasized certain irrevocable features in what Freemasonry could and should look like. From a very early date with the formation of the first Grand Lodge in London in 1717, Masons were

articulate, if not always consistent, about those kinds of constitutional matters.

What might be surprising is that American courts played along, ultimately even assuming a key role in reinforcing the idea that Masonic landmarks were fixed principles, an unalterable constitutional framework. In an 1813 South Carolina case in equity with the memorable name of *Smith v. Smith,* Chancellor Henry W. DeSaussure was in the uncomfortable position of having to decide which of two rival Grand Lodges was the real deal. A failed attempt at unification in 1809 had left matters more uncertain than ever. The chancellor, a non-Mason, faced the challenge head on, reading the key Masonic texts closely to understand who had the legitimate claim on a pot of money left to the "Grand Lodge of South Carolina Ancient York Masons." DeSaussure assured the Masons that he would try to understand the dispute on their terms. "I have examined the books, I mean *Dermot's* and *Dalcho's Ahiman Rezons,* from one end to the other," he noted, referring to two Masonic guidebooks that spelled out certain "Ancient" Masonic practices, the first published in England in the 1750s and the second in South Carolina by physician Frederick Dalcho in 1807. He was at first disturbed by the claims of one side that the Grand Lodge could do as it wished, without constraint: "after all," he wrote, "it is not easy of belief that any set of reasonable men, and least of all the citizens of a free country, should consent to bind themselves so absolutely and irrevocably under the power of others."

He relaxed only when he realized that "in reality we perceive plainly by these very books of authority, that there is a limit to this power. In the first place we find the expression of a constitution repeatedly used, which implies some fixed principle independent of ordinary legislation." DeSaussure found that fundamental rules, or landmarks, existed, ones that "are sacred and not subject to be altered or affected by the edicts of the Grand Lodge itself." He could base a judgment as to which Grand Lodge constituted seceders on those "ancient land marks of the craft."

He was savvy enough, too, to be aware that the claim could be made that he was reading Americanisms into Freemasonry. He preempted the argument: "Nor was this limitation to the absolute power of the Grand Lodge, a new principle introduced into the regulations of this country, from the tendency which all private societies have to conform their principles to those of the government under which they live." Rather, Dermot's *Ahiman Rezon,* he noted, described landmarks the same way, if not more pointedly, even though it was "framed under a monarchial government." The chancellor came to a conclusion in the case at hand (a conclusion nowhere near interesting enough to justify the amount of detail it would require to explain), and Masonic scholars and jurists to this day cite *Smith v. Smith* as an instance of an American court applying Masonic law to decide a case. In that moment, Masonry looked and appeared like a welcome element in a constitutional republic, even embracing judicial review to palliate conflicts as they arose.

Thirteen years later, everything looked different. A group of Masons kidnapped

William Morgan in upstate New York in 1826 because he was preparing to publish some of the secrets of Freemasonry. He was forced into a carriage while shouting “Murder! Murder!” and was never seen again. It was a scandal that almost spelled the end of Masonry in America.

Yet there was no change in this basic idea that all associations, even Freemasons, ought to be fully encompassed within a broader legal regime. Indeed, that was precisely the point. When Morgan disappeared, it was not the allegations that he was kidnapped to prevent his revealing Masonic secrets that sparked the rise of a full-blown anti-Masonic movement in the months and years to come, in New York and throughout the Northeast. It was not even the idea that Freemasons may have murdered him for threatening to reveal their inner workings. Such shocking claims would have aroused attention, to be sure. But they alone could never have generated the first organized third-party movement in American political history.

Rather, it was only when it began to seem that Freemasonry was fully removed and isolated from the superintending power of the law—when some twenty grand juries and a series of trials and legislative investigations all made little headway in investigating the Morgan affair—that people in much of the nation responded with organized fury. It was only then that growing numbers of men and women began to organize politically, to form new counter-associations, to publish newspapers and magazines, and to doubt whether Masonic law and the rule of law could ever coexist in the American republic.

Those questions of legal superintendence of private associational activity did not exist in a vacuum. There were other powerful cultural impulses at work, not least the desire to preserve the young United States as a Christian republic, one that appeared to be threatened by the allegedly anti-Christian and politically subversive potential of Masonry. But the anti-Masonic literature does reveal the extent to which many Americans had come to embrace a particular view of the proper relationship between voluntary associations and the wider legal regime. In the wake of Morgan’s disappearance, it was becoming clear just how uncomfortable most Americans were with the idea of a separate, Masonic jurisprudence, one shielded from the will of the people by secrecy, oaths, and even violence.

For Masons were not lawless, by any means, and everyone knew it. Freemasonry, like so many other organizations, had turned to procedure and well-articulated internal regulations to help their lodges function. As historian Dorothy Lipson has observed, however, they were then “vulnerable to the charges that they overlapped the jurisdiction of the civil courts, competed with the discipline of the churches, or invaded individual rights.” In the wake of Morgan’s disappearance, it appeared they had erected a legal system that had no place in a republican nation. The extremes to which critics of Masonry would go to prove this point bordered on the ridiculous. The Vermont Antimasonic Convention in 1831, for example, made one of its first orders of business the creation of a committee to examine the degree to which Masons lived by their own legal code,

and they quoted everything they could get their hands on to show the depth of this Masonic legalism, even a line in a song: “Our *laws* all other laws excel.” From this, the committee drew the conclusion that “Here we are not only told, that masons have laws, but it is more than intimated that other laws cannot counteract them, and that the summum bonum of those laws are in the secrets of the art.” The conclusion, then, was no joke.

The repercussions of the anti-Masonic movement were massive. Freemasonry emerged as a shell of its former self: New York’s 500 lodges in 1825 dwindled to seventy-five a decade later, and the number of Masons nationwide was probably more than halved to 40,000 by 1835. It bounced back, as we all know, growing especially in the second half of the nineteenth century and in the 1940s and 1950s. In this modern nation of joiners, Masonry had top billing—and more than four million members—at its high point in 1959. But there were important ways that the legal framework established in the first third of the nineteenth century remained more or less unchanged. American associational life was not so much a multitude of jurisdictions as it was a wide array of opportunities for individual voluntarism that all fell within a larger regime of law.

Fig. 3. “View of a Mason taking his First Oath,” H. B. Hall, eng. Title page vignette, An account of the savage treatment of Captain William Morgan, in Fort Niagara,: who was subsequently murdered by the Masons, and sunk in Lake Ontario, for publishing the secrets of Masonry (Fifth Edition), by Edward Giddins, formerly keeper of the fort and a Royal Arch Mason (Boston, 1829). Courtesy of the American Antiquarian Society, Worcester, Massachusetts.

The questionable outcome of *Haas v. Montgomery*

Local readers in West Virginia—subscribers to the *Charleston Gazette* or the *Daily Mail*—found out what happened to Frank Haas, but the readers of the *New*

York Times never did. That's probably because the outcome was not terribly surprising. He lost. Today, juries are more than ready to believe the idea that, as defense attorney Jack Tinney is reported to have said, "What this case is about is internal Masonic politics. It's petty. It has no place in the courtroom."

As evocative as the case was of some interesting facets in our history, by December 2010 it was unlikely that Haas would have found receptive ears, even though he was expelled without a hearing, as guaranteed him in Masonic procedure, which required that he receive notice, formal charges, and an opportunity to call witnesses and to mount a defense. Rather, the twelve jurors opted not to involve themselves in the Masonic factionalism that had left Haas reeling.

This despite the fact that Judge Carrie Webster had charged the jury properly as to the relevant law: "If the members of a voluntary organization, such as the Masons, violate their own rules and expel a member on some ground not recognized by their 'article of agreement' or without notice or trial," she told them, "they are liable for such purely arbitrary action." And, more directly still, she told the jury that the regulation that the Grand Lodge had asserted gave them authority for summary expulsions "did not give the Defendants the authority to capriciously and unilaterally expel Mr. Haas." Early American jurists would have read, recognized, and supported those legal principles.

But the 2010 jury did not. A factor that may have assuaged them in this case is that Haas has actually become a Freemason again, though he had to move to Ohio to do it. During the two years between his expulsion and the trial, Haas established residency in Steubenville, Ohio, and became a member of the Ohio Masons, a fact that likely undercut his claim that he was entitled to a legal remedy. (West Virginia's Grand Lodge responded in early 2010 by severing all ties to Ohio Freemasons.) As political theorist Judith Shklar has noted, we tend to think today that pluralism is the best safeguard against the injury of exclusion. Americans did not always think so. The Irish printer John Binns not only had other Irishmen's social clubs and democratic political societies that he could join. He *did* join them, becoming a member of the Hibernian Society along with organizing and joining other political associations. But that fact did not stop the Pennsylvania Supreme Court from acting to protect him from arbitrary dismissal.

Courts began to allow private groups greater leeway to decide internal matters long before the Civil War, but for reasons that in no way support the idea that groups such as Freemasons should be able to act arbitrarily to terminate a person's membership. About the time that Tocqueville described an America in which people were "forever forming associations," in the 1830s, courts were beginning to withdraw from immediate superintendence of certain associational practices. Judges and juries were more likely to defer to decisions made internally, so long as the proper procedures were followed, than they had been

a generation before, when in several often-cited cases courts appeared willing to evaluate the merits of membership decisions made by private associations. But that turn toward a hands-off approach happened because of a growing consensus that, when people joined associations, they ought to be trusted to come to their own articles of agreement, whatever they may be. If a voluntary society acted, legitimately, under those agreed-upon powers to suspend or expel members, there was little that could be or should be done. It was akin to an individual's right to enter into contracts as he or she saw fit. That contractual view of the matter prevailed during the "Golden Age of Fraternalism," in the later decades of the nineteenth century.

The corollary was no small matter, though: both the member *and the association* must abide by those agreed-upon procedures, as judges would say again and again through the nineteenth and into the twentieth centuries. And this would not change. There remained an emphasis on procedures, policies, and rules that had become culturally pervasive in the post-Revolutionary years. "In departing from them," as Mary Tyler had told the members of her Ladies' Literary Society in 1802, "we are sure of creating uneasiness for our selves and others." According to jurisprudential practices that took shape in the early republic and remained true long after, uneasiness might just come in the form of legal fees and subpoenas.

Before his expulsion, Haas worked to make his organization more inclusive and, to his eye, truer to its Masonic ideals. His Masonic brothers disagreed with him. Such was their right. But when he was expelled without any chance to speak in his own behalf, in a manner that violated Masonic procedures, he earned his day in court. The long history of these kinds of conflicts shows that a decision to intervene would have been a conservative judicial policy in defense of Haas's "right of membership." And it may ultimately have meant that West Virginia Freemasonry would have moved in a direction that, at least from my perspective, seems to be the right one, ending its exclusionary policies based on race and disability.

Haas's ordeal within West Virginia Freemasonry exposes some of the dangers of allowing private associations to operate arbitrarily, in ways that affect the personal rights of their own members without accountability. The first generations of American citizens were acutely aware of the importance of fair process, which they believed to be crucial both to democratic government and to many other, smaller forms of social intercourse. And thus they were committed to protecting it by law, within private associations and throughout the republic. Understanding that world can help us to comprehend why people such as Frank Haas might have chosen to hire a lawyer when someone told him he could no longer be a Freemason. What is more, it can help us understand that people like Haas should always have a chance to make their case.

Further reading:

On law and association in the early United States, see William J. Novak, "The

American Law of Association: The Legal-Political Construction of Civil Society," *Studies in American Political Development* 15 (2001): 163-188; Johann N. Neem, *Creating a Nation of Joiners: Democracy and Civil Society in Early National Massachusetts* (Cambridge, Mass., 2008); and my own study of the Binns-Duane dispute in "A Common Law of Membership: Expulsion, Regulation, and Civil Society in the Early Republic," *Pennsylvania Magazine of History and Biography* 133 (2009): 255-275. On the English experience, see Paul D. Halliday, *Dismembering the Body Politic: Partisan Politics in England's Towns, 1650-1730* (Cambridge, 1998).

The key works on the growing importance of law in the generations immediately following the Revolution are Christopher L. Tomlins, *Law, Labor, and Ideology in the Early American Republic* (New York, 1993); and Laura F. Edwards, *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South* (Chapel Hill, N.C., 2009).

On Freemasonry, Steven C. Bullock, *Revolutionary Brotherhood: Freemasonry and the Transformation of the American Social Order, 1730-1840* (Chapel Hill, N.C., 1996), remains the starting point. Both Lynn Dumenil, *Freemasonry and American Culture, 1880-1930* (Princeton, N.J., 1984), and Dorothy Ann Lipson, *Freemasonry in Federalist Connecticut* (Princeton, N.J., 1977), provide useful information on legalism within Masonic institutions. For a quick introduction to the broader, transnational history of Masonry, see Margaret C. Jacob, *The Origins of Freemasonry: Facts and Fictions* (Philadelphia, 2006). On the jurisprudence of Freemasonry, see Melvin Maynard Johnson, ed., *Masonic Addresses and Writings of Roscoe Pound* (New York, 1953). On anti-Masonry, the key works remain William Preston Vaughn, *The Antimasonic Party in the United States, 1826-1834* (Lexington, Ky., 1983); Paul Goodman, *Towards a Christian Republic: Antimasonry and the Great Transition in New England, 1826-1836* (New York, 1998); and various works by Ronald P. Formisano, especially his latest: *For the People: American Populist Movements from the Revolution to the 1850s* (Chapel Hill, N.C., 2008).

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