

The Nocturnal Council and the Rule of Law

—The Guardians of the Regime in Plato's *Laws*—

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The Nocturnal Council is, as it were, the finishing strokes of Plato's *Laws*. Because in Book XII it is going to be introduced as a perfect and permanent safeguard for the regime and its laws of Magnesia (960e). Many interpreters, as V.B. Lewis (1998) says, have seen the introduction of the Council towards the end of that dialogue as a return to the sort of philosophic dictatorship allegedly recommended in the *Republic* and thus as a betrayal of the principle of the rule of law evinced in most of the *Laws*. This difficulty was addressed by G. Morrow (1960), and most authorities have accepted Morrow's 'informal view'. But G. Klosko (1988) contended that the 'institutional view' accorded more closely with the evidence. Criticising Klosko's view, Lewis defended the consistency of the Council with the larger programme of the *Laws* by showing that its function is philosophic discussion and not rule.

Basically agreeing with Lewis' interpretation, this article intends to position the Council correctly into the 'second regime' of the *Laws* in the absence of philosopher-kings and to show clearly that it serves as a decisive safeguard for the regime which recovers the natural rule of the intellect aiming at justice and goodness. For Plato this means the rule of law over willing subjects without violence (690c).

The Nocturnal Council is to consist of the ten eldest Guardians of the Laws; the Supervisor of Education and his predecessors; the Auditors; and younger citizens between the ages of thirty and forty whom each elder member of this body is to associate himself with. So its members are generationally divided into two groups, and it has also an educational function for the younger members. And its peculiar functions are (1) dialogues with young atheists; (2) dialogues with the citizens having traveled abroad; and (3) some stricter education. The first function has its essential meaning in developing a rational basis which may be worked out against antithetical viewpoints about the final theological basis of the rule of law, and likewise, the second consists in the justification of the current laws against the criticism of external viewpoints. These two functions also aim at an enhancement of the third, i.e. philosophical research into the final basis of the regime and its laws.

According to my interpretation, as soon as the Council is established, it becomes an autonomous authority for the resolution of philosophical matters (968c). And the authority of the Council is protected by the rule of law. The Council is a place of purely dialectical thinking which generates the basis for legal judgments made by Guardians of the Laws and others coping with the reality of changing conditions. The Athenian's last utterance, 'the city ought to be handed over to the Council' (969b), does not mean that it is granted a certain political power, but that it is an established body which should have an intellectual and ethical authority supporting the rule of law under the constitution.