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THE NOCTURNAL COUNCIL IN PLATO'S *LAWS*

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The paper discusses the problem of the formation and functions of the Nocturnal Council (NC) in Plato's *Laws*, the assembly of the highest officials who have attained advanced philosophical and scientific education. Against the currently prevailing interpretation of the NC (G. Morrow) as the center of scientific and philosophical studies and education in these disciplines, which possesses expert knowledge in the field of laws but does not have legal powers and acts informally through the authority of its members, the senior nomophylakes, the author of the paper argues that 1) there is no textual evidence for the NC as the body that is engaged in studies or performs educational functions: this role is assigned to the school that should be instituted according to 968 c 2 — e 4; the treatment of this piece by some scholars as pointing to the "temporary" formation of the NC should be rejected — the only way of its formation that the text points to is by occupying the highest offices; the NC would be founded in the future and it stands and falls with its taking on persons who have the reputation of philosophically enhanced virtues; 2) the debatable passage 968 c 2 — 7 points not only to the law that should regulate the program of the highest scientific and philosophical studies (as according to Cherniss and Morrow), but also to the law granting legal powers to the NC; 3) these powers are the same as are granted to the NC by the law that constitutes it as the philosophical Guardian of the state (968 a 4- b2), having the task of keeping the laws and the officials aligned with the permanent goal of the state, virtue; 4) the corresponding legal prerogatives of the NC entail the powers of changing the laws (as well as prohibiting persons who do not have philosophically enhanced virtues from being elected as nomophylakes and euthynoi). This interpretation's seeming contradiction to the provisions made earlier according to which only minimal changes of laws are envisaged and these are assigned to the nomophylakes, not to the NC, can be resolved once it is taken into account that the NC is not part of the constitutional mechanism in the usual sense, but the extraordinary means of making the state permanently follow the philosophical principles on which it is built, the optional provision for the future. Lacking an NC, the city of Magnesia should keep the code of laws as rigid as possible; it will nevertheless be open to danger of imminent moral deterioration.

Keywords: Plato, the *Laws*, the Nocturnal Council, Political theory

This essay is a modest tribute to Alexander Zaicev and to his informal seminar, the reading of Plato's *Laws*, over the course of more than twenty years, 1963–1986, with its (inevitably) changing company of participants. I took part in this reading in its final phase, from the autumn of 1980. It had a considerable impact on me and, I would guess, on

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many other members of this seminar, being a school of meticulous research that delved into all details of the philology and legal aspects of Plato's proposals and considerations of the effects they could have in real life — the disastrous ones, for the most part, as Zaicev's analysis showed, in spite of his personal sympathy with Plato's moral stance and demand for an educated elite. Given the obvious parallels between the state of the *Laws* and the Soviet system, this critical approach provoked the authorities of the relatively mild late Soviet regime to prohibit the seminar at the university, so it moved to private apartments. Although Zaicev's plan of writing the commentary on the *Laws* with his students did not (and probably could not) come to realization, the reading was seminal for Zaicev informal students, although its participants' future fields of study were often quite remote from the subject of the seminar.[1]

The only published product of Zaicev's work on the *Laws* is, typically for him, a small essay written in the time of beginning of the seminar: it is devoted to the debatable passage of Aristotle's *Politics* (II. 1265 a 3–4),[2] which Zaicev interpreted as pointing to Plato's plan of the gradual transformation of the "second-best" state of the *Laws* to the "absolutely best state" of the *Republic*.[3] When properly understood, the problematic account of the Nocturnal Council (NC in what follows), which is described in detail in the end of the *Laws*, could support this view of Aristotle, as Zaicev believed. Zaicev never wrote the more detailed paper on the NC as announced, but the essentials of his interpretation can be retrieved from the published essay, which remained unconsidered in scholarship because of language barriers. It seems to me an important and still valuable contribution to the on-going debate on the NC. In what follows, I will try to re-open the issue, to make proper use of Zaicev's proposal, and to reveal my own view, which is inspired by it and is opposed to the currently prevailing one, that of G. Morrow. My partial disagreement with Zaicev's briefly stated view (we have no final version of it) does not diminish my debt to it; I firmly believe that his essay will be important for those who will take part in future enquiry into this difficult subject.

1. The Exposition

The first time that Plato explicitly mentions the NC is in Book X of the Laws (X. 908 a 4; 909 a 3–4): one of the prisons, the sophronisterion, is situated close to the NC; only the members of the Council are entitled to visit the imprisoned atheists and to admon-

[1] The monumental commentary by Schöpsdau (1994–2011), which is excellent in all aspects — text criticism and historical and legal matters — filled what Zaicev regarded as the greatest gap in Platonic scholarship.

[2] Zaicev 2003 (1967). The paper was delivered at the *VIIth International Conference of the Association of Classics of Socialist Countries (EIPHNH)* in Leningrad (1964); the reading of the *Laws* started a year earlier (see Zaiceva, Gavrilov 2003).

[3] τῶν δὲ Νόμων τὸ μὲν πλεῖστον μέρος νόμοι τυγχάνουσιν ὄντες, ὀλίγα δὲ περὶ τῆς πολιτείας εἴρηκεν, καὶ ταύτην βουλόμενος κοινοτέραν ποιεῖν ταῖς πόλεσι κατὰ μικρὸν περιάγει πάλιν πρὸς τὴν ἑτέραν πολιτείαν. The prevailing view of this passage that Zaicev attacked in his paper has been that κατὰ μικρὸν περιάγει means that Aristotle accuses Plato of involuntarily gradually switching back to the older project of the state of the *Republic*, instead of launching an alternative more admissible project, as he claimed he did (this point was made also by many modern scholars). Zaicev's proposal is attractive and contains fine observations; still, it should be noted in favour of the traditional view that, in his explication of this statement, Aristotle points only to the similarities between the two projects and not to ways of transforming the second-best project into the absolutely best; the NC is not mentioned at all.

ish them, "trying to save their souls".[4] The NC's membership and functions are detailed in Book XII in connection with the accounts of the *theoroi*, the men aged from 50 to 60, whom the *nomophylakes* allow to travel abroad, due to their good moral repute (951 a 4–5; c 6-d3). On their return home after 10 years of travelling, they have to give account before the council of those "who watch the laws" (εἰς τὸν σύλλογον ἴτω τὸν τῶν περὶ νόμους ἐποπτευόντων),[5] which has a mixed membership "of young and old". This council gathers every day from the beginning of the last part of night until sunrise.[6] It consists of the following members (951 d 5 — e 5):

1) the priests who have been given the award for virtue, *aristeia*; these are not the annual priests selected by lot among persons no younger than 60 years (759 d1), but rather, as Schöpsdau points out, the *euthynoi*, the higher officials with a controlling function; election to this office, which can be held till the age of 75 (XII. 946 c 4), amounts to the award of *aristeia* (946 b 5) and makes its holder a priest of Apollo and Helios (947 a 5–6);[7]

2) the ten oldest *nomophylakes*, i.e. the oldest members of the board of thirty-seven officials; the nomophylakes are chosen from among those of them who are no younger than 50 years. They can hold office until they are 70 years old;

3) the current supervisor of education and his retired predecessors, i.e. one of the functioning nomophylakes, who is elected to this office by all the officials by secret ballot;[8]

4) the younger men aged from 30 to 40 years who are invited by the older members.

The members of the council must discuss the laws of their own city (presumably, discussing the laws' faults and the possibilities for their improvement) and also what found abroad is of importance for legislation, for instance, the kinds of knowledge in other countries whose study might contribute to a better understanding the laws; the junior members should study those that are approved (951e 5 — 952 b 1).

The NC should vet the candidates for junior membership who are proposed by the individual older members: if the candidates are found unworthy, those who proposed them are blamed by the whole council. But those who are approved should be observed in the future *by the whole state*; in the case of their moral success, they will be esteemed, but if they show themselves worse than the majority of citizens, they will be dishonoured more than is usual.

A voluntary traveller should give account before the NC immediately upon his return. He should report everything he has learned about laws, education, and upbring-

[4] It is often asserted that there are two anticipatory references to the discussion of the NC in the earlier books: I. 632 c 4 — d 1 on two kinds of guardians of the laws, those who possess philosophical knowledge and those who have only "true opinion"(this is thought to refer to the senior and junior members of the NC), and VII. 818 a 3, the promise of a later discussion of the "more exact education" on the motion of planets (this evidently refers to the programme of the highest studies, which is discussed in book XII, in relation to the NC). Neither passage, however, necessarily refers to the NC, as we shall see.

[5] The ἐποπτεύω sounds solemn; here, however, it does not hint at mysteries (cf. *Symp*. 210 a; *Ep*. 7. 333 e) and not at the "contemplation of ideas" (cf. *Phaedr*. 250 c 4), as Schöpsdau, 2011, 555, supposes (knowledge of laws based on the *Ideenschau*), nor at "illumination" through philosophical studies (Morrow, 1960, 507 n. 17), but rather, since the object of seeing is the earthly laws, at the highest, quasi-divine status of the NC, which, like gods, exercises supreme control over the laws (see LSJ, s. v. ἐποπτεύω I. 1).

[6] 951 d 6–7: ἑκάστης μὲν ἡμέρας συλλεγόμενος ἐξ ἀνάγκης ἀπ᾽ ὄρθρου μέχριπερ ἂν ἥλιος ἀνάσχῃ (cf. 961 b 6–8 the sessions should be before dawn, ὄρθριον εἶναι, when one is mostly free of private and state affairs). See Wallace 1989, who rejects the standard translation "from dawn to sunrise", and shows that the designation "Nocturnal Council", which appears at 968 a 7, is exact.

[7] Schöpsdau III, 2011, 577 f.

[8] Morrow 1960, 324 f.

ing in the countries he has visited: presumably, everything valuable should be adopted in Magnesia's laws, after approval by the members; the sciences that are found useful for this purpose would be studied by the younger assistants to the members. The NC should vet the travellers: if they remain as virtuous as they were before travelling but cannot contribute to the moral improvement of the state, they will be simply praised for their zeal; if they return more virtuous, they are praised more in the course of life, and the NC assigns them special honours after their death; the punishment for those found to have morally spoiled while abroad will be discussed (952c 1 — d 4).

The NC appears in the same book again at the end of the whole discussion of Magnesia's laws. The Athenian stranger (the AS in what follows) asserts that no deed can be considered completed unless the means of its preservation is found (960 b 4-c1). It is thus necessary to find means to make the laws of Magnesia irreversible (960 d5–6). The body that can assure the preservation of the constitution and the laws, the AS asserts, is the NC. An account of its membership is given for the second time, in a form that differs slightly from the earlier one (961 a — b):

1) the ten currently oldest nomophylakes;

2) all those who have received awards for virtue (*aristeia*);

3) the travellers who have been vetted for their moral integrity and the knowledge they have acquired and have been found worthy of joining the council.

4) the younger people aged no less than 30 who were proposed, one each by each older member, in accordance with their natural faculties and training; if they are approved by the other members, they join the council; if they are not approved, the negative judgement should be concealed from the citizens and especially from the candidates themselves.

The two accounts complement rather than contradict each other. "Those who received an award for virtue" is probably another description of the euthynoi, who were previously mentioned under the name of the priests awarded for virtue, but possibly now admission to the NC of the other persons awarded for virtue is envisaged; the supervisors of education, acting and retired, are not mentioned, either out of negligence or because they are the best of the nomophylakes and thus can be easily among the ten oldest nomophylakes and are certainly among those who were awarded for virtue. [9]

The NC consists of three categories of highest officials — the ten oldest nomophylakes, all euthynoi (the priests of Apollo and Helios), the acting and the retired supervisors of education — and of the approved travellers, i.e. the experts in knowledge that contributes to the perfection of laws, but who do not occupy offices. The majority of senior members are thus the functioning magistrates and people of an old age; the membership is not perennial, but limited to their term of office; the junior members not full-scale members, but only the assistants of the senior members, (see below on the difference between the mind and the senses); they should leave the NC at the age of 40.

The Athenian then expresses the hope that the NC, having been cast like an anchor of the city with all the appropriate equipment, would be capable of preserving the integrity of the constitution and laws (961 c 3–6). To answer Clinias' puzzled question how this would be possible, he starts a long chain of reasoning, whose main sense is that the completion of the legislation and the salvation of the city depend on having the people know the true goal of the state and being able to find means to attain it (962 b 4 — c 2). The salvation of

[9] Cf. Schöpsdau II, 2006, 353; III, 2011, 577–579.

the city, like that of a living being, however, depends on the combined action of the mind and the senses; the NC should perform this role of the mind, and the goal of Magnesia, unlike that of all other states, is virtue. The knowledge of virtue entails the understanding of its unity and, simultaneously, of its fourfold character; this knowledge can be attained through the investigation of each of the four cardinal virtues, which should be defined, i.e. the senior members of the NC should master the dialectical method, making them real philosophers.[10] A legislator, a nomophylax, a winner of the award in virtue (i.e. any future member of the NC) should attain this knowledge and be superior to all others in the ability to teach the nature of virtues and vices, both to those who need it for theoretical purposes and to those who should be chastised as sinners (964 b 8 — c 3). The younger assistants should perform the function of the city's senses; they should notice everything that happens in it and transmit this information to the mind, i.e. to the senior members of the NC.

It is now clear that acquiring real Guardians of the state depends on determining a more exquisite system of education for them than for the rest of the city (965 b 1–2). Its programme, outlined by the AS, consists of ethical knowledge based on the dialectic (the understanding of the unity of virtues and their fourfold character, to which end it is essential to grasp the dialectical relation between the one and the many, 965 c 10–966 b 8), and of the theological knowledge that immunises against any atheist or impious suppositions and that can be reduced to the following theorems: the soul is prior to all things that have been generated; it is immortal and accordingly rules over all bodies; the divine Mind (*nous*) that set the universe in order is in charge of the motion of the heavenly bodies (966 d 4–967 e 1, cf. X. 896 d — 897 b). Someone who grasps this highest knowledge, which should be based on the learning of mathematical disciplines including astronomy, will employ it to harmonise the laws and moral habits of the city and will be able to give a reasonable account of his knowledge. Someone who is not able to attain this scientific and philosophical knowledge beyond the δημοσίαι ἀρεταί(i.e. the virtues of character based on nature and moral education that all citizens share) will never become the "*ruler of the whole state*"; such a person can be only an assistant to these rulers (967 e 2 — 968 a 3; on the ban of election to the nomophylakes and on awarding for virtue those who do advance in this theological knowledge, see also 966 c — d). I shall return later to the significance of this sentence, which qualifies the members of the NC as the sole rulers of the whole state and makes all other citizens, including the officials, mere servants of them in their ruling functions.

The next part of the text is the most difficult one, and understanding the NC depends in large measure on its interpretation. Here it can be outlined only as follows. The AS asks his interlocutors whether they should add to the previous laws the law that the NC consists of properly educated persons as the Guardians of the state (968 a 4 — b 2). Both Clinias and Megillus are ready to do this, but are aware of difficulties in its execution, namely attaining the educated persons; the AS, who promises his help in this matter, maintains that it is impossible at the moment to enact the law (either on the prerogatives of the NC or on the education of its future members or on both — this is the most debatable point) until due preparations have been made (either the discussion of the future educational system or the process of education itself is meant — this is again debatable) (968 b 2 — c 7).

[10] See Schöpsdau III, 2011, 593.

He next outlines the tasks related to the future education of the members of the NC:

1) it is necessary to make a selection of those who would be appropriate to become the Guardians of the state by their age, their ability to learn the sciences and their moral character;

2) it is not easy (but it is indispensable) to attain knowledge that should be learned either by oneself or from someone who has previously attained it;

3) it is a waste of time to establish in written form the point in time when one should learn each item of knowledge and how long it should be studied; even those who learn these things will realize that they learned them only when they had already attained knowledge of each item.

The AS sums up that the precepts concerning the last item cannot be announced in advance of the process itself, because this would not help make the discussed subject clearer (968 c 8 — e 5).

In the final part of the conversation, the AS points to the risks of their common enterprise. He is ready to take part in it by conveying to two other interlocutors the views he has attained about education that they touched on in the previous discussion. The risk of the enterprise is so great that other people would not be equal to this task, but Clinias should nevertheless master it and, if he is successful, he will acquire the greatest glory as one who has properly arranged the new city; if he fails, he will still have repute as the most courageous man of all those who live or will live later (968 e 7 — 969 b 2). If this divine council arises, the state should be handed over to it, and this will be the appearance in reality of what has been described in the previous conversation as a dream of the union of the reason of older men and the perception of the younger (cf. 961 d 7 — e 5). If the people are properly selected, educated appropriately and, after they have been educated, settled on the acropolis of the country**,** they should become unprecedented guardians of the virtue and salvation of the state. The other interlocutors agree that they should either abandon the founding of the new state or make the AS a participant in the foundation.

2. The Scholarly Debate on the NC

From the beginning, the discussions of the NC were closely connected with the question how the "second-best" state of the *Laws* is related to the "absolutely best" of the *Republic*. The most important contributions of the 19th-century scholars can be summarised as follows. In his brief account, Zeller noticed that the appearance of the NC attests to Plato's persistent conviction that real expertise in politics should be based on scientific and philosophical education; so far, with the NC, the state of Magnesia obtains to some degree the rule of philosophers and thus appears to be closer to the absolutely best state of the *Republic* than all the previous treatment suggested. However, since the NC is not properly built into the whole state system and has no functions and prerogatives determined by law (Zeller defined its purpose vaguely as keeping public opinion and with it the whole state on the right path), it is not clear how it can perform its functions; it remains "etwas sehr unsicheres und schwankendes" ('something very uncertain and unsteady').[11] Here we have in nuce the view that was prominent in later scholarship, "Plato's partial retreat

[11] Zeller II. 1[5], 1889/1922, 966–968 (the re-edition of the fourth and last edition of the volume during Zeller's life in 1889); the main text on the NC is more intact than in the earlier editions (Zeller II. 1[2], 630–631; II. 1[3], 823–824), but a long note has been added that is devoted to polemics with Bruns.

from the main concept in his *Laws*" — 1) the NC is something similar to the philosopher kings of the *Republic* and *thus* a certain contradiction of the whole constitution of the *Laws*, presumably because it does not envisage such philosophical leadership; 2) the NC does not receive the real instruments to enforce its superior judgements; 3) this is thus an insufficiently considered and inconsistent attempt to return to the absolutely best state.

The most detailed and thoughtful account of the NC in the 19th century was F. Susemihl's; today, it is almost forgotten, undeservedly, as will be seen.[12] Susemihl argued that the NC is in many respects similar to the philosopher kings of the *Republic*; and this might support the view that Plato envisages the transformation of the second-best state into the absolutely best one. Susemihl, first, maintained against Zeller that the NC employs the dialectical method and should attain the knowledge of Forms, like the Guardians of the *Republic*; the NC not only selects younger persons as assistants, but also educates them in scientific and philosophical matters (from Susemihl stems the understanding of the NC as an educational body). Second, he pointed out the passages that imply the governing role of the NC: its members are called the Guardians of the state, as opposed to other officials and the true Guardians of the laws, and thus are put on the higher level than the official Guardians of the laws, the body of the nomophylakes; they sit on the Acropolis. Third, the future preservation and improvement of the state and the laws depends on the existence of philosophical expertise; in this sense, the NC is the "anchor of the state". The NC acts as legislator and exegete of the laws. Fourth, it secures the continuity of the philosophical rule: it carries out the selection of capable younger members of the NC, after they attain due age, to the highest offices of the nomophylakes and the euthynoi (see the ban on the election of non-philosophical persons to these offices and the hint that the whole state should "observe" the young people approved by the NC); the euthynoi then enter the NC as its senior members. As far as possible, all important offices in Magnesia should thus be occupied by philosophers (p. 633–636). Susemihl provided a detailed explanation of how the NC should be formed: the education of the selected persons implies that the first council would consist not of officials, but of the graduates of the advanced programme of scientific and philosophical studies (the idea of the "temporary NC"); afterwards, the senior members should recruit candidates, educate them in philosophical and scientific disciplines and assure the election of people so educated to the highest offices of the nomophylakes and the euthynoi; the latter then enter the NC as its senior members.[13] Last not least: Susemihl pointed to the important passage 968 c 3–7 as meaning that, in the course of time, experience might teach that greater prerogatives may be granted to the NC (p. 635)

But having collected this evidence for the position of the NC as approximating that of the philosopher rulers of the *Republic*, Susemihl then rejected any attempt to treat the NC as a way of transforming the second-best state into the very best one: first, because the final part of the *Laws* shows that Plato doubts that this philosophical body can be attained (he points in 968 e to the risks of the plan and to the lack of a strict educational programme, in contrast to the *Republic*); he explains this by his awareness of the difficulties of the whole enterprise: the philosophical membership depends on unclear perspectives of election of philosophers to be *nomophylakes* and *euthynoi*; Plato accordingly admits

[12] Susemihl 1860, II/2, 633–640; see also his translation of the *Laws* with important notes (Susemihl 1862).

[13] See the note in his translation: Susemihl II, 1862, S. 1857–1858 n. 881 (clearer than in his earlier monograph).

(I. 632 c) that some of its members will have only "true opinion", not philosophical knowledge (p. 636–638). Second, although the reasoning on the NC as the bearer of knowledge and the Guardian of the laws implies that it stands above the laws and thus has the right to change them (without this, the state cannot be improved),[14] the NC acquires no legislative or judicial powers;[15] it exerts its influence through its members, who are simultaneously the highest officials; in this, he agreed with Zeller; but in difference from him, he explained this not as an oversight on Plato's part, but as a consequence of the awareness he had acquired since writing the *Republic* that even philosophical knowledge does not prevent a person from being corrupted by unlimited power; for this reason, Plato preferred the risky path of the indirect promotion of the philosophically educated people to the highest offices and through these to the NC (p. 638–640) — the theory of the "pessimism" of the late Plato, which still plays an important role.

According to Susemihl, all this shows that Plato did not hope that, even in the case of successful constituting, the NC would transform the second-best state into the very best.[16] This interesting analysis left many questions to be answered; one very important one was how the change in the laws that Susemihl diagnosed as necessary and as being the task of philosophical reason should be realised, if the NC attains no prerogatives as the legislative body. It is surprising that Susemihl's sticking to Zeller's view that the NC acquires no constitutional powers as the Guardian of the state did not properly interpret the passage (968 c 3–7), which he understood as pointing to the future granting of expanded powers to the NC (p. 635). The philological interpretation of the passage (granting of legal powers) was quite correct, as we shall see, and it clearly contradicts the view of NC as employing moral influence only. Probably Susemihl was here deceived by his own overemphasis on Plato's doubts about the attainability of the philosophical NC. In fact, in spite of the clear awareness of the difficulties and risks that accompany the creation of this body, the conversation is marked by the conviction that the future salvation of the state depends crucially on its appearance (960 c — d) and that Clinias, as the future legislator (968 e 6 — 969 b 2), should bravely pursue this goal. Equally, although it leaves the prerogatives of the NC to the future, the crucial passage points out clearly that, as soon as the NC has been constituted as the philosophical body, it should acquire its prerogatives (it does not address the possible *expansion* of these prerogatives, as Susemihl states).

Susemihl's view of the NC was attacked by I. Bruns, who in a long monograph attempted to prove that the text of the *Laws* contains pieces from the earlier redaction that were inserted by Philip of Opus, the posthumous editor of the dialogue. Bruns argued that the NC, as it is depicted in the final part of the *Laws*, is incompatible with the main part of the text: 1) the power of guarding the laws that is here assigned to the NC makes the previously envisaged body of the nomophylakes superfluous; 2) the demand in the final part of the *Laws* that the members of the NC have philosophical knowledge contradicts the earlier part's description of its membership as the highest officials, without any mention of their philosophical equipment (XII. 951 c 6 — e 5). Bruns thus asserted that this final part (XII. 960 b 5 — 969 d 3, with the exception of 961 a — b, the mode of formation

[14] He noticed that the nomophylakes are only entitled to fill the gaps in the laws left by the initial legislator, but not to change or abandon them, whereas the NC is expected to change the laws.

[15] However, he cited two exceptions — the power employed by the NC to punish the impious and depraved legislators (see below on this).

[16] Susemihl II/2, 1862, 636–640.

of the NC, which corresponds to the earlier "genuine" version, 951 c 6 — e 5) belongs to the earlier layer of Plato's thought when he still hoped to implement philosophical rule, together with the passage in the book I (632 c 4–8) according to which the legislator should posit two kinds of guardians of laws, those who possess knowledge and those who have only the right opinion.[17] None of these arguments is convincing: the first one because the final part clearly admits the existence of the nomophylakes, the oldest of whom also serve on the NC; the second one because the first exposition of the NC already points clearly to its competence in philosophical matters (Bruns also ignored Susemihl's proposal that the first members of the NC should not be the officials but the graduates of the advanced educational system).

Bruns' theory of two redactions was endorsed by some scholars and opened the door for further attempts to identify various layers in the text,[18] but the unsoundness of the assumptions and method of Bruns and Bergk was aptly demonstrated by T. Gomperz;[19] the idea of two contradictory versions of the NC, however, has survived, although in weakened form.

The "unitarians" argued against Bruns in two opposed ways. Zeller argued against Bruns that 1) the references in the earlier parts show that Plato's plan was from the beginning to create a philosophical body of Guardians of the laws; 2) the final part does not show that the NC acquires the prerogatives of an official state body and thus creates no contradiction with the whole state system as depicted before.[20]

C. Ritter, in contrast, although also pointing to hints at the NC in the earlier parts of the *Laws*[21] emphasised that according to 968 c 4–6 the powers of the NC should be maintained by the law; from Ritter stems the new interpretation of the passage that made the NC the future author of the law on the basis of its own constitutional powers (p. 364). He agreed with Bruns that the formation of the NC as depicted at the end of book XII (the selection of gifted persons for education) differs from the one that is depicted twice earlier (the highest officials become the members of the NC), but argued, modifying Susemihl's earlier proposal, that the former is a temporary mode that should be in force until the state has acquired a sufficient number of highest officials.[22]

The result of this first phase of debate, however, was not the victory of the unitarians, but the temporary victory of the view that Plato changed his mind when writing the last book. The radical theory of two conflicting redactions was, to be sure, rejected, but the appearance of the NC was now treated as Plato's reversion to the *Republic's* idea of the philosopher kings, i.e. as Plato's afterthought, which creates a contradiction with the principle of sovereignty of the law that has been maintained throughout the whole previous

[17] Bruns 1880, 192 ff.

[18] The best known of such attempts is that of Bergk 1883, 93–107, who developed the complicated and manifestly false theory of Plato's intention to develop in the *Laws* the projects of both the second-best and the third-best states; Philip of Opus, who did not understand Plato's design, mixed in the edited texts the pieces related to two different projects (see V. 739 b — e on the second- and third-best states). The NC was naturally the rest of the second-best project.

[19] Gomperz 1903, 3–21.

[20] Zeller 1889/1922, 967 f. note.

[21] See p. 349 on the promised discussion in 818 a of those "few" who should study mathematics and astronomy beyond the standard level, i.e. of the education of the members of the NC.

[22] Ritter 1896, 348–353, and further notes to the text (p. 353–366).

discussion.[23] There are some reasons for this view: in fact, as Barker rightly noticed, there is no convincing evidence that the earlier books already assign to the NC the important role it acquires in the last. But the proponents of this view did not seriously discuss the real problem — the exact sense in which the NC of the final part contradicts the previous discussion.

It is against this vague stance of an "afterthought" and against remnants of Bruns' view of two conflicting versions that G. Morrow maintained the currently prevailing version of the unitarian view of the NC. His view of the NC can be summarised as follows:

1) the NC is not conceived in any part of the *Laws* as a legislative or administrative body; apart from minor functions of listening to the accounts of travellers abroad and controlling atheists, its main task is the "salvation" of the laws, viz. it should maintain permanently the principles on which the state of Magnesia is founded; it will thus preserve the knowledge of the ultimate goal of the state, continuously vet that the laws correspond to this goal, fill the gaps in them and even improve the failures of the first legislator; the NC does not have any legal prerogatives; through its members (the oldest *nomophylakes* and all the *euthynoi*), it influences legislation and also the activities of the highest officials; it also takes care, again only through its moral authority, of the election of the able younger men who were the junior members of the NC to the highest offices;[24]

2) since the right understanding of the goal of the state and keeping the laws in conformity with this goal demands the knowledge of philosophical and scientific subjects, the main function of the NC is the study of these disciplines and educating the junior members of the NC in them; its parallel is Plato's Academy, with the difference, however, that the NC can employ its knowledge in improving the laws and the state education system;[25]

3) there is no convincing evidence that the NC is granted some extraordinary prerogatives at the end of the *Laws*, which would contradict the sovereignty of the law in the whole previous discussion; the passages that were taken to signal this, like "the city should be put in its hands" (969 c), only stress the importance of philosophical knowledge for preventing the state from deteriorating, through the informal influence of its members;[26]

4) no additional law is envisaged that will expand the prerogatives of the NC: the debatable passage 968 c 3–7, which some scholars have taken as indicating such an expansion, should be interpreted, according to Cherniss' proposal on the text, as the future law, which should regulate "the organisation of the higher studies" of the NC. This law on the NC's educational programme can be enacted only after the NC's members have been properly educated, and it should be enacted by the NC itself.[27]

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[23] E. Barker (Barker 1918, 402–410) is the typical representative of this view; he notices that the hints at the NC that appear in the earlier parts of the *Laws* point only to its philosophical knowledge and expertise, while the final part treats it as in institution with political prerogatives, thus far endorsing the theory of two conflicting versions; Barker rejects both the proposal of two redactions and Ritter's attempts to harmonise the earlier and the latter appearances of the NC, supposing instead that Plato changed his mind at the end of the work and no longer had time to reconcile the final part with the rest (Barker 1918, 402 n.3, 408 n.1; cf. Klosko, 1988, 78). For the other proponents of this view, see Morrow, 1960/1993, 500 n. 2.

[24] Morrow 1960/1993, 501; 508; 510–511.

[25] Morrow 1960/1993, 507 f.; 509 f.

[26] Morrow 1960/1993, 512.

[27] Morrow 1960/ 1993, 513 n. 22.

Morrow's view that the NC is conceived from the beginning as the philosophical body that possesses the highest expertise in legislation but lacks constitutional power to enforce its decisions and thus acts informally now certainly carries the day.[28]

There have been only a few voices of dissent.

Zaicev's Russian paper, which has remained unconsidered, argued briefly,[29] implicitly against Morrow, in favour of the view that develops some of the findings of F. Susemihl and C. Ritter that the final part of the discussion contains the promise of the gradual transformation of the NC in future: formed temporarily from the selected and philosophically educated people, it should later be staffed by the highest officials but retain its philosophical membership by promoting its younger members to these highest positions and also by co-opting the best travellers. Finally, the NC should itself lay down the law on its powers, which should approximate those of the philosopher-kings of the *Republic*; the final part thus outlines the way to transform the second-best state into the very best.[30] In the note to his translation of the *Laws*, Lisi recently propounded a view similar to Zaicev's.[31] This view of the NC as the instrument for the future development of the second-best state is now certainly hardly noticed.

Much more well-known is the attempt of R. Klosko, who in several works dedicated to the subject returns broadly to the earlier views as represented by E. Barker and some other scholars — the NC as presented in Book XII is reminiscent of the philosophical Guardians of the *Republic* and possesses real constitutional powers that contradict the principle of the sovereignty of law defended in the previous treatment. He argues against Morrow 1) that there is no direct evidence for the "informal" influence of the NC on the officials; 2) that, on the contrary, passage 968 c 3–7 points to the constitutional prerogatives of the NC (this is correct, although it needs reconsideration, as I will try to show) and 3) finally (this is his most important argument), that the whole treatment of laws before Book XII points to their rigidity; only in some groups of laws are partial changes envisaged within the trial period of ten years; after that, they should be fixed permanently; the task of these amendments is assigned to the nomophylakes; nowhere is any role of the NC mentioned. In Klosko's view, this rigidity of the laws makes the informal consultative role of the NC

[28] Morrow's view is endorsed, with some differences in details, by many scholars: see, for instance, Piérart 1974, 229–234; Tarán, 1975, 21f.; Guthrie, 1978, 374, Kahn 1993, xxi-xxiii; Lewis 1998; Laks 2000, 282–284; Samaras 2002, 285–301; Sier 2008, 294–299; Marquez 2011. Schöpsdau III, 2011, 575–606, in his recent detailed discussion of the NC, endorses in general Morrow's understanding of the NC as having "informal" functions (p. 580 f.), but he departs from Morrow in two important points: he rejects Cherniss' interpretations of the crucial passage 968 c 3–7, which Morrow endorses (the law should regulate the education of its members), and he leaves open the option that it points to the future defining of the prerogatives of the NC by law, as in the view that prevailed before Cherniss, although he remains noncommittal about deciding between these options (p. 603 f.); he also argues, thus returning to the earlier view (Susemihl's), that the mode of formation of the NC as stated in the final part (the selection of persons fit for education) is the temporary mode in contrast to the one explained twice earlier (membership through the highest offices) (p. 576). I will discuss both points in what follows.

[29] Zaicev 1967/2003.

[30] By way of summary, Zaicev says: "At the end of the *Laws*, Plato suddenly adds to the system of ordinary administrative bodies an extraordinary order that has a tendency of unlimited expansion of its insufficiently determined prerogatives and which is a holder of the true philosophical knowledge." The whole sense of his interpretation was that this "suddenly" does not point to Plato changing his mind, but rather to an impression that arises in readers who do not recognise that Plato proposes not a corrective to his system, but rather the means of transforming it (from the second-best state into the absolutely best one).

[31] Lisi 1999, II, 343–344 n.141.

unlikely, given the importance Plato assigns to it, and it is thus necessary to admit that Book XII assigns to the NC a role that is incompatible with the whole previous reasoning (he points out, like Barker previously, that although there are references to the NC in the earlier books, none of them implies the political functions of the NC, p. 78). Klosko thus comes to the view that the appearance of the NC signals Plato's switching to his favourite idea of the philosopher kings of the *Republic* and that he was not able to put the whole institutional frame of the *Laws* in accordance with this institution.[32] Klosko's last point, his treatment of the Magnesia laws as rigid, was much discussed, and I will return to this issue in the proper place: I will try to show that Klosko is close to the truth inasmuch as that the mechanism of legislation as described in the *Laws* leaves little place if any for philosophical expertise in the amendment of laws, but that he is not right in his treatment of the NC as a retreat from the basic principles of the whole system: the NC duly complements this system, but not in the way Morrow proposed.

In his thoughtful essay on the state of Magnesia, P. Brunt briefly disagreed with Morrow's treatment of the NC as having only informal prerogatives, noticing that it would be futile for Plato's purpose to create the philosophical body for "watching over the laws", "if a body that possessed rational understanding of the system did not have the power to enforce its will, and therefore to enact and not just to initiate new laws".[33] This is a view that I endorse, but unfortunately Brunt did not mention the passage that, as I believe, provides the most important evidence that Plato grants to the NC these necessary powers (968 c 3–7), probably because he was persuaded by Morrow's removal of this evidence.

Although C. Bobonich endorses Morrow's interpretation of the NC as a primarily educational institution with an informal influence on governance, he believes nevertheless that Plato leaves open a range of possibilities for it "between making the NC the sole authority for all changes in law and excluding it from any official role". He rules out, however, that its power might be an unvetted one. Unfortunately, these suggestions remain speculative: like Brunt, he does not take into consideration the passages that really point to the powers of the NC.[34]

To summarize the result of this almost 200-year debate, one readily agrees with Morrow in his rejection of the idea that the NC, as it appears in the final part, stands in purposeful contradiction to the whole project: as for the second version of its membership, although it shows some modifications to the earlier one, it does not signal any revision that hints at a new understanding of its functions. Moreover, the whole concluding conversation is suffused with the thought that the philosophical council should be the means, and in fact the single appropriate means, for the salvation of the future state on the principles on which it was founded (see esp. XII. 960 d 4–6). So far, one should proceed on the assumption that the reasoning in the final part was intended to complement and to strengthen the previous system, which of course does not necessarily preclude unintended

[32] Klosko 1988; in his later treatments of the subject, he dropped his references to 968 c 3–7 as the argument in favour of the constitutional powers of the NC, but stuck to his general assessment that the rigidity of laws makes any informal role of the NC in amending them implausible (Klosko 2006, 252–258; 2007).

[33] Brunt 1993, 250 f.; without discussion, he points again to 968 b (the powers of the NC should be defined later, after it has been brought into existence; in all probability, Brunt has in view the debatable passage 968 c 3–7) and to 969 b 2–3 (the city should be 'handed over' to the NC); the opinion of the earlier scholars on these passages was based on the idea that the NC should acquire the sovereign position in the state system; Morrow's attempt to explain them away will be discussed in detail below.

[34] Bobonich 2002, 391–408.

contradictions; one of the tasks of this paper is to determine whether such contradictions are really present.

In sum, Morrow's interpretation of the NC as conceived from the beginning to the end as the centre of scientific study and education, with only informal, even if authoritative, consultative functions in the improvement of the laws, needs a thorough revision: apart from some debatable points, his view entails also considerable difficulties that were partly noticed by the scholars after him: first, lack of evidence for the NC's "informal" influence, on the one hand, and a certain questionability of its effectiveness, on the other. The informal influence can be effective, if the officials, including the highest nomophylakes, who are entitled to modify the laws, are ready to follow the advice of their philosophical colleagues; if for some reasons, moral or intellectual, they refuse to do this, and the vote of the ten oldest nomophylakes cannot prevail over the votes of the other twenty-seven, the NC would not be able to manage the crisis. One might admit that Plato simply did not take into account these eminent dangers (as Zeller thought), but the text, as I hope to show, provides evidence for the opposite. We shall also see that Morrow's interpretation of the NC as the centre of philosophical and education activities lacks sufficient textual evidence.

Second, Morrow treats cavalierly the difficulties of the text of the final part of the discussion: granted that the rejection of the alternative redaction is correct, it remains nevertheless unclear how the mode of the formation of the NC that is described at the end — the selection of the proper persons, their education and then settling them on the Acropolis as the single true Guardians of the state — fits the previously depicted mode of formation (from the functioning officials, some ex-officials and distinguished travellers and young candidates). Morrow simply holds both kinds of formation to be identical, since he supposes that the NC itself would serve as the educational institution for its future members and that the selection of the persons fit to be Guardians of the state and for the corresponding education (XII. 968 c 9 — e 5) is nothing other than the proposal of candidates to junior membership by the senior members of the NC according to XII. 951 e 3–5; 961 a 8 — b 6; both suppositions are unwarranted, as we shall see. I thus will reconsider Morrow's interpretation of the NC.

3. The NC as the Philosophical School?

I start from Morrow's assertion that the NC is engaged primarily in philosophical and scientific enquiries and in the education of its junior members and in this respect is reminiscent of Plato's Academy. Both the partisans of Morrow's "informal" interpretation of the NC and those who believe that the NC should acquire the legal prerogatives of control over the state agree, nevertheless, that the NC as a whole is a philosophical and scientific body that educates its future members.[35] In fact, there is no evidence for this. According to the single account of its preoccupations (XII. 951 a 5 — b 1), the NC discusses the laws of Magnesia, presumably their possible faults and the possibilities of emending them, and what is outstanding in this field in other countries, such as sciences that might, after scrutiny, help to clarify matters related to the laws, lack of knowledge of which might

[35] This view, as far as I can see, goes back to Susemihl II, 2, 1860, 633; in the note to his translation of the *Laws*, he identifies the proposal of candidates by the senior members with the selection of people for the highest education (Susemihl, 1862, 1857 f. n. 881) — mistakenly, as we shall see.

hinder the understanding of these matters. The disciplines that the NC then approved should then be studied by its junior members.[36] The disciplines mentioned here are, most naturally, the same as those that the AS later said were indispensable for true Guardians of laws, i.e. mathematics, astronomy, theology and dialectic. The account of the NC shows that their list is open for future additions: progress in legislation thus depends partially on keeping apace with scientific progress. The capacity of the senior members to discuss the new disciplines that might be useful for these purposes implies that they themselves have been properly educated in philosophical and scientific matters, as one should expect from true Guardians. But at the same time, the account gives no hint that the sessions of the NC (and this is the only time they assemble together, being engaged in administrative duties) are devoted to further study or education: the NC is occupied only in discussions of the possible improvement of laws. The senior members may decide what disciplines should be learned and order the junior members to study them, but of course they do not teach them themselves, since they do not know them; this should be done, presumably, by the travellers who brought home the disciplines approved by the NC or the teachers they recommend, who are thus outside of the NC. Moreover, the sessions of the NC are conducted for a relatively short time and before dawn, when it is still dark, thus in a very inopportune time for scientific and philosophical inquiries and for teaching.[37]

The result that the NC itself, as a body, is *not* engaged in scientific and philosophical study or teaching is further corroborated by the final discussion of the NC: the philosophical and scientific knowledge whose possession is crucial for the salvation of laws and that is the necessary qualification of future members of the NC as the true guardians of laws should be attained by them *before* they become these guardians (968 a 6 — b 2);[38] the same is stated, even more clearly, at the end of the discussion of the NC (969 b 8 — c 3): the appropriate persons should be selected, properly educated and *then* should be made guardians.[39] It is not said directly who will educate them, but the AS points to his experience and hopes to win other similar persons (968 b 5–9) — thus it is next to certain that they will be the invited teachers of philosophical and scientific disciplines, most probably not local Cretan teachers.

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[36] τὴν δὲ συνουσίαν εἶναι τούτοις καὶ τοὺς λόγους περὶ νόμων ἀεὶ τῆς τε οἰκείας πόλεως πέρι, καὶ ἐὰν ἄλλοθι πυνθάνωνταί τι περὶ τῶν τοιούτων διαφέρον, καὶ δὴ καὶ περὶ μαθημάτων, ὁπόσ' ἂν ἐν ταύτῃ τῇ σκέψει δοκῇ συμφέρειν μαθοῦσι μὲν εὐαγέστερον γίγνεσθαι, μὴ μαθοῦσι δὲ σκοτωδέστερα τὰ περὶ νόμους αὐτοῖς φαίνεσθαι καὶ ἀσαφῆ. ἃ δ' ἂν τούτων ἐγκρίνωσιν οἱ γεραίτεροι, τοὺς νεωτέρους πάσῃ σπουδῇ μανθάνειν.

[37] Sier 2008, 295, following Morrow, cites 967 e as evidence that the members of the NC are "die wichtigsten Erzieher der Polis" (the most important educators of the polis), but what is said here is that those who attained full philosophical knowledge will use it in respect of moral habits and customs, which clearly refers to their watching over laws and to the possibilities of the improvement of the laws and, through them, of the moral habits of citizens; it does not imply that the NC as a body educates its younger members, much less the whole state.

[38] ὁρᾶν δὴ χρεὼν νῦν, ὦ Κλεινία καὶ Μέγιλλε, ἤδη πρὸς τοῖς εἰρημένοις νόμοις ἅπασιν ὅσους διεληλύθαμεν εἰ καὶ τοῦτον προσοίσομεν, ὡς φυλακὴν ἐσόμενον κατὰ νόμον χάριν σωτηρίας τὸν τῶν ἀρχόντων νυκτερινὸν σύλλογον, **παιδείας ὁπόσης διεληλύθαμεν κοινωνὸν γενόμενον.**

[39] ἐὰν ἄρα ἡμῖν οἵ τε ἄνδρες ἀκριβῶς ἐκλεχθῶσι, παιδευθῶσί τε προσηκόντως, παιδευθέντες τε ἐν ἀκροπόλει τῆς χώρας κατοικήσαντες, φύλακες ἀποτελεσθῶσιν οἵους ἡμεῖς οὐκ εἴδομεν ἐν τῷ πρόσθεν βίῳ πρὸς ἀρετὴν σωτηρίας γενομένους.

Of course, one can take these final statements as pointing to a temporary system that should work until the properly formed philosophical council emerges,[40] but since the previously discussed account of the NC that consists of philosophically competent persons does not point to enquiries or education either, this is not a justified refuge. Moreover, there is an implicit indication that the system as outlined in the final part should continue to function later. The minimum age for becoming a junior member is 30. Since the system of the highest education in the *Laws* is essentially the same as the system of the Guardians of the *Republic*, one can assume, in the absence of conflicting evidence, that the study of mathematics and astronomy at the highest level, which is required for membership in the NC, starts at the age of 20 and continues until 30, as in the *Republic*; according to both the *Republic* and the *Laws*, these studies should be crowned with the grasping of the unity of the mathematical sciences (including astronomy, *Rep*. VII. 537 b–c; Leg. XII. 969 e 1–3); after that, at the age of 30, those capable of this should be allowed to study dialectic, i.e. start philosophical studies (*Rep*. 537 d).[41]

Thus, even if one assumes that, with time, the NC should become the educational centre for its younger members, it is necessary to admit that they should study the highest scientific disciplines *before* appointment to the NC — thus, most naturally at the school as outlined by the AS. The result would be that the system drafted in the final part is now divided into the earlier scientific and the more advanced philosophical schools, the latter being identical to the NC. But this division of the highest education between two academic institutions is unlikely: first, as noted, the junior members should occasionally study new subjects most probably outside the NC or at least not with the prevailing part of the senior members, who do not know these things; second, the *Republic* presents the system of mathematical and philosophical education as a unity. The *Laws* are not explicit on this point, but it is stated that the students should grasp the unity of the mathematical disciplines (969 e 1–3), exactly as in the Republic, according to which this should be done at the end of mathematical studies and qualifies one for the study of dialectic. Presumably, this is done under the guidance of a philosophical dialectician, not of teachers of particular mathematical disciplines. Thus the continuity of scientific and philosophical educations remains, most probably, in force in the *Laws*, as in the *Republic*.

Hence, it is quite plausible that the senior members of the NC should function as the teachers of philosophy (and presumably, some of them as teachers of mathematics and astronomy) in the time when they are free of their administrative duties, not in the NC during its sessions before dawn, but at the school from which they graduated. According to the *Republic*, the future Guardians spend five years, from 30 to 35, in the study of dialectic, free of any political duties: this is the most plausible age for these studies also for the junior members of the NC, and it means that, between the ages of 30 and 40, they should combine studying philosophy and, occasionally, some new scientific matters with participation in sessions of the NC and serving as assistants to the senior members, probably also filling some minor state offices.[42] The prolongation of the student years beyond

[40] This was the view of the earlier scholars who believed that the final part refers to the temporary mode of forming the NC that Schöpsdau recently revived, see below on this.

[41] Cf. Schöpsdau III, 2011, 583.

[42] The *Republic* provides a clear outline of the programme and schedule, but is obscure on the place and the organization of teaching: the Guardians, after spending five years (from 30 through 35) in the study of dialectic, should thereafter perform the duties of military and other officials for 15 years; after that, at 50, they should return to dialectic and grasp the Form of the Good and then put in order both themselves and

those foreseen in the *Republic* can be explained by the necessity to perform political duties at the same time.

4. The Formation of the NC

This brings us to the second important point, the formation of the NC: in the final part of the discussion, the AS twice mentions the procedure of selection of those who are fit, intellectually and morally, to study the disciplines whose knowledge is required for the "true Guardians" (968 c 9-d3; 969 b 8): those who were so selected and attained this knowledge would be the members of the NC. This "selection" played a pivotal role in the theory of two contradictory redactions: its proponents argued that this mode of formation of the NC contradicts the one that was described previously (the members are recruited from the highest magistrates and ex-officials and these invite the younger members as candidates to be discussed by the whole NC). However, given that AS reiterates right at the beginning of the final part the earlier mode of formation and the following discussion contains no hint that this mode is changed, the supposition of two conflicting redactions can be definitely rejected, in this respect at least, as Morrow rightly did. But Morrow, who believed that the system of education here outlined is the programme of studies of the NC itself, asserted, in this harmonising vein, that the selection of persons capable of the highest education is the same as the proposal of candidates for junior membership of the NC by the senior members.[43] This cannot be the case: the latter candidates should be persons in the age interval from 30 to 40 years, surely too late for starting to learn mathematics and astronomy at the higher level.

The puzzle of two modes of formation thus remains, and more promising may seem the proposal made by some scholars, in various versions, that the final part refers to the temporary mode of formation of the NC, i.e. that it should initially be created from the young people who should be properly educated (Morrow does not mention these proposals). The earliest of these versions, that of F. Susemihl, which was recently endorsed by Schöpsdau, was that the reasoning of the final stage implies that the AS himself selects the people appropriate for the NC and educates them in the disciplines he outlined, and they then form the NC, which is now entitled to teach the following students. The graduates of this school would later join the NC as its senior members, provided they have been elected by a normal procedure to the nomophylakes, ethnynoi etc., as found in the earlier description.[44]

C. Ritter later modified this proposal: the interim council that should act until there are magistrates qualified for normal membership consists of 10 nomophylakes (elected in accordance with the temporary rule, instead of the regular 37) plus 10 legislators, assigned

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the whole state using this highest reality as the standard; they should devote their time in turn to philosophical studies and to the education of the philosophers similar to them, on the one hand, and to political duties, as the rulers of the state, on the other (VII. 539 e — 540 a); in this last stage, the people are similar to the senior members of the NC, who are also no younger than 50, are the holders of the highest offices and have already attained philosophical knowledge. The senior NC members can thus be philosophical teachers of the young, for instance those from whom they can propose candidates for junior membership in the NC. But the place of the studies is more naturally the school as organized on the plan of the AS, rather than the NC itself.

[43] Morrow 1960, 508.

[44] Susemihl 1862, 1857 f. n. 881; Schöpsdau 2011, III, 585 f.; Susemihl's kind of harmonization that 30 is the age for starting study and for candidacy to NC should certainly be rejected (see above).

by Knossos (702 c) plus the Athenian and Megillus (according to 969 d); it should be supplemented by the young men chosen as able for philosophical education.[45] Later, it should be formed as described earlier in 951 d 3 — e 5 and 961 a 1 — c 1, viz. from the current and retired higher magistrates and the younger candidates proposed by the individual magistrates and approved by the whole NC. [46]

Ritter's proposal has an advantage over Susemihl's: granted that the NC should perform from the very beginning its important functions as the Guardian of the laws, it is more plausible that it consists not only of philosophers, but also of the highest officials. But there is no evidence for this rather complicated mode of formation; moreover, the education of the selected people as outlined in the final conversation surely requires considerable time; when they have been educated, there should already be a sufficient number of higher officials and ex-officials to fill the vacancies in the NC, and the temporary mode as supposed by Ritter would be superfluous.

In the course of his interpretation of Aristotle's passage, Zaicev returned to a variant of the interim council that is close to Susemihl's: in the beginning, the NC should be formed *only o*f younger people who have been properly selected and philosophically educated.[47] Later, the NC should be formed from the higher magistrates, as is described earlier, but the measures are envisaged in order to maintain the NC permanently as the philosophical board: first, as persons who have acquired philosophical knowledge, travellers should be regularly added, after scrutiny, to the NC; second, those younger members of the NC (properly educated philosophically, as Zaicev implies) who stood the test of virtue during their participation in the NC should later have advantages in the elections of the nomophylakes and thus would ultimately join the NC again as permanent members.[48]

Susemihl's proposal on the interim council, accepted with modifications by Zaicev and Schöpsdau, is certainly attractive as an attempt to explain the contradiction that emerges between the procedure of selecting the people who are fit for the education, admittedly, of the younger persons, and normal membership by virtue of holding the highest offices, as described earlier. At first sight, this squares well with the final sentence of the AS's reasoning: the able people should be properly selected, educated in philosophical and scientific disciplines and then settle on the Acropolis as the true Guardians (969 b 8 —

[45] On Ritter's counting, the regular NC should consist of 65–80 members (10 oldest nomophylakes, 15 euthynoi, epimeletes tes paideias plus 1–2 of his retired predecessors; the travellers accepted in the Council after their reports, i.e. approx. 32 older members plus the same or an even greater number of younger members).

[46] Ritter 1896, 362–364.

[47] Zaicev 383 f. It is not clear whether Zaicev maintains that this initial NC of the graduates of philosophical education should perform any administrative functions; on the one hand, he says that the NC should *from the beginning* (p. 383) function as described at 951 c 6 — 952 d 4, i.e. listen to the reports of travellers, introduce new subjects for education and even determine the new laws (the latter is a slip that originates from taking ἐγκρίνωσιν 952 a 6 as referring to laws, whereas it refers to μαθήματα); on the other hand, these functions are surely performed by the members elected through the regular mode; thus, "from the beginning" probably should not be taken literally — it is of course implausible that the council consisting of only young philosophers would listen to the reports and perform control over atheists; rather, Zaicev used the phrase to contrast these functions of the regularly elected NC with its expanded functions according to the law that should be laid down later (according to 968 c 3–7).

[48] Zaicev clearly believed that the candidates to the NC would be proposed from among the philosophically educated people. As for their further career, he pointed to 952 b (advantages at elections) and 966 c-d (the important task is to ensure that only those people who attained the truth about gods are elected as nomophylakes).

c 2). But precisely this part seems to be incompatible with all versions of the proposal of an interim council, since the AS praises this future council as the final and perfect one, the complete realization of what he earlier showed to be the single means of the city's salvation: to have at the head the philosophical mind combined with the senses (969 b 5–7). This is not only a verbal contradiction. Susemihl proposes that the first NC emerges directly from the persons educated by the AS; they educate the next generation, and the representatives of the latter would join the NC as senior members after they had attained the position of nomophylakes and highest officials. But this begs the question how this first council consisting of persons who became members through their education only, not through the highest offices, can claim the highest position in the state and settle on the Acropolis as the true Guardians, whatever weakened sense you assign to these words (for instance with Morrow, that they imply informal influence only).[49] And last, as I argued before, there is no evidence that the NC as a body should itself educate anyone, either in the beginning or in future. If this is correct, the words on the selection and education of the future members of the NC do not amount to the creation of the NC.

Another solution commends itself. Selecting people capable to become the Guardians for the highest education based on their capacities to learn and their moral attitudes (969 c 9 — d 3) does not imply the formation of the NC from them directly after the conclusion of their education; equally, the formula at 969 b 8 — c 2 — that the people should be properly selected, educated and then, having settled on Acropolis become the true Guardians — does not mean that they become the members of the NC immediately and automatically after completion of their education. The sense of both statements is that the educational system for future members of the NC should be built; the students should be properly selected by the AS and his interlocutors; the graduates of the system should be recommended as candidates for the highest offices; only when these latter are occupied through elections by persons whose moral virtues have been enhanced by scientific and philosophical knowledge will the council consisting of the nomophylakes and the euthynoi, as described, be constituted as the supreme Guardian of the state by the law. The members of the NC will in future propose the candidates for junior membership from among the graduates of the same educational system, who in due course, provided that they prove their moral and intellectual abilities, would be recommended for the highest offices and join the NC as its senior members.

This does not seem to contradict evidence and there is an indirect support for the view that the NC as the Guardian should be formed through education and election as highest officials from the very beginning: the NC says (966 c 1 — d 3) that guarding the city, the prerogative of the NC, should not be entrusted to people who do not possess the required philosophical knowledge (here theological knowledge is meant, but it clearly holds for all required knowledge), and that "not entrusting" means not electing such people as nomophylakes and not giving them rewards for the highest virtue, i.e. not electing them as euthynoi. This statement shows that the proper way of forming the *philosophical* NC is through the election of philosophical people as the highest officials. The proponents

[49] Notice further that the earlier picture of this union of Mind and Senses clearly refers to the NC, which functioned on the whole scale, with the older and the younger contributing to their role in the "salvation" of the whole city with the younger keeping guard on the city and reporting what they perceive to the older, and the latter having consultations on what happens and giving instructions to the younger as their attendants (964 e — 965 a).

of the theory of the interim council take this statement as referring to the future "normal" mode of the NC's staffing, but, granted that the text nowhere hints at two different modes, it indicates the initial and single mode, which should work permanently.

I would not definitely rule out another option — that the NC should be created at the beginning as the consultative body of the highest officials, but acquire its final form through the law (968 a 4 — b 2) on it as the Guardian when it possesses the philosophical membership of the philosophers elected as the highest officials, as described before. I personally earlier preferred this variant, because it seemed to me plausible that Plato would make the NC itself play the decisive role in its gradual transformation — through the proposals of philosophical junior members and by controlling the elections to ascertain the success of philosophers; it also may seem more in accord with Plato's awareness of the difficulties of implementing the unusual measures, an awareness he often shows in the *Laws*, than with the drastic creation ex nihilo of the philosophical controlling instance. But, on consideration, there is simply no evidence for the earlier non-philosophical NC: all mentions of the NC from the very beginning (the conversations with atheists, the vetting of travellers, the decision-making on new disciplines for younger members to study) entail its philosophical competence, which is of course the upshot of its final reasoning.

Thus the former option — the constitution of the NC only in future and with purely philosophical membership — seems to be better in accord with the text. This implies that the city will not have its "anchor" and the means of its salvation for some decades after its foundation. In a way this is true, but the final statement on the making of the NC is made in the conditional form (969 b 2 — c 2) — thus it is not certain that this body will emerge at all. At the same time, we need not think that, without the NC, the city will be deprived entirely of the philosophical element. The system of scientific and philosophical studies will be built immediately on the foundation of the city; as I argued before, there is no need to identify this institution with the NC. The nomophylakes who are charged with supplementing the gaps in the initial code of laws should ideally be philosophers and thus, admittedly, the graduates of this philosophical education. On any interpretation, that of Morrow or of the "interim" council, the inescapable result is that the true council can be attained only with educated philosophers, viz. after a time. We shall see that there are serious reasons for this non-making of the NC in the absence of philosophers; contrary to Morrow's view, the NC should be charged with powers that are too considerable to be entrusted to officials with the usual, non-philosophical virtues. We thus turn to the core of the "informal" understanding of the NC.

5. The Prerogatives of the NC

In his refutation of the view that the NC signifies the return to the philosophical rulers of the *Republic*, Morrow pointed (p. 512) out the phrase "the state should be handed over to the NC", the only one, according to him, that might support such a view. He argued contra that the phrase does not mean that the NC is intended to stand above the law, in contradiction to the principle of the sovereignty of law on which the whole project of the *Laws* is built, and that the expression is vague and is compatible with the assumption that the NC should provide only "informal" philosophical guidance and has no "legal powers", granted that there is no evidence for the contrary.

Now, the problem of standing above the law is the more difficult one, but Morrow certainly was not right that the expression is vague and can imply an "informal influence". The same expression, "to hand over the state", was previously used in the discussion (IV. 715 a 4–5) of who are qualified to be the officials of the future state. There it certainly implied legally maintained prerogatives, not informal ones. The same sense should be assigned to it when it is used now for the NC. The NC thus attains a role superior to all other officials, again in the legal sense. Nor is this phrase the only one that points to the legal powers of the NC. The statement on the law on the NC provides further and more important confirmation of these prerogatives (XII. 968 a 4 — e 5):

> ΑΘ. ὁρᾶν δὴ χρεὼν νῦν, ὦ Κλεινία καὶ Μέγιλλε, ἤδη πρὸς τοῖς εἰρημένοις νόμοις ἅπασιν ὅσους διεληλύθαμεν εἰ καὶ τοῦτον προσοίσομεν, ὡς φυλακὴν ἐσόμενον κατὰ νόμον χάριν σωτηρίας τὸν τῶν ἀρχόντων νυκτερινὸν σύλλογον, παιδείας ὁπόσης διεληλύθαμεν κοινωνὸν γενόμενον· ἢ πῶς ποιῶμεν;
>
> ΚΛ. Ἀλλ', ὦ λῷστε, πῶς οὐ προσοίσομεν, ἄν πῃ καὶ κατὰ βραχὺ δυνηθῶμεν;

This formulation, even if it is not the exact text of the law, brings forward three important points: 1) the functions of the guardians are granted to the NC by the law; 2) these functions are determined by the law (κατὰ νόμον); 3) they are granted to the NC, which is educated to be adequate both intellectually and morally to the task of "salvation". Point (1) and especially point (2) make purely informal authority very unlikely: they show that the NC should act in accordance with the prerogatives granted it by the law and within the limits of these prerogatives.[50] This does not necessarily mean, however, that the NC would not have prerogatives to change the laws.

The next evidence on the legal prerogatives of the NC is debatable. We need to cite the whole piece that ensues; it discusses the law about the NC:

> ΑΘ. Καὶ μὴν πρός γε τὸ τοιοῦτον ἁμιλληθῶμεν πάντες. συλλήπτωρ γὰρ τούτου γε ὑμῖν καὶ ἐγὼ γιγνοίμην ἂν προθύμως—πρὸς δ' ἐμοὶ καὶ ἑτέρους ἴσως εὑρήσω—διὰ τὴν περὶ τὰ τοιαῦτ' ἐμπειρίαν τε καὶ σκέψιν γεγονυῖάν μοι καὶ μάλα συχνήν.
>
> ΚΛ. Ἀλλ', ὦ ξένε, παντὸς μὲν μᾶλλον ταύτῃ πορευτέον ᾗπερ καὶ ὁ θεὸς ἡμᾶς σχεδὸν ἄγει· τίς δὲ ὁ τρόπος ἡμῖν γιγνόμενος ὀρθῶς γίγνοιτ' ἄν, τοῦτο δὴ τὰ νῦν λέγωμέν τε καὶ ἐρευνῶμεν.
>
> ΑΘ. Οὐκέτι νόμους, ὦ Μέγιλλε καὶ Κλεινία, περὶ τῶν τοιούτων δυνατόν ἐστιν νομοθετεῖν, πρὶν ἂν κοσμηθῇ—τότε δὲ κυρίους ὧν αὐτοὺς δεῖ γίγνεσθαι νομοθετεῖν — ἀλλὰ ἤδη τὸ τὰ τοιαῦτα κατασκευάζον διδαχὴ μετὰ συνουσίας πολλῆς γίγνοιτ' ἄν, εἰ γίγνοιτο ὀρθῶς.
>
> ΚΛ. Πῶς; τί τοῦτο εἰρῆσθαι φῶμεν αὖ;
>
> ΑΘ. Πρῶτον μὲν δήπου καταλεκτέος ἂν εἴη κατάλογος τῶν ὅσοι ἐπιτήδειοι πρὸς τὴν τῆς φυλακῆς φύσιν ἂν εἶεν ἡλικίαις τε καὶ μαθημάτων δυνάμεσιν καὶ τρόπων ἤθεσιν καὶ ἔθεσιν· μετὰ δὲ τοῦτο, ἃ δεῖ μανθάνειν οὔτε εὑρεῖν ῥᾴδιον οὔτε ηὑρηκότος ἄλλου μαθητὴν γενέσθαι. πρὸς

[50] In his paraphrase of this passage, Morrow 1960, 507, typically does not render this important stipulation and uses it as the confirmation of his view that the NC should be "first of all an institution for the higher education", contrary to its direct sense, which is that its members are the products of this education, not the teachers (see above on this). One can object that this stipulation may imply that the NC acts in accordance with the law in its non-legislative and non-administrative functions, like vetting travellers and atheists, consulting about laws etc. (Morrow further [p. 513] notices that the NC is appointed to admonish the atheists, but those who resist are convicted in court, which confirms, as he argues, that it has no power to override the law). But this contradicts the logic of the whole reasoning — the law should maintain the functions that prevent the state and the laws from deteriorating, and the NC cannot perform this function *according to the law* if the latter determines the NC's prerogatives only within narrower tasks like those Morrow mentions.

τούτοις δὲ χρόνους, οὕς τε καὶ ἐν οἷς δεῖ παραλαμβάνειν ἕκαστα, μάταιον ταῦτ' ἐν γράμμασιν λέγειν· οὐδὲ γὰρ αὐτοῖς τοῖς μανθάνουσι δῆλα γίγνοιτ' ἄν ὅτι πρὸς καιρὸν μανθάνεται, πρὶν ἐντὸς τῆς ψυχῆς ἑκάστῳ που μαθήματος ἐπιστήμην γεγονέναι. οὕτω δὴ πάντα τὰ περὶ ταῦτα ἀπόρρητα μὲν λεχθέντα οὐκ ἂν ὀρθῶς λέγοιτο, ἀπρόρρητα δὲ διὰ τὸ μηδὲν προρρηθέντα δηλοῦν τῶν λεγομένων.

The AS asks his interlocutors whether, in addition to the previously discussed (and thus passed) laws, they should also pass a law that the Nocturnal Council of "the rulers", having had the education just discussed, will be constituted as the Guard. Clinias responds (also on behalf of Megillus) that they are eager to pass such a law, if they are able to do this even to a small degree; and the AS promises to help them with his expertise in "such matters" and also to win other competent persons for this purpose. It is thus next to certain that the difficulty lies in the educational field. Clinias proposes to investigate what the "right way" (presumably to create the NC) is, and the AS maintains that it impossible to legislate "such things" until they have been arranged.

The standard interpretation of the crucial sentence τότε δὲ κυρίους ὧν αὐτοὺς δεῖ γίγνεσθαι νομοθετεῖν — was for a long time that the indirect question κυρίους ὧν αὐτοὺς δεῖ γίγνεσθαι depends on the second νομοθετεῖν, which would mean that the legislation on such things (i.e. on the NC) should be postponed until the NC has been established. After that, it would be possible to legislate what prerogatives they should have, i.e. νομοθετεῖν, κυρίους ὧν αὐτοὺς δεῖ γίγνεσθαι.[51] According to the variant of this interpretation proposed by Ritter, αὐτούς is the subject of the second νομοθετεῖν — it will possible after that for them (the members of the NC) to legislate what their prerogatives should be.[52]

H. Cherniss rejected this interpretation (he argued directly against Ritter's version) in the course of his devastating criticism of Gerhard Müller's monograph;[53] Müller used the passage to prove that the final parts of the *Laws* prefigured the discussion of scientific and philosophical education in the *Epinomis* and as evidence that the *Laws* and the *Epinomis* form an indivisible unity. According to Müller,[54] Clinias' question (to which the debatable passage is the response) is imprecise (τίς δὲ ὁ τρόπος without specification): he asks what both the prerogatives of the NC and its educational programme should be. The answer of the AS refers also to both — the laws on such things, περὶ τῶν τοιούτων (on the prerogatives and the educational programme) can be laid down only after the NC has been constituted: then it would be possible to establish by law what the constitutional prerogatives of the NC should be (κυρίους ὧν αὐτοὺς δεῖ γίγνεσθαι): this corresponds to the standard treatment of syntax (Susemihl), but Müller added, following his understanding of περὶ τῶν τοιούτων, that κυρίους ὧν αὐτοὺς δεῖ γίγνεσθαι may alternatively have the meaning

[51] See Susemihl II/2, 1860, 635.

[52] Ritter 1896, 364. He rightly admitted that his interpretation would be more plausible if κυρίους and αὐτούς changed places. This is certainly the case, and one should add that the idea that a body should legislate on its own prerogatives has no support in the text and is hardly plausible by itself.

[53] Müller's thesis (Müller 1951/1968), which is aporetic throughout, was that the *Laws* and the *Epinomis* are, on the one hand, stylistically and theoretically homogenous, and, on the other, entirely different from Plato's work; this urges us to admit that either both were not written by Plato (the option he could not accept), or (the option he preferred but found unexplainable) that Plato wrote both treatises in opposition to his previous teaching and in distinction from his earlier style; this dilemma was rightly rejected as being wrong about both the homogeneity of the two treatises and about the contrast between the *Laws* and Plato's other dialogues.

[54] Müller 1951/1968, 30–33.

"über welches Wissen sie verfügen sollen", i.e. the law promulgated in future should be specifically on what knowledge the members of the NC should possess (the ambiguity of the German *verfügen* (which can mean "possess" or "control") played, as we shall see, the fatal role in the future debate).[55] The final sentence of the passage (ἀλλὰ ἤδη τὸ τὰ τοιαῦτα κατασκευάζον διδαχὴ μετὰ συνουσίας πολλῆς γίγνοιτ᾽ ἄν, εἰ γίγνοιτο ὀρθῶς) refers to the discussion of the system of education, as implied by the next passage on the difficulties of selecting future students, on finding the disciplines they should learn and who should teach them and of making a proper schedule on the sequence of disciplines to be learned and the time needed for each. The promise of such a discussion, Müller believed, anticipated the discussion in the *Epinomis*.[56]

Cherniss' main goal in his criticism of Müller[57] was to prove that there is no reference in the *Laws* to the *Epinomis*; he argued that the process Müller implies is not logical: if the difficulties that make the interlocutors postpone legislating on the NC are those that should be settled by the following discussion, why is the law postponed until the NC has been constituted, i.e. properly educated (both he and Müller admitted that these processes are identical), rather than until the discussion has been completed? Cherniss accordingly proposed his own interpretation of the passage: the AS's outline of the process of education shows that determining the time necessary for studying each subject is possible only for those who have already attained knowledge in the course of this study (see 968 d 4-e4). The teaching (διδαχή) that is necessary before enacting the law on the NC thus cannot be the discussion of the educational system but only the education itself, and since the details of this system will be clear only for persons who have been so educated, they alone will be capable of implementing such a law: in Cherniss' interpretation, the debatable parenthetic sentence refers in fact to this effect of education: "Legislation is no longer possible about such matters [as those concerning the council] until it has been organized, and *then it is possible for masters of what they must become masters to do the legislating*; but training of that kind, if done right, would already amount to schooling by long association". Cherniss thus modified the traditional understanding of the syntax (the indirect question dependent on νομοθετεῖν) and proposed instead that κυρίους is the subject of νομοθετεῖν and that ὧν αὐτοὺς δεῖ γίγνεσθαι (sc. κυρίους) specifies this subject.

Morrow endorsed and used this treatment of the passage (which Cherniss himself did not develop in a definite view of the functions of the NC) in his argument that no granting (or expansion) of legal prerogatives of the NC is promised in the text;[58] this argument has since gained universal approval, with only a few exceptions. But in fact Cherniss' view is unconvincing in several points.[59] The full phrase, according to Cherniss, should be τότε δὲ (δυνατὸν ἔσταικυρίους, ὧν αὐτοὺς δεῖ γίγνεσθαι (κυρίους), νομοθετεῖν (viz. περὶ τῶν

[55] In the Addendum of 1968, Müller definitely gave preference to this second option (p. 194 n.2): the future law regulates die "Beherrschung des Wissens".

[56] Müller's initial view of τὸ τὰ τοιαῦτα κατασκευάζον was that it refers to the imagined process of establishing the NC through the education of its members; in the second edition, he preferred to relate it to the preparatory discussions.

[57] Cherniss 1951, 373–375.

[58] Morrow 1960, 513 n. 22 (with severe doubts about the meaning of the passage that he regarded as probably corrupted; like Cherniss, Morrow considered as an alternative only Ritter's interpretation, as popularised by Bury, not that of Susemihl).

[59] Cherniss' interpretation was endorsed, from a philological point of view, by Tarán 1975, 21 ff.; Sier 2008, 297 f.

τοιούτων). Its main advantage is that the second part of the sentence is related to the same object of legislation: it is not possible to legislate on educational matters before these have been ordered; it will be then possible for those who became the masters of these things, i.e. who went through this system of education, to legislate on them. But this advantage is bought at a high price. Cherniss' treatment of syntax is by no means more natural than the traditional one. It entails changing the construction from the impersonal one in the previous sentence to the personal and a rather obscure description of the new subject ("the masters, i.e. the connoisseurs, of things of which they should become masters'); it is further necessary to imply another κυρίους as the predicate of γίγνεσθαι. Again, αὐτοὺς stands in a rather unnatural position: given the syntax Cherniss proposes, one expects it after δεῖ, not before it.[60] This all would be tolerable, granted that there is no alternative, but that is not the case, as we shall see.[61]

The greater difficulty for Cherniss' proposal, and one that seems to be fatal for it, is the unusual meaning he assigns to κύριοι with the object in the genitive case — "those who possess knowledge of something".[62] All examples of κύριος in the *Laws*, apart from the metaphoric meaning "the most important, essential", belong to the standard usage "being a master (of land, a house etc.)" or "having power over something" (the people, laws, magistrates) or "valid" (for laws, testaments etc.). The dictionaries provide no example of the usage supposed by Cherniss. His ambiguous translation ("masters of knowledge" in the sense of "possessors of knowledge") thus disguises the fact that the Greek κύριος does not have the polysemy that the English "master of something" has — one who commands in a field and one who is expert in a field; the same is true of Müller's intentionally ambiguous translation, "über welches Wissen sie verfügen sollen".[63]

The lack of relevant examples and the implausibility of this meaning of κύριος were rightly noticed by Lisi (1999, II, 343–344 n.141), who rejected Cherniss' interpretation and returned to Susemihl's understanding of the sentence. However, Schöpsdau, who also rejects Cherniss' understanding of syntax and opts for Susemihl's rendering of it, nevertheless finds Cherniss' understanding of κύριοι as "connoisseurs" acceptable (along,

[60] As Schöpsdau rightly notes in favour of the traditional understanding, in Cherniss' version one should expect αὐτούς after δεῖ, not before it.

[61] The advantages of such an understanding over the traditional one to which Cherniss refers are imaginary: there is no need, according to him, to supply ἡμᾶς as the subject to the νομοθετεῖν on the traditional understanding of syntax: formally, like the previous νομοθετεῖν, it has no grammatical subject — both depend on the impersonal οὐκέτι δυνατόν ἐστιν /(δυνατὸν ἔσται; in neither case does the identity of the implied agent depend on syntax (see below on this). Cherniss himself endorsed Ritter's view that the agents of future legislation should be the members of the NC and hoped that his syntax improved on Ritter's proposal; Ritter's syntax is in fact strained, as Ritter himself admitted (see above), but Cherniss' proposal is not an improvement on it.

[62] The same objection is valid, of course, against Cherniss' opponent, Müller, with his different understanding of syntax, who initially hesitated between understanding ὧν as prerogatives and as knowledge (30 with n.1), but in the second edition of his monograph definitely gave preference to the latter meaning (p. 194 n. 2).

[63] This semantic difficulty would be smaller, if "masters" implies not the possession of knowledge, but the right to regulate the educational system (i.e. then, by being sovereign over the things they should become sovereign over, they can legislate on these things, i.e. having acquired the right to decide about the disciplines to be taught by attaining knowledge of these disciplines). This option cannot be definitely ruled out, but, since the other text does not hint at the idea that only persons who were educated according to the programme outlined by the AS are entitled to legislate on the NC or on its educational programme, this interpretation lacks any visible support; and since it has an obscure sense, it is hardly commendable.

however, with the alternative one — "Befügnisse", "prerogatives"), and he cites against Lisi the passage that Müller already adduced in support of the supposed meaning "Beherrschung des Wissens".[64]

1) *Leg*. 665 d 1–5 (on the necessity to have the third chorus of the older people):

> ΑΘ. Ποῦ δὴ τοῦθ' ἡμῖν τὸ ἄριστον τῆς πόλεως, ἡλικίαις τε καὶ ἅμα φρονήσεσιν πιθανώτατον ὂν τῶν ἐν τῇ πόλει, ᾄδον τὰ κάλλιστα μέγιστ' ἂν ἐξεργάζοιτο ἀγαθά; ἢ τοῦτο ἀνοήτως οὕτως ἀφήσομεν, ὃ κυριώτατον ἂν εἴη τῶν καλλίστων τε καὶ ὠφελιμωτάτων ᾠδῶν;

Müller thus supposes that it means something like "should we so foolishly neglect this category of people, which is the ablest in performing the most beautiful and the most useful songs".[65] However, here it is entirely possible to assign to κυριώτατον with genitive its usual meaning, "the most prominent, essential for something"; this meaning also corresponds better to the superlative, since the point here is that the older people are singularly able to perform the most beautiful and the most useful songs, not that they are the best in this quality. τοῦτο and ὃ refer, accordingly, not to τὸ ἄριστον τῆς πόλεως, i.e. to the chorus of the older men, but to the question itself, how to make the singing of this chorus most useful. The sentence thus means "or should we so foolishly neglect what is the most important prerequisite for having the finest and the most useful songs?"

2) The second example that Müller cited is *Epin*. 989 d 2:

> τοῦτο δὴ οὖν τὸ μέρος εἶναί φαμεν φύσει κυριώτατον καὶ δυνατὸν ὡς οἷόν τε κάλλιστα καὶ ἄριστα μαθεῖν, εἰ διδάσκοι τις.

Müller connects κυριώτατον with μαθεῖν. It is not entirely clear whether τὸ μέρος refers here to the "best natures" or to the part of wisdom they should learn, i.e. astronomy, which contributes to piety (the latter option seems to me preferable). In any case, even if μαθεῖν depends on κυριώτατον as the epexegetical infinitive, which is by no means obvious, here κύριος does not designate one who *possesses* knowledge: the meaning is either that this knowledge is the supreme one to learn, or that these people are the most entitled to learn it.

So far, granted that there are no convincing examples of κύριος with the meaning Cherniss proposed, it is commendable to return to Susemihl's understanding both of syntax and of the meaning of κύριοι, which removes all these difficulties and gives a quite satisfactory sense: "then it will be possible to lay down by law what the prerogatives of the members of the NC will be". It is not necessary to join some of the proponents of the traditional treatment of the syntax (Ritter, England) in admitting that this intended law should be laid down by the NC itself, which would have the paradoxical result, for which there are no precedents in the *Laws*, that a body should itself determine its prerogatives.[66] The

[64] Schöpsdau 2011, 603, see his translation (II, 51): "Oder wollen wir so unvernünftig sein und auf diesen Teil verzichten, der doch wohl im höchsten Maße über die schönsten und nützlichsten Gesänge verfügen wird?… "

[65] Cf. already England I, 312, who renders κυριώτατον as "perfect masters of"; and adds "it includes… the idea of 'the best authority'", citing the examples for the latter, where κύριος with genitive means "having authority, being valid" due to knowledge or the like, but it of course does not change the fact that κύριος itself conveys the notion of authority or validity, rather than that of knowing.

[66] From the linguistic point of view, the idea is equally improbable: if the meaning were that the members of the NC should *themselves* decide what should be their prerogatives, the subject of the decision could not be omitted (for this reason Ritter wished to have κυρίους and αὐτοὺς change places in the text). It need

first νομοθετεῖν has no expressed subject and depends on the impersonal οὐκέτι δυνατόν ἐστιν: it is impossible at this point to lay down the laws, viz. impossible for the interlocutors, who cannot yet determine its content and to propose it to the body that should lay down the set of the laws of Magnesia. The run of the sentence suggests that the second νομοθετεῖν is ruled by the same impersonal expression. Thus the future legislators are not the members of the NC, but, again, the interlocutors, or, granted that the organization of the NC as the philosophical Guardian may take a long time (the required persons should be duly educated and attain the highest offices, in the interpretation I propose), the definite law should be laid down by the *nomophylakes*, who are entitled to make alterations in the body of law in future (see VI. 769 a — 771 a): of course, the AS hopes that these would follow the philosophical principles on which the whole project is founded.

Now we should discuss another difficulty that provoked Müller to interpret κυρίους ὦν as pointing to the possession of knowledge and that led Cherniss to adopt this infelicitous meaning from his opponent, although rejecting his treatment of the syntax. This is the triple τὰ τοιαῦτα in the text at 968 b 8, c 4, and c 6. The reference of the first is not expressed explicitly, but the AS mentions his enquiry into "such things" and his experience with them and promises to find also other, similarly competent persons;[67] this is usually taken, most naturally, as referring to philosophical and scientific subjects, in which the AS alone is an expert, to his experience both in studying and teaching them and to his possibility of finding other scholarly minds;[68] it is thus about the organization of the educational system for the future members of the NC, on the lines pointed out in the previous conversation on the philosophical and scientific disciplines that the true Guardians of laws should study. It is natural, accordingly, to take the second τὰ τοιαῦτα (οὐκέτι … περὶ τῶν τοιούτων δυνατόν ἐστιν νομοθετεῖν) as having the same reference: thus, the AS says that it is not possible at this point to lay down the laws about the educational system. This is further confirmed by the meaning of the third τὰ τοιαῦτα: the AS says that the process of arranging "such thing"' turns out to be teaching by means of long conversational intercourse (τὸ τὰ τοιαῦτα κατασκευάζον διδαχὴ μετὰ συνουσίας πολλῆς γίγνοιτ' ἄν): it is not immediately clear whether this teaching means the AS's explanation of the future system to his companions or the training of future philosophers (see below on this point), but it is clear that τὰ τοιαῦτα in these sentence are not the prerogatives of the NC. [69]

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not be added that αὐτοὺς in its present position does not imply that νομοθετεῖν has the same subject, the members of the NC; it is used here normally as a demonstrative pronoun and points to the distant antecedent, the NC at 968 a 7.

[67] συλλήπτωρ γὰρ τούτου γε ὑμῖν καὶ ἐγὼ γιγνοίμην ἄν προθύμως—πρὸς δ' ἐμοὶ καὶ ἑτέρους ἴσως εὑρήσω—διὰ τὴν περὶ τὰ τοιαῦτ' ἐμπειρίαν τε καὶ σκέψιν γεγονυῖάν μοι καὶ μάλα συχνήν.

[68] This is confirmed by the AS' further remark that he is ready to take part in the common enterprise by sharing the views he had previously formed on the kind of education he presented as necessary in the earlier conversation (ταῦτα ποιητέον, ἐγὼ δ' ὑμῖν συγκινδυνεύσω τῷ φράζειν τε καὶ ἐξηγεῖσθαι τά γε δεδογμένα ἐμοὶ περὶ τῆς παιδείας τε καὶ τροφῆς τῆς νῦν αὖ κεκινημένης τοῖς λόγοις 969 a 1–3).

[69] See Schöpsdau 2011, 603, with whom I entirely agree on the identical reference of three τὰ τοιαῦτα. Lisi's attempt to treat τὰ τοιαῦτα at 968 c 4 as meaning the prerogatives of the NC is attractive at first sight — the rejoinder that it is impossible to legislate further on such things seems to look back at the law that constitutes the NC as the Guard of the state (968 a 4 — b 2), see Lisi 1998, II, 343 n. 141 (here he argued against Cherniss that the debatable passage refers to the future defining of the prerogatives of the NC; earlier, Lisi 1985, 356, still following Cherniss' understanding of the parenthetical sentence as relating to the knowledge rather than the prerogatives, nevertheless also took τὰ τοιαῦτα at 968 c 4 as meaning the prerogatives). Nevertheless, the neighboring position of two τὰ τοιαῦτα with different meanings is implausible, and since both the τὰ τοιαῦτα before 968 c 4 and the one immediately next to it clearly refer to educational matters, there is

Now, since the parenthetical sentence on future legislation is sandwiched between the two statements on education, and the immediately preceding statement is that it is impossible to legislate on this matter, the inference seems to be inescapable that the subject of the law in question should be again the system of education, not the prerogatives of the NC, as according to Cherniss.[70] Nevertheless, Cherniss' interpretation of the sentence is untenable, as I tried to prove. Moreover, the presence of a law on education only, not on prerogatives, would create a series of inconsistencies: the interlocutors have agreed before that it is necessary to lay down the law that the NC, who participated in the system of sciences and philosophy, should be made the Guardian of the state (968 a 4 — b 2) — but this law suddenly disappears and we have instead only the one on the educational programme. Moreover, at the end of the discussion, the AS says that if the divine council emerges, the city should be handed over to it, and he explicates this as follows: the people should be exactly selected, be properly educated and then, having settled on the Acropolis, become the true Guardians, the realized image of the union of mind and senses (969 b 2 — c 2).[71] This shows that finishing this educational stage should be crowned by a certain political action (handing over the city to the NC, settling on the Acropolis), and the most plausible correspondence to this action is laying down the law on the NC.[72]

So far, there are reasons to resist this inference that the only law mentioned is the law on the educational system. In fact, the meaning of the debatable passage is clear enough and depends on the logic of the preceding conversation. The interlocutors have agreed

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no choice other than to assign the same meaning to the middle one. Lisi believes that if one takes τὰ τοιαῦτα c 4 as referring to sciences and their learning, a contradiction emerges: it is said here that it is impossible to legislate on such things until they have been arranged, but it seems to follow from the further conversation that it is, in principle, impossible to regulate in written form the knowledge that the members of the NC should acquire (968 d — e), and thus to lay down the law on these things. But in fact the AS maintains that the impossibility of regulating matters of education in written form is related to only one aspect of it — the duration of study of single disciplines and accordingly the time of moving from one discipline to another (968 d 4 — e 2);, because he further expresses his readiness to share with the interlocutors his experienced opinion on matters of education (969 a 1–3), and this is related most naturally to the other aspects that were previously mentioned — the principles of selecting future students, the disciplines to be learned and their possible teachers (968 c 9 — e 5). Thus far, there is no statement that the law on education is impossible at all, and it is natural to take τὰ τοιαῦτα c 4 as referring to educational matters, like τὰ τοιαῦτα before, 968 b 8, and immediately after that, 968 c 6; it is only impossible to regulate these things before they have been properly arranged (πρὶν ἂν κοσμηθῇ).

[70] Thus, Schöpsdau 2011, 602 f., having rejected Cherniss' understanding of the syntax of the parenthetical sentence, nevertheless feels uneasy about its meaning, because of two neighbouring τὰ τοιαῦτα, which he rightly takes to refer to educational matters, and thus, with consideration, prefers for κυρίους ὧν αὐτοὺς δεῖ γίγνεσθαι the ambiguous translation "über welche Kompetenzen sie verfügen müssen" (p. 159) giving it both senses — legal prerogatives and scientific competences, which of course is unacceptable, granted that this ambiguity of meaning is not attested for Greek, as I've argued.

[71] Schöpsdau III, 2011, 601 f., is the only commentator who believes that that law has already been laid down and our passage deals with another one, either on matters of the education of the NC or on its legal prerogatives. But although this is compatible with what is literally said, I find it little credible that the law on the educational system cannot be laid down until the system has been created, while the law on the NC has already been enacted, the law that grants prerogatives to people who should be educated according to this system and who do not exist yet.

[72] Morrow's theory leaves no place for any action that should occur after the members of the NC, senior and junior, have been philosophically educated, because he believes (Morrow 1960, 507 f.) that the process of education as depicted in the final part of the conversation is one in which the NC itself is engaged and which has accordingly no termination (he identifies the selection of candidates for this education with the senior members' invitation to younger candidates, p. 508), wrongly, as I have argued.

that it is necessary to lay down the law that the NC, who participated in the system of sciences and philosophy, should be made the Guardian of the state (968 a 4 — b 2). Clinias' reply (᾽Αλλ᾽, ὦ λῷστε, πῶς οὐ προσοίσομεν, ἄν πη καὶ κατὰ βραχὺ δυνηθῶμεν;) shows, on the one hand, that he is ready to lay down this law, but, on the other, is aware that the difficulty is great and that success can be only partial. The difficulty is thus not in the formal procedure, but in fulfilling the conditions to which the NC should correspond — i.e. its philosophical equipment, of which Clinias is now aware due to the preceding conversation. The AS calls on the discussants to struggle to attain such a thing (τὸ τοιοῦτον) — i.e. the NC, as described above, with its philosophical membership and its functioning as the Guardian — and promises his help in organising the education (968 a 8).[73] The crucial and the most difficult point of the enterprise is thus the education of the future Guardians, and this becomes the subject of the remaining part of the conversation. Clinias is ready to pursue this and asks about the mode (τίς δὲ ὁ τρόπος ἡμῖν γιγνόμενος ὀρθῶς γίγνοιτ᾽ ἄν), i.e. the mode of attaining such a body, which is primarily related again to the organization of this education. The debatable answer of the AS follows:

> ΑΘ. Οὐκέτι νόμους, ὦ Μέγιλλε καὶ Κλεινία, περὶ τῶν τοιούτων δυνατόν ἐστιν νομοθετεῖν, πρὶν ἄν κοσμηθῇ—τότε δὲ κυρίους ὧν αὐτοὺς δεῖ γίγνεσθαι νομοθετεῖν—ἀλλὰ ἤδη τὸ τὰ τοιαῦτα κατασκευάζον διδαχὴ μετὰ συνουσίας πολλῆς γίγνοιτ᾽ ἄν, εἰ γίγνοιτο ὀρθῶς.

The answer, as Cherniss rightly stated, like the question, is related primarily to the education, not to the prerogatives of the NC: it is impossible to lay down any laws on educational matters (περὶ τῶν τοιούτων). However, this need not have the meaning that suddenly a different law, that on education, emerged in the conversation, instead of the previous one that should constitute the NC as the Guard of the state. Notice the plural νόμους as opposed to the singular of the law on the NC above, which certainly points to the generalising character of the answer (certainly what is envisaged is not several laws on these matters), and the seemingly illogical οὐκέτι περὶ τῶν τοιούτων δυνατόν ἐστιν νομοθετεῖν, "further not possible to legislate on such matters", although there was no earlier legislation on this system of education. This clearly refers to the earlier discussion of which philosophical and scientific disciplines the future Guardians of the state should study. The sentence presumably has the meaning that no further definite rules on this education can be made at this point; in the language of the interlocutors it means to lay down the laws, since the rules they elaborate become the laws of the city they found. These disciplines were clearly determined and might be made the content of the law, but any further provisions on education cannot be made as yet, until something that is related to educational matters τὰ τοιαῦτα) has been put in order (πρὶν ἄν κοσμηθῇ).[74]

This latter condition can be understood in two ways, either as the creation of the educational system or as making it function properly, and this depends on the treatment of τὰ τοιαῦτα as the product of the process designated by κοσμηθῇ or as something that is meliorated by it (the difference is the same as between the internal

[73] Καὶ μὴν πρός γε τὸ τοιοῦτον ἁμιλληθῶμεν πάντες. συλλήπτωρ γὰρ τούτου γε ὑμῖν καὶ ἐγὼ γιγνοίμην ἄν προθύμως—πρὸς δ' ἐμοὶ καὶ ἑτέρους ἴσως εὑρήσω—διὰ τὴν περὶ τὰ τοιαῦτ' ἐμπειρίαν τε καὶ σκέψιν γεγονυῖάν μοι καὶ μάλα συχνήν.

[74] Many scholars, including Müller (in the first edition) and Cherniss, take κοσμηθῇ as meaning the establishment of the NC, thus implying something like ὁ σύλλογος as the subject, but it is more natural that the subject is τὰ τοιαῦτα, i.e. matters of education.

and the external object of the verb in the active tense). I will return in a moment to this alternative, but first it is necessary to determine what process is described in the last sentence (ἀλλὰ ἤδη τὸ τὰ τοιαῦτα κατασκευάζον διδαχὴ μετὰ συνουσίας πολλῆς γίγνοιτ' ἄν, εἰ γίγνοιτο ὀρθῶς). Müller takes this sentence to be the instructions on educational matters that the AS is ready to give his interlocutors, and Cherniss takes it to refer to the process of education of the future members of the NC.[75] The former option, granted that the first sentence refers to the organization of the system, rather than to the establishing of the NC, is more plausible. One might say, of course, that what creates the educational system would be the training of students itself (Cherniss' view that the education itself will settle the educational difficulties), but it would be very strange to say that the long training (which demands not less than ten years) is only a minor condition (ἀλλὰ ἤδη) for creating this system.[76]

Thus it seems to be reasonable to take the first and the third sentences of the passage as referring to two stages in the creation of the educational system: the first (πρὶν ἂν κοσμηθῇ) points to the complete arrangement; the second (τὸ τὰ τοιαῦτα κατασκευάζον διδαχὴ μετὰ συνουσίας πολλῆς γίγνοιτ' ἄν), to the preliminary discussion of the educational process.[77] The latter is hinted at, *pace* Cherniss, in the ensuing rejoinder of the AS (968 d 3) and even more clearly mentioned in the next one (969 a 1–3): he is ready to explicate to the other his thoughts on the matters of education.[78] This of course does not make the *Epinomis*, with its discussion of the programme of philosophical and scientific disciplines, Plato's conceived sequel of the *Laws;* much less does it make him the author of this sequel. But the attempt of Cherniss, endorsed by some other scholars,[79] to show that the further discussion of these matters is ruled out by the final part of the *Laws* is mistaken, in my view.

This brings us again to the question already mentioned — what the major prerequisite for laying down the law on educational matters should be (πρὶν ἂν κοσμηθῇ). This latter condition can be understood in two ways, either as the creation of the educational system or as making it function properly, depending on whether τὰ τοιαῦτα is the result

[75] Cherniss 1953, 373 f., argued that διδαχή refers to the educational process itself (this is also the view of Lisi, 1984, 355; Schöpsdau 2011, 584; 664) and that no preliminary discussion is mentioned in the conversation at all, against Müller 31, who believed that this points forward to the discussion in the *Epinomis*.

[76] Cherniss is surely right in his understanding ἀλλὰ ἤδη as having this meaning of the prior and the minor condition ("but training of this kind would already amount to schooling by long association"), although I cannot understand what more considerable condition for making the NC he implies. On the contrary, in my view, both Müller and Schöpsdau are mistaken when they assign the meaning "jetzt" (just now) to ἤδη.

[77] Müller who initially believed, like Cherniss, that (τὰ τοιαῦτα) κοσμηθῇ means the establishing of the NC (p. 30), later, in the addenda to his second edition (194 f.), he proposed that τὸ τὰ τοιαῦτα κατασκευάζον is identical to (τὰ τοιαῦτα) κοσμηθῇ and that both refer to the preliminary discussion. This is unlikely: ἀλλὰ ἤδη implies that (τὰ τοιαῦτα) κοσμηθῇ) refers to the more important and logically following condition to be fulfilled in comparison with τὸ τὰ τοιαῦτα κατασκευάζον; probably, for the same reason, in order to distinguish two processes, the verb κατασκευάζω is used, in difference from κοσμέω.

[78] Cherniss 1953, 374 takes this, far from what seems natural, as "he proposes to associate himself with them in selecting the candidates and helping to train them for the councillorship".

[79] See Tarán 1975, 21 f. with nn. 84, 85, who follows Cherniss in his interpretation of 969 a1–3 (see the previous note) and, more recently, Brisson 2005, 18, who pays no attention to the AS's promise to explain his views on education at 969 a 1–3, although he cites the text and, from the intention to realize the "dream" of the Mind and Senses treated in the previous discussion (969 b 5–6), surprisingly infers that "the next stage will no longer be a discussion… about the Vigilance committee, but its establishment in reality".

of the process designated by κοσμηθῆor as something that is meliorated by the process (the difference is the same as that between the internal and the external object of the verb in the active tense).[80] The latter option seems to me preferable — the law on educational matters can be laid down only when the system shows that it works properly and produces the appropriate graduates — but I would not rule out the former, more modest condition, either: that it would be possible after the system has been properly organized (the programme maintained, the teachers found and invited, the students selected). Since the conversation concentrates on the subjects to be studied and on their teaching, the crucial point is that the law on educational matters cannot be laid down *before* they are properly organized; it does not mean that it should be laid down immediately at this point.

This, I hope, sheds light on the debatable sentence. The parenthetical sentence says that only after the educational system is fully organised or is functioning will it be possible to lay down the law on the prerogatives of the NC. This is not what Clinias had in view when asking the question (he asks about education), but it reminds us of the main subject — the necessity to lay down the law on the NC as the *philosophical* Guardian. This remark makes the difficulties explicit that prevented the law on the NC from being made immediately, as guessed by Clinias and clearly recognised by the AS: this law cannot be laid down immediately, because its main prerequisite –fully philosophically educated members — is still lacking in this initial stage. The law on the NC as the Guardian, i.e. on its legal prerogatives, would be possible only when (and if) the system of education of its members is organised (and, presumably, works properly). Notice that this does not mean that the law should be laid down immediately at this point; it only means that this cannot be done earlier. But — the AS adds — the preparatory stage for making this system already demands a lot of discussion (i.e. among the trio of legislators).

The parenthetical sentence is thus informative in spite of its lamentable abruptness: the future law on the NC as the philosophical Guardian entails the exact definition of the prerogatives of its members. Further, we need not think that this is referring to two different laws: the mention of the NC's prerogatives is provoked precisely by the fact that the law on these prerogatives should be enacted together with the rules (not laws) on the educational system, in correspondence with the earlier formula of the law on the NC: it will grant the position of the Guardian to the NC, which consists of the members who received the proper education — in fact we can think of these as parts of one and the same law.

In the final part of the conversation, the AS points out that the creation of the state they conceived is open to a great risk: its success, as he makes clear, stands and falls with the appearance of the NC (968 d 6 — 969 b 2). This duly rounds out the point made at the beginning of the conversation on the NC: the state needs a body that would make the established laws irreversible (960 d 4–6). The primary difficulty, as the accompanying remark shows, is to make the system of philosophical and scientific studies for the future members of the NC; this task should be in part resolved due to the instructions on this matter that the AS promises to give (969 a 1–3). But the risk for "the whole state" that the AS hints at is presumably not this difficulty, but rather the process of creating the NC: the appropriate persons for the Guardianship should be selected, properly educated and made

[80] The further remark of the AS shows that the important aspects of the system cannot be settled before the educational process begins or even before it is considerably advanced (968 e2-e5), and this may be a reason to prefer this option: the law on the education of the possible members of the NC can be laid down only when the system has showed that it works properly.

Guardians, having been settled on the Acropolis (969 b 8 — c 3). If my previous argument is correct, this succinct formula implies the constant process of selecting candidates for "advanced studies", their further promotion to the highest offices of the nomophylakes and the euthynoi, and only after these conditions have been fulfilled, the creation by the law of the NC, consisting of the philosophical officials. The difficulties that accompany each of these steps are in fact enormous. For this reason, the AS prescribes to "give over" the city to the NC in the conditional form — only if it emerges (969 b 2–5). I turn further to another risk of this plan. Meanwhile it is necessary the difficulties which accompany my proposal that the NC should be equipped with the legal powers and the unrestricted ones in view of the principles on which the state of Magnesia should be built.

6. The NC and "the Sovereignty of Law"

Morrow resisted the view that the introduction of the NC undermines the principle of the sovereignty of the law on which the whole project of Magnesia has been built and argued that the NC possesses only philosophical expertise in the field of laws, not the legal powers to change them. As I have tried to show, Morrow was not right: the NC is constituted as the Guard of the state by the law (968 a 4 — b 1) and its legal powers should be defined by the same law (see above on 968 c 4–5, against Cherniss). This suggests that its holding conversations "on the domestic laws, on the outstanding laws in other countries and on the scientific subjects that would help to clarify the matters related to the laws (951 e 5 — 952 a 1)" entails legal powers to enforce changes of the laws, and not only to make recommendations to the nomophylakes, as Morrow supposed. When, further, the AS argues that the state should have a philosophical body that has the knowledge of the state's ultimate goal and of the means of attaining it, he adds that this entails knowledge of "what, primarily, laws and, secondly, people advise well and what not" on attaining this goal (962 b 4-c3). Since the law on the constitutional position of the NC as the Guard also defines its powers in this respect, this knowledge should be also understood as equipped with the power (and the absolute power, of course) to change the laws (or to effectively resist changes), as well as the power to control all officials, including the highest ones.[81] The most probable example of exercising such a power is the ban on election to euthynoi and nomophylakes of those who have not attained the proper philosophical knowledge (966 c 4 — d 3, cf. 964 b 3 — d 1; 965 c 9 — d 3).

Morrow argued that, within the prerogatives explicitly granted to the NC, it is not given the power to override the law, and he illustrated this with two instances that, according to him, show that the NC has no right to impose penalties.[82] In fact, both examples prove the contrary:[83] in the first, the NC should admonish the better sort of the impious — those who have wrong views, but not vices of character. They are sentenced to imprisonment in the *sophronisterion* for not less than five years and may communicate in this time only with the members of the NC, who dissuade them from their erroneous views. At the end

[81] Morrow and Schöpsdau 2011, III, 440, suppose this, of course, but since they do not admit any law on the legal prerogatives of the NC, they believe that the NC influences the process through the nomophylakes who belong to the NC.

[82] Morrow 1960, 512 f.

[83] Susemihl II/2, 1860, 638 f., already pointed out, correctly in my view, that both examples imply judiciary and administrative powers for the NC, in contrast, as he thought, to its general informal influence.

of this term, the imprisoned should be vetted: if it is found that they have acquired correct views in the meantime, they are released, but if not, they should be sentenced to death (X. 908 e 5 — 909 a 8). It is true that the special court makes the initial decision on the category to which the impious belong and accordingly on imprisonment (906 d 7 — e 7, 909 a 1), but it is at least probable that the final verdict on the mental state of the prisoners is made by those who communicated with them, i.e. by the members of the NC, and that this decision amounts to the sentence of the judge.[84]

The second case Morrow refers to is the decision the NC makes on the traveller who was found to have been corrupted during his stay abroad; the NC prohibits him from holding conversations "with younger or older". If he disobeys, any official should take him to court and accuse him of "undue meddling with education and laws"; the convicted is sentenced to death (XII. 952 c 5 — d 2). Morrow stresses that "his case is come before the courts for judgement by the regular processes of justice" (p. 513). But in fact, the NC in this case makes an authoritative judgement that no court in Magnesia is entitled to make: it prohibits a certain person from engaging in any activity that can be regarded as the teaching and discussion of laws; the court, on the contrary, decides only on the fact of forbidden behaviour. The decision of the NC amounts to a decree with indisputable force. Instead of indicating the informal authority of the NC, both examples suggest rather the real legal powers granted to it, which in both cases are not limited by any other official body. At the same time, Morrow is certainly right that in both of these instances the NC does not "override the law". In fact it is the law that grants it these prerogatives, in the same way as it grants it the prerogatives of the Guardian of the state according to 968 a 4 — b 1, which are also employed without being limited by any law or other officials.

Two possible objections seem to undermine my inference that the NC has the prerogative of changing the laws. First, the whole system of Magnesia's laws is conceived in the dialogue as being as rigid and unchangeable as possible. Second, if the NC has unlimited powers to change the laws, this would violate the principle of the sovereignty of the law that underlies the whole preceding reasoning.

I will start with the first objection — there is in fact ample evidence that Magnesia's code of laws is intended to be as immovable as possible. There are both general statements that the laws should be unchangeable[85] and instructions in particular cases that show that changes should be possible only within the limited "trial" period and after that should be made very difficult, even practically impossible. For instance, in the most explicit case, the provision on the laws on choruses and sacrifices prescribes that, after the death of the

[84] ὅταν δ' ὁ χρόνος αὐτοῖς ἐξέλθῃ τῶν δεσμῶν, ἐὰν μὲν δοκῇ τις σωφρονεῖν αὐτῶν, οἰκείτω μετὰ τῶν σωφρόνων, ἐὰν δὲ μή, ὀφείλῃ δ' αὖθις τὴν τοιαύτην δίκην, θανάτῳ ζημιούσθω. According to Morrow, 1960, 513, this means that "if the atheist… has not been reformed but offends against the law after being released, he has to be convicted again in court" (similarly, Ritter, England, Saunders and Schöpsdau III, 2011, 454, suppose that this refers to releasing the impious person and making a new accusation against him, although Schöpsdau is rightly puzzled about what should follow, if the impious one is found to have not reformed). In fact, it is clear from the parallelism of ἐὰν μὲν δοκῇ — ἐὰν δὲ μή that the decision is taken on whether the person has reformed or not; if it is found that he has, he should be released; the decision that he has not reformed is tantamount to a new conviction of impiety against him (ὀφείλῃ δ' αὖθις τὴν τοιαύτην δίκην), and the resulting punishment should be death. The run of the sentence strongly suggests that the decision is made in prison and no special trial at court is envisaged; the most plausible tribunal for this verdict is thus the NC.

[85] Schöpsdau II, 2003, 440 refers to the following statements to this effect: 656 d — e, 797 a ff., 798 a — b, 816 c, 960 b –e.

initial legislators (the AS, Megillus and Clinias), the corresponding officials should report the remaining faults of these laws to the nomophylakes, who are entitled to make changes within a period of of ten years, after which the laws should be finally fixed (VI. 772 b 5 — c 6). Further changes may be made only in extraordinary circumstances and through a very complicated procedure: the proposal should be approved by all officials and the whole people, together with the ordinance of the oracle, one citizen's vote against the proposal being sufficient for its rejection (772 c 6 — d 4). The fixation after the period of trial is envisaged explicitly also for some other laws, and Schöpsdau supposes that the same principle holds for the whole code. He admits that there are indications that even after the final fixation some extraordinary circumstances can evoke changes, as in the just cited case of the laws on the choruses and sacrifices, but the complicated procedure prescribed for such changes makes the laws of Magnesia practically immovable, in his view.

Schöpsdau himself finds it unthinkable that the NC, with its constant discussions of the laws of Magnesia, plays no role in possible amendments of laws. Since he agrees with Morrow that the evidence leaves to the NC only an informal role, he supposes that it performs its "advisory and controlling function" in relation to the legislation as the Guard that observes the state's pursuit of its ultimate goal, virtue, through the personal influence of the ten oldest nomophylakes, who sit in the NC.[86] As follows from my previous argument, I disagree with Morrow's and Schöpsdau's view that the NC performs only informal influence. But this does not make any difference here: if Schöpsdau is right and the task of the NC is reduced to its part in changing the laws within the limited period of trial and occasionally in making later extraordinary changes, then no matter what its informal influence or legal prerogatives, it is, on the one hand, superfluous, because all changes envisaged are of a technical character and entail no superior expertise, and, on the other hand, it is dubiously effective, because the procedure of amendment leaves little place for philosophical authority and practically excludes it after the trial period. Also, the creation of the NC should take considerable time, certainly more than the trial period mentioned for some laws in the text.

Some scholars who endorsed the "informal" view of the NC, including Morrow himself, argued that the provision of the final fixation is not envisaged for every field and the possibility of permanent changes leaves room for the expertise of the NC.[87] I tend rather to agree with Schöpsdau that, even in that case, all envisaged changes are routine and those accepted within a short period of trial can be fixed after the short trial period because future experience cannot bring something that was not taken into account during this time.[88]

An important test case is the law that prohibits non-marital relations and pederasty (VIII. 840 e — 842 a): the initial strict law on the subject may prove ineffective because of depraving external influences. Accordingly, the alternative law, which is less restrictive (under it, both are allowed but not openly), is formulated and philosophically argued in the course of the conversation. It will be up to the future nomophylakes whether and when they should enact this new law, instead of the initial one, to prevent the state from further deterioration. Significantly, even in this case, although the decision on promulgating the corresponding law is left to the future nomophylakes, no philosophical expertise on the

[86] See Schöpsdau II, 2003, 440, cf. III, 2011, 580 f.
[87] See Morrow 1960, 510 f, and further Marquez, 2011,189–195..
[88] The relevant cases are listed by Schöpsdau II, 2003, 364.

necessary measures is expected of either the nomophylakes or, even less, of the NC: the nomophylakes should only initiate the procedure of enacting the law that the initial legislator has written and equipped with the appropriate philosophical foundation.

According to the all provisions made in the text, these considerations that Magnesia should acquire a practically unchangeable code of the laws and that the few and temporally limited amendments do not imply any participation of the NC, impelled Klosko to argue that the concluding part of the discussion signals Plato's change of mind: the NC now acquires the prerogatives of making revisions in laws.[89]

Klosko's proposal, however, oversimplifies the case, like the earlier proponents of the view that the NC changes the whole design of the *Laws*. In fact, although there is no evidence that the NC has the role, constitutional or informal, of amending the laws before the end of Book XII, there is a clear statement already in Book VI that the process of amending the initial code of laws should be continuous and that this task is assigned to the nomophylakes, who should possess philosophical knowledge of the ultimate goal of the state. In his peroration addressed to the future nomophylakes, the pupils of the initial legislators, the AS compares the legislator to the ideal painter who will never find his work complete and who will take care to leave his successors after him to improve on it in future (769 a 7 — c 8). He advises the future nomophylakes to amend the inevitable mistakes of his own work, and his command to endorse laws that correspond to the goal of the state and to blame those which fail to do this (770 e 6 — 771 a 2) does not entail any temporal limitation on this process. It also suggests that the nomophylakes are entitled not only to improve the laws, but also to abandon inappropriate ones, including those laid down by the initial legislator. Their prerogatives in this respect are unlimited, in the same way as the NC is charged in Book XII with evaluating *all* the laws for correspondence to the ultimate goal of the state (962 b 4 — 9) and with continually discussing during its everyday sessions possible improvements to the laws, without any limitations (951 e 5 — 952 b 1).[90] Schöpsdau's attempt to weaken the strength of comparison with the perpetual improvements of a picture in the peroration to the nomophylakes and to demonstrate that they are limited to changing the laws during a trial period is not convincing. This attempt not only contradicts the direct meaning of the peroration, which does not mention any limitations; moreover, as we have seen, the improvements of the trial period have a purely technical character and do not entail any philosophical expertise, unlike those that the peroration envisages. The latter makes philosophical knowledge decisive in making crucial decisions on legislation to keep the state in agreement with its virtuous goal, which entails sacrificing all material goods to this purpose, including the prosperity and even the existence of the polis itself, rather than seeing it under the rule of the worse (769 c 7 — e 4). Of course, whatever changes are thus permanently within the purview of the bearers of philosophical knowledge, these changes are conceived as amendments to the initial design, which should not be revised as a whole. But this has nothing to do with constitutional restric-

[89] Klosko 1988; in his later treatment of the subject (Klosko 2006, 252–258; 2008), he is more cautious on the prerogatives of the NC, but still sticks to the proposal of change of mind.

[90] The permanency of this task of changing the laws is further implied by the double titling of these officials as nomothetai and nomophylakes, both in the peroration to them (VI. 770 a 8–9) and in the final speech on the philosophical Guard (XII. 964 b 3). Schöpsdau II, 2003, 442 supposes that this refers to changes only within 10 years of the trial period, but the final speech makes no limitations on these tasks, and its goal is to institute the NC, which consists of the philosophically educated nomophylakes, thus pointing to a far later time than any trial period.

tions on their powers. Rather as Klosko (2006, 183) pertinently noticed on account of the other philosophical rulers, that of the *Republic*, 'Plato makes the highly optimistic assumption that the truths the philosophers will discover are those he himself holds sacred'. As concerns the *Laws*, Plato certainly shows no doubt that the future rulers will have the same view as he of the fundamental principles on which the state had been built

Thus the philosophical authority that has the permanent power to amend the laws is not new with Book XII, and the only possibility is to suppose that the NC assumes the role that was previously assigned to the nomophylakes. I will argue that even this, a comparatively less significant contradiction, does not necessarily follow from the text.

To summarize, the constitutional mechanism of the *Laws* is depicted as leaving little if any scope for either the formal or the informal influence of philosophical knowledge in amending the initial code of laws. Since it is not true that this idea appeared at the end as an afterthought, we are left to conclude that Plato purposefully builds his second-best state on the assumption that it does not contain the philosophical element organised as a political body, i.e. that it might lack the necessary prerequisite for its preservation in accordance with the initial design. In default of this philosophical element, the only means of its preservation would be almost absolute rigidity of the laws. Provided, on the contrary, that the required conditions — the building of an effective system of the highest studies and the election of properly educated people to the highest offices — is fulfilled, the philosophically equipped legislators would be charged with vitally important and much more considerable changes than those mentioned in the text.[91]

Now to the second difficulty for my proposal — that granting the NC absolute power to change the laws violates the principle of the sovereignty of the law, which is fundamental for the whole project of the second-best state.[92] Here it is useful to remember Plato's clearest statement of the relation between philosophical knowledge and the law. According to the *Statesman*, which was written at approximately the same time as the *Laws*, the best option is philosophical rule and, as far as possible, direct philosophical rule (292 b — 293 e). Since, however, it is impossible for the philosophical ruler to perform his power personally in every particular case, he will legislate (294 c 10 — 295 b 8); and when he is not present in a given particular case or is absent for a long time, the citizens should unquestioningly obey the law, enacted by him, which should be, presumably, unchangeable (295 b 10 — c 5, 297 d 5–8).[93] The law, however, even if created by philosophical reason, remains imperfect in comparison with the decisions of reason itself: it is inevitably too general and thus too crude, being unable to take into account particular situations and particular persons (294 a 6 — c 9). If the true bearer of knowledge comes back, he can act in contradiction to his own law or change the law in accordance with the demands of reason (295 c 6 — 296 a 3). In the absence of the philosopher ruler and his elastic art of rule, the second-best option will thus be strict adherence to the law that has been laid down by the philosopher, without making any changes. It should be noted, however, that these op-

[91] My proposal in this respect is somewhat similar to Bobonich 2002, 395–408, but he does not use the single piece of evidence that the real constitutional powers should be granted to the NC, since he endorse Cherniss' and Morrow' interpretation of XII. 968 c 3–7.

[92] Morrow 1960, 513. 576.

[93] This is not stated directly, since the reasoning concentrates on obedience to the law, not on the right to change it, but it follows from the comparison: the expert doctor and trainer are contrasted with the absolutely unknowing persons they take care of, for whom they leave the written prescriptions. Of course, unknowing persons are even less entitled to change the prescriptions than to disobey to them.

tions are in fact two sides of the same coin: in less metaphoric language, it means the ideal of the state with laws made and changed only by philosophical reason, acting without any restrictions and abstaining from changes as long as philosophical reason is not present.

It is often assumed that at the time when he wrote the *Laws*, Plato was already disappointed in philosophical absolutism, either because he thought that the persons who would possess philosophical knowledge together with political power were unattainable or because he now thought that even such persons can be corrupted by unlimited power, and accordingly came to the view that the sovereign power of the law is the single attainable option (Plato's 'pessimism').[94] If this were correct, any proposal that granting to the NC (which consists of bearers of philosophical knowledge) the absolute power to change the laws would be of course untenable. However, I do not think that there are sufficient reasons to admit this shift in Plato's views. The proponents of Plato's later "pessimism" rightly compare the state of Magnesia to the second-best option of the *Statesman*, as having no philosophical rulers and living accordingly in strict obedience to the initial law. But the crucial question is whether this rigidity is now conceived as the single possible option, rather than as the condition that is inevitable in absence of the philosophical ruler, as promulgated in the *Statesman*. The statements in the *Laws* that the partial sets of regulations should stay as immovable as possible are certainly impressive, but they are explicitly opposed to the changes that would be produced by an arbitrary desire for changes, as for instance the prohibition of changes in dancing and singing (656 d-e;816 c) or plays of children (797 a-c; 798 a-d), which might insinuate vain desires for other changes that can ultimately overturn the initial customs and laws. [95]

On the contrary, there explicit statements, both in the peroration addressed to the nomophylakes and in the description of the NC, that the decision on changing the laws is the prerogative of those who possess philosophical knowledge without any signs that their authority in this is restricted. It thus pertinent to check whether the evidence usually used to ascribe "pessimism" about philosophical knowledge to the *Laws* somehow contradicts to these statements. First of all this is a passage in which the AS asserts that the person who has attained true philosophical knowledge should be placed above the law (875 c 6 — d 2). This is precisely the view of the *Statesman*. This passage is often taken in the opposite way, as the expression of Plato's "pessimism", as if it asserts that even the bearer of philosophical knowledge is liable to corruption because of unlimited power,[96] but the proponents of

[94] See, for instance, Morrow 1960, 583; Brunt 1993, 248; Samaras 2002, 198, 293, and the scholars cited further on the 'pessimism' of the *Laws*, which is often connected with Plato's negative experience with the holders of unrestricted power in Syracuse. Here, I cannot discuss in detail Morrow's view (1960, 577–584), who argued that even in the *Republic* the philosophical rulers are bound by the law, although 'the constraint upon them is moral, not legal' (p. 582); Schofield 2006, 325 equally contrasts the philosophical rulers of the *Republic*, bound by the laws, with the absolutism of the *Statesman*. The evidence that is adduced proves, however, only that the Kallipolis should have laws, both written and unwritten, and that not only other citizens, but also the Guardians should obey them in their daily activities. This obedience to the laws should not, however, be confused with the sovereign power the future Guardians will possess to enact new laws (see IV. 425 d-e) and to assign other persons to the positions they hold after them (VII. 540 b), admittedly without any restraints. The only 'restrictions' they are bound by is Plato's certainty, many times expressed, that the genuine bearers of philosophical knowledge would not dissent from the general principles on which the philosophical state had been founded, since they will agree with the initial founders and with each other on these principles.

[95] These passages are cited by Schöpsdau II, 2003, 440 in confirmation of his view that, after the trial period, the laws should be absolutely unchangeable.

[96] Bobonich 2002, 264 f.

this view unduly stress the first part of the passage, which is about the person who was able to grasp "through the political and true art" that it is necessary to prefer "the common interest to the partial, individual or class" interest; but in his position as autocratic ruler, this person fails to preserve this understanding because of the weakness of human nature, which yields to pleasure and ultimately makes him blind to this principle (875 b 1 — c 2). The continuation of the passage, however, indicates clearly that the person who would be able 'to learn these things', viz. the necessity to take care of the common interest, should stay above the law and the constitutional order, admittedly because he will remain uncorrupted by this unrestricted power; the justification for this — that there is nothing stronger than knowledge, and the mind (*nous*) should not be the obedient to anything but rather the ruler of all — shows clearly that the cognitive state that the second person is able to attain is knowledge (875 c 2–6).[97] The aforementioned autocratic ruler who is not immune to corruption thus did not attain knowledge, in spite of his intellectual progress.[98] The crucial difference between two types of person is in the cognitive states they are able to attain. This is no different from the intellectualism of the *Republic*; there, the ability to attain the true knowledge depends on inborn and trained moral habits, as the process of the education of the Guardians shows, but the result that ensures no further corruption through wrong desires is nevertheless knowledge.

So far, this statement shows no "pessimism" about the force of knowledge itself in making its bearer incorruptible. But the AS says that the person who would be capable both of grasping what is useful for the state and of retaining this understanding against all challenges, can be born due to "a divine lot" (875 c 3–5), and that since this, viz. standing beyond the law due to knowledge is almost impossible, it is inevitable to prefer the second-best option, that of the domination of the law, which "looks at many things and sees them, but is incapable of looking at all" (875 d 2–3).[99] This is understood to mean that, contrary to the stance of the *Republic* and the *Statesman*, Plato now absolutely disbelieves in the appearance of such a person.[100] However, one should be careful about making inferences from this passage about whether such a person is possible in principle. The entire train

[97] ἐπεὶ ταῦτα εἴ ποτέ τις ἀνθρώπων φύσει ἱκανὸς θείᾳ μοίρᾳ γεννηθεὶς παραλαβεῖν δυνατὸς εἴη, νόμων οὐδὲν ἂν δέοιτο τῶν ἀρξόντων ἑαυτοῦ· ἐπιστήμης γὰρ οὔτε νόμος οὔτε τάξις οὐδεμία κρείττων, οὐδὲ θέμις ἐστὶν νοῦν οὐδενὸς ὑπήκοον οὐδὲ δοῦλον ἀλλὰ πάντων ἄρχοντα εἶναι, ἐάνπερ ἀληθινὸς ἐλεύθερός τε ὄντως ᾖ κατὰ φύσιν. παραλαβεῖν, as Schöpsdau, III, 2011, 347, rightly notices, implies learning from somebody, viz. both persons are depicted as students of philosophy: successful and unsuccessful ones.

[98] Bobonich 2002, 541 n. 86 rejects the plain meaning of this text because it contradicts the passages in which, according to him, Plato pleads for the view that "even those with the sort of knowledge had by philosophers" can be corrupted by unrestricted power (he wrongly ascribes this view to Vlastos; the latter claimed only that Plato when writing the *Laws* stopped believing in appearance of person who might attain such a knowledge, not than he abandoned the earlier view that philosophical knowledge is the warrant against the corruption of the power, Vlastos 1981, 212, 216, and esp. 214 n. 25.). But none of the passages he cites amounts to such a statement: III. 689 b 3–5 (the human soul resists knowledge (plural), opinions and reasoning) appears to mean that the holder of genuine knowledge can act in opposition to it, but the immediately following description of these persons shows that they are intellectually developed but do not have the "harmony" without which *phronesis*, wisdom, is impossible (689 c 8 — d 3). The "harmony" presumably implies that their irrational desires are not educated (through music and gymnastics, as in the *Republic*), but the point is that they cannot attain genuine knowledge, not that this knowledge does not immunise against false desires. Two other passages, 691 c 5 — d 4; 875 d 2 f, on human nature being unable to remain uncorrupted by unrestricted power, should not be taken literally (see below).

[99] νῦν δὲ οὐ γάρ ἐστιν οὐδαμοῦ οὐδαμῶς, ἀλλ᾽ ἢ κατὰ βραχύ· διὸ δὴ τὸ δεύτερον αἱρετέον, τάξιν τε καὶ νόμον, ἃ δὴ τὸ μὲν ὡς ἐπὶ τὸ πολὺ ὁρᾷ καὶ βλέπει, τὸ δ᾽ ἐπὶ πᾶν ἀδυνατεῖ.

[100] Vlastos 1981, 214 n. 25.

of reasoning on two types of person is a digression made in the course of the argument that the legislator cannot prescribe all the details of criminal law; verdicts should depend on judges, who should be equal to this task. The judges thus will stand over the law "to a small degree", since they are not philosophers and may be corrupted, viz. the prescriptions should be as detailed as possible. The reasoning is entirely adapted to the conditions of Magnesia, and it is plausible to take the statement that it is absolutely impossible to have a person who would stand above the law *tout sens* as applied to Magnesia: its state is created on the condition of the absence of philosophers.[101] The earlier statement (875 a 2–4) that human nature is not capable of both knowing what is useful for the state and retaining this cognition against the temptations of unrestricted power, is also not an absolute denial of the possibility of such persons, as the following assertion about the divine lot shows — one who is capable of this should possess a nature that is higher than human.[102] This all thus does not rule out educating future philosophers and elevating them to power in future.

Equally, Plato's main statement on the sovereignty of the law in the dialogue (IV. 713 c 1 ff) does not preclude the appearance of philosophical authority that will stand over the law itself. According to the myth of Cronus, the god in prehistoric times put divine beings, the *daimones*, in charge of human states, being aware that no human soul is capable of remaining devoid of injustice when ruling human affairs (IV. 713 c 5 — d 2). The best possible approximation for us of this divine rule is to obey to the degree of divinity in us and to rule private and public affairs, calling the directions of the divine Mind the "law" (713 c — 714 a). The officials of the rightly constituted future state are called the servants of the law (715 d 3–6). This is often treated as the abandonment of the sovereignty of philosophical reason, as is typical of the *Republic* and the *Statesman*, in favour of the "sovereignty of the law", viz. the written law.

This reasoning certainly provides the philosophical foundation for the absolute power of the law in Magnesia. But there is no idea, as Morrow takes it, that the power of law is therefore opposed to the power of a person in general, including that of a philosophical ruler.[103] The primary purpose is to blame the existing political forms that are constituted in the interests of a person or a group or the majority of citizens, in negligence of the other part of the citizens; each ruler imposes the laws that correspond to his interests and tramples these laws for the sake of his insatiable desire. In opposition to these states, the state of Magnesia will be created in obedience to the divine Mind, to reason. Its citizens

[101] νῦν δὲ οὐ γάρ ἐστιν οὐδαμοῦ οὐδαμῶς is a strong assertion, but the addition ἀλλ᾽ ἢ κατὰ βραχύ suggests that it is impossible for Magnesia, not absolutely. Schöpsdau, III 2011, 347 f. may be right that νῦν here does not have a temporal meaning ("it is *now* impossible"), but modal, and is employed to emphasise the reality in opposition to what would be the case in the unattainable condition ("if it would be the case, then…, but in fact…"). This, however, does not mean that this condition is unattainable in principle or categorically deny the possibility of the appearance of the philosophical rulers — it would be clearly so only if the mode of the conditional sentence on the appearance of a philosophical ruler were irrealis, not potentialis (347 f.).

[102] Schöpsdau III, 2011, 347, who cites *Rep*. 493 a 1–2. According to the most explicit statement in the *Laws*, the very best state with community of property, wives and children of the ruling class (it certainly entails that class's philosophical training), although appropriate to the gods or the children of gods (V. 739 b 8 — d 8), is nevertheless an actual option that can be proposed to a possible legislator, along with the second-best and third-best constitution (V. 739 a 6 — b 7). The reference to gods and demi-gods thus should not be taken literally; it designates only the virtue and knowledge that elevate their holders far above normal human nature; this is what Plato has in view when saying that it is impossible for human nature to remain uncorrupted by unrestricted power.

[103] Morrow 1960, 544.

will regard the commands of the divine Mind as the law:[104] thus the laws they will obey claim obedience to them as being impartial directions of super-human reason. They are such because they are made by philosophical reason, which understands the directions of the divine Mind. Thus there is no statement to the effect that the rule of philosophers is excluded: the reasoning only exposes once again the principles on which Magnesia is built — obedience to the written laws made by the philosopher as the projections of the divine Mind's directions.[105]

Thus, there is no unambiguous evidence that, when writing his last dialogue, Plato abandoned the conviction that the bearer of genuine knowledge cannot be corrupted by unrestricted power or was disillusioned about the possibility of attaining it; on the contrary, there clear signs that he still sticks to it and admits the imperfection of laws, even those based on philosophy, in comparison with the direct rule of philosophical reason. The plan of creating the NC can be thus taken as the attempt to bring the philosophical ruler back, in the sense of the *Statesman*. It need not be seen as the removal of the whole constitutional mechanism of the *Laws*. As the *Statesman* shows, the rule of philosophers can be implemented not as a state without laws, but as the supreme control of reason over the laws, viz. as the unrestricted power to change the laws and adjust them to a particular situation. This corresponds to what is expected from the NC, if my interpretation of its functions is correct. The NC is conceived as the primary means of salvation of the whole state mechanism and of its laws. This entails primarily the philosophical understanding of the principles on which the state has been built, its ultimate goal of virtue in its unity and the capacity to find the means of attaining this goal. The latter does not imply intervention

[104] It is surprising that both Morrow, 1960, 544 and Schöpsdau II, 2003, 182 hold the view that the founded city should be named for the god, as opposed to democracy, oligarchy etc. which systems are named for their respective ruling group (713 a 2–5), is Law and that it should be called 'the rule of the law or nomocracy'. There is no statement to the effect that the law is the god (Morrow) nor that it is the name of the god (Schöpsdau). The god after whom the city will be called is hinted at already at 713 3–4 (it is the god of those who have reason, *nous*) and 713 e 5 — 714 a 2 makes it clear that the only accessible way to imitate the direct rule of the god in the age of Cronus is to obey that portion of deathlessness we possess in private and public life, regarding the commandment of reason (*nous*) as law. It follows that the guiding principle nowadays is of course the god, not the law, and that this god is the superhuman universal reason, *nous*, which ruled directly in the age of Cronus through the divine rulers. One should imitate this direct rule of divine reason as far as it is accessible, viz. following the measure of divinity accessible to us; this is, of course, divine reason itself to the degree that we can attain it through philosophical knowledge (cf. *Tim*. 90 b-c). The commands of the laws should be obeyed accordingly to the degree that they correspond to the commands of this superhuman reason. This statement, of course, is adapted to the constitution of Magnesia with its rule of the laws written in accordance with reason, but it does not assert that the written laws are the only representatives of reason that are accessible for us. The state of Magnesia should be properly called "the state of Reason, *nous*", the noocracy", not "nomocracy".

[105] It may seem that the myth of Cronus conveys this idea, because it is said that the god was aware of human nature's inherent, fatal incapacity to remain uncorrupted by unrestricted power and that the god accordingly assigned the *daimones* as the rulers of the human herds. This, however, need not mean more than that the true philosophical person stands beyond standard human nature, as is clear from the reasoning discussed above. The exception is not mentioned because the myth justifies the rule of the laws, not that of philosophers, and also because there were no philosophers in the mythic past. If that were not the case, it would be a considerable departure from the employment of the same myth in the *Statesman*, where the direct rule of the god under Cronus serves as a model for the authoritarian philosophical ruler. However, both versions can be read as entirely compatible, once we take into account that in the myth of the *Statesman* the rule of the supreme god who uses the *daimones* as assistants is used as the paradigm for the earthly absolute ruler, who has to delegate a part of his functions to the written laws. The *Laws* use the same paradigmatic image, but adapt it to the conditions of Magnesia and stress the *daimones* as the prototypes of the written laws.

in the daily administration of the city, and thus violating the laws as the usual practice, but rather making decisions of cardinal importance, namely control over the correspondence of the whole set of laws and of the officials with this purpose (962 b 4-c3).

I am nevertheless less certain than the 'unitarians' usually are that it was Plato's idea when he first started writing the *Laws* to entrust the philosophical Guard of the state to the NC; it might be the case that originally the nomophylakes were conceived as such a body, as the reasoning in Book VI may imply.[106] Of course it can be also the case that the demand that the nomophylakes should possess philosophical knowledge and guard the laws, does not mean that this task is assigned to the *body* of the nomophylakes: the statement may anticipate their role as members of the NC. But even if afterthought, the NC as it stands in the text does not contradict to the whole concept; it is appended to the whole as the indispensable means of salvation; it is anchor of the ship of the state, not a part of its daily ruling mechanism. It remains in any case true that any serious and permanent changes are entrusted to philosophers only. Without them the state should live on the rigid laws.

One may ask why Plato considered it necessary to constitute not only the philosophically educated nomophylakes, but also the body that should have powers superseding these officials. The answer is implicitly given by the statement in Book I (632 c 4 — d 1) that in order to subordinate the state to the Mind, viz. to follow the right hierarchy of goods, to esteem the "divine" as the first, viz. the virtues with wisdom as the supreme, and the "human" goods, such as wealth, health, etc., as subordinate, it should have two kinds of guardians of the laws, those who possess wisdom, philosophical wisdom beyond doubt, and those who have "true opinion": according to Plato's standard distinction, the latter are those who are capable of right judgement of particular cases but do not have general knowledge, viz. the knowledge of Forms that provides knowledge why this is the case and that makes this knowledge unshakeable against counterarguments. The scholars often assume that the reference is to the senior and junior members of the NC, i.e. those who attained philosophical knowledge and who are still studying sciences and philosophy.[107] This is however implausible, not because, as Sier, 2008, 292–294, argues, the junior members could not be considered to be in the stage of true opinion (they could because they are only in the process of studying philosophy), but because the junior members are not the guardians of the laws, but only assistants to them. This distinction, on the contrary, fits the official guardians, the nomophylakes; Book VI already points out that, as the heirs of the first legislators, they should possess the knowledge of the ultimate goal of the state, and the final part definitely asserts that those who would be elected to the nomophylakes and acquire the award for virtue, i.e. who are entitled to be the euthynoi, should attain the knowledge of the unity and diversity of virtue (964 b 2–6) as well as the knowledge of gods (XII. 966 c 6 — d 2). The nomophylakes should thus ideally attain full-scale philosophical knowledge, but there is no guarantee for this and no test to evaluate it: the prerequisites

[106] It is often asserted that there are two foreshadowing references to the discussion of the NC in the earlier books: one of them is VII. 818 a 3, the promise of the later discussion of the "more exact education" on the motion of planets (this evidently refers to the programme of the highest studies that is discussed in Book XII in relation to the NC). But this is also an education, which the nomophylakes and the euthynoi should acquire; the second is I. 632 c 4 — d 1, on which see further in the text.

[107] Susemihl 1860, 637; Bruns 1880, 196 (who treats this passage as an interpolation by the same hand that wrote the final part on the NC); Ritter 1896, 350 n.; Schöpsdau I, 1994, 188–189, with discussion; Schöpsdau III, 2011, 585.

for election to office are virtuous behaviour and philosophical education. Thus, it is not excluded that some of them will have only "true opinion", i.e. will have morally correct judgements based on education and their natural capacities, but shakeable ones, like the judgements of the assistants to the Guardians in the *Republic*.[108] The creation of the NC, which consists of the senior watchers of the highest officials, the oldest nomophylakes and the euthynoi, diminishes this risk of having a person only imitating knowledge and thus provides an additional guarantee that the state is entrusted to persons who have really attained knowledge that cannot be lost in challenging situations.

In the final part of the conversation, the AS hails Clinias as one who will have the reputation of the bravest person among all living if the process of creation of the NC ends with failure (969 a 7 — b 2). I would guess that the risk of the enterprise thereby hinted at is not the general risk that accompanies the difficult process of educating and promoting philosophers (the failure of which will endanger the permanence of the principles on which the state should be built, but is not risky for the reputation of its founders). Rather it is the danger, often mentioned in my previous discussion, that unlimited power would be given to seeming, not true philosophers, like the educated autocratic ruler who is corrupted because he did not attain knowledge (IX. 875 b 1 — c 2), as discussed above. The trio of legislators is ready to face these risks, thus attesting to Plato's unhesitating faith in the attainability of true philosophers and the indispensability of doing so for integrity of the state, under the condition, as I argued, that this trio acquires constitutional powers for enforcing its judgements.

My last point is a question that has often been debated: whether the NC is conceived as the means of transforming the "second-best state" into the absolutely best. Plato, as I argued, envisages that the NC as the body that possesses philosophical knowledge should acquire real constitutional powers, not only informal authority in performing the control over the integrity of the state thus coming close to the philosophical rule of the *Republic* and the *Statesman*. Nevertheless, this does not mean that he thus plans the transformation of the second-best state into the absolutely best.[109] This seems to contradict the depiction of the NC as the necessary means of the *preservation* of the whole system of the second-best state; there is no hint, as far as I can see, that the creation of the NC implies making the second-best state closer to the very best; rather it is the condition under which the whole system of the second-best state can be lasting. One should take into account,

[108] Some scholars, most recently Sier 292–294, suppose that the reference is to the nomophylakes, but for another reason. They believe that the distinction between knowledge and true opinion corresponds to the distinction within the body of the nomophylakes: the oldest 10 members, who are members of the NC, possess philosophical knowledge, while the other have only true opinion. But there is no reason to think that the oldest nomophylakes differ from the younger in this respect — they all are philosophically educated virtuous persons aged a minimum of 50 years who, ideally, have already attained philosophical knowledge; their admission to the NC does not depend on a test of knowledge. It is incorrect that the reference cannot be to the nomophylakes, as Schöpsdau, I, 1994, 188–189, argues; he thinks that this passage means that these guardians should be installed only after the completion of all legislation, whereas the nomophylakes should be elected immediately after the foundation of the colony. In fact, the whole piece 631 b 3 — 632 d 1 describes the logic of ideal legislation (which broadly corresponds to the discussion of the dialogue), not the sequence of the imaginary foundation of the colony; 632 c 1–4 indicates only *that* the guardians should be created for all the laws, not *when* this should be done.

[109] This was the main point of Zaicev's paper; F. Lisi (1998, 102–103) defends the similar view that Plato envisages the transformation of the state of the *Laws* into the very best state by educating philosophers and giving them, as the NC, supreme power in the state.

moreover, that the absolutely best state entails, as the *Laws* succinctly formulates, not only philosophical rulers, but also community of property, wives and children among it, as well as other provisions (V. 739 b 8 — c 5, cf. VII. 807 b 2–7). Only under these conditions can the integrity of the ruling class be preserved in the long run, if not perpetually. The institution of the philosophical council with superior prerogatives maintained by law shows that, in one respect, the second-best state is closer to the very best one, but not that Plato recommended the complete transforming of the state of Magnesia into that of Kallipolis.[110*]

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НОЧНОЙ СОВЕТ В ПЛАТОНОВСКИХ «ЗАКОНАХ»

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В статье рассматривается проблема формирования и функций Ночного совета (НС) в платоновских «Законах». Автор доказывает, полемизируя с преобладающей в настоящее время интерпретацией Г. Морроу, согласно которой НС занят научными и философскими занятиями, а также преподаванием, и обладает высшим знанием в области законов, но не обладает официальными прерогативами и действует неформально, через своих членов — десять старейших номофилаков: 1) в тексте нет прямых или косвенных указаний, что НС в совокупности занят научными изысканиями и преподаванием: эта роль отводится специальной школе, которая создается согласно 968 с 2 — е 4; попытки интерпретировать данное место как указывающее на «временный» способ формирования НС должны быть отвергнуты: единственный путь попадания в НС, на который указывает текст, проходит через занятие высших государственных должностей; создание НС отложено на будущее и возможно лишь в том случае, если эти должности будут заниматься людьми, добродетели которых будут упрочены философским знанием; 2) спорный пассаж 968 с 2–7 указывает не только на закон, который будет определять научных и философских занятий высшего порядка (как понимали Чернисс и Морроу), но и на закон, который определит официальные прерогативы НС; 3) эти прерогативы идентичны тем, что предоставляются НС в качестве философского стража государства (968 а 4 — b 2), который должен обеспечить соответствие законов и должностных лиц неизменной цели государства, добродетели; соответствующие прерогативы НС включают право изменять законы, а также накладывать вето на избрание на высшие должности евтинов и номо-

филаков лиц, добродетели которых не опираются на философское знание. Кажущееся противоречие, которое возникает в результате с предыдущими установлениями, которые допускают лишь минимальные изменения в законах и передают законодательные функции номофилакам, разрешится, если принять во внимание, что НС не является часть конституционного механизма в обычном смысле, но особым средством, которое обеспечивает следование его тем философским принципам, на которых оно было построено, появление которого необходимо, но не безусловно возможно. При отсутствии подобного института государство Магнесии должно блюсти изначальный свод законов со всей возможной строгостью; оно будет, несмотря на это, подвержено нравственной порче.

Ключевые слова: Платон, «Законы», Ночной совет, политическая теория.

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