time, and the evidence of Zonaras to the contrary is universally discredited. The appointment of senators depended entirely upon the king. They were not appointed for life, but at the pleasure of the king who summoned them. It is possible that a king might change his advisers during his reign, and a new king could certainly abstain from summoning some of those con­vened by his predecessors.@@1 The powers of the senate at this time were very indefinite. Tradition ascribes to it the control of the *interregnum* and a power of sanctioning acts of state (*patrum auctoritas),* to which it is difficult to give any significance for this early period. It seems also to have possessed a customary right of controlling foreign policy, for the ancient formula of the Fetiales refers to the sanction of the *patres* (Livy i. 32). From the senate also must have been chosen the delegates appointed by the king either to be his executive representative when he was absent in the field *(praefectus urbi),* or to assist him in jurisdiction *(IIviri perduellionis, quaestores parricidii).*

The abolition of monarchy, and the substitution of two annually elected consuls did not at first bring any important change in the position of the senate. It was the con­sulting body of the consuls, meeting only at their pleasure, and owing its appointment to them, and remained a power distinctly secondary to the magistrates, as it had been formerly to the king. The magistrates at this time were chosen entirely from the patrician houses, and the senate long remained a stronghold of patrician prejudice. Tradition ascribes to the first consuls some change in the class from which senators were drawn, but various accounts of the change are given (Livy ii. 1; Festus, p. 254; Dionys, v. 13; cf. Tac. *Ann.* xi. 25). Whatever the exact nature of the change, we may be certain that plebeians were not introduced into the senate at this time. Such a change is utterly improbable at the crisis of a patrician *coup d'état,* such as the expulsion of the Tarquins certainly was; and there is no evidence for the existence of a plebeian senator before the year 401 b.c. The statement that some modification in the original principle of selection was made in this year is invariably introduced as an explanation of the title *paires conscripti,* which is held to imply a distinction of rank within the senate, as derived from the formula of summons “qui patres, qui conscripti *(estis)."@@2* But either this formula is not as early as 509 b.c. or the term *conscripti* does not refer only to plebeians. In one respect the substitution of consuls for kings tended to the subordination of the chief magistrates to the senate. The consuls held office only for one year, while the senate was a permanent body; in experience and prestige its individual members were often superior to the consuls of the year. It was therefore improbable that the magistrate would venture to disregard the advice of his *consilium,* especially as he himself would pass into the senate at the close of his year of office, according to a recognized custom which was gradually modifying the theoretical freedom of choice that the consuls possessed with regard to their *consilium.* It was probably in their capacity of ex-magistrates that plebeians first entered the senate; for the first plebeian senator mentioned by Livy, P. Licinius Calvus, was also the first plebeian consular tribune. This is hardly likely to be mere coincidence. Of the two standing powers which the senate inherited from the monarchy, the *interregnum* and the *patrum auctoritas,* the first had become even rarer of exercise than before; for if either consul existed to nominate a successor, *interregnum* could not be resorted to. The *patrum auctoritas,* on the other hand, developed into a definite right claimed by the senate to give or withhold its consent to any legislative or elective act of the *comitia,* which could not be valid without such consent. The control, too, which it had long exercised over foreign policy must have increased the importance of the senate in a period of constant warfare with the nations of Italy. But in the early republic the senate remained primarily

@@@1 For other views on this point see Dionys. ii. 12, who maintains that the senators were elected by the clans, and T. Mommsen, *Staatsrecht*, iii. 844, 854, who maintains an automatic composition of the early senate.

@@@2 For another view, however, see Willems, *Le Sénat,* i. p. 37 seq.

an advising body, and had as yet assumed no definite executive powers.

In the last two centuries of the republic we find that a great change has taken place in the position of the senate. It is now a self-existent, automatically constituted body, independent of the magistrates, a recognized factor in the constitution and the wielder of extensive powers. Its self-existence could only be secured by a transference of the selection of the senate from the magistrate to some other authority, and was actually effected by entrusting the selection to the recently instituted college of censors. The censorship was instituted in 443 B.c., and some time before the year 311 it was placed in charge of the *lectio senatus.* Conditions of selection had also been imposed by 311, which made the constitution of the senate practically automatic. Ex-curule magistrates were now admitted as a matter of course, together with any other persons who had done conspicuous public service in the lower grades of the magistracy or the higher ranks of the army; and for some time before Sulla’s dictatorship little power of choice can really have rested with the censors. L. Cornelius Sulla, while abolishing the censorship (immediately revived), also secured an entirely automatic composition for the senate by increasing the number of quaestors, and enacting that all ex-quaestors should pass at once into the senate. This en- actment provided for the maintenance even of the increased number of 600 senators, twenty quaestorians passing into the senate every year. The senate’s powers had now extended far beyond its two ancient prerogatives of appointing an interrex, and ratifying decisions of the comitia. The first of these powers, as has been shown above, had fallen into practical disuse, and the second had for some reason become a mere form by the last century of the republic. It is improbable that the change was entirely the result of the *lex Publilia* of 287 B.c., which decreed that the senate should exercise its *auctoritas* before the voting instead of after, though this law may have formed part of a process very imperfectly known to us by which senatorial control of legislation in this form was gradually nullified. But the senate had acquired a far more effective control over the popular vote through the observance of certain unwritten rules regulating the relation between senate and magistrates. It was generally understood that the magistrate should not question the people on any important matter without the senate’s consent, nor refuse to do so at its request; that one magistrate should not employ his veto to quash the act of another except at the senate’s bidding, nor refuse to do so when directed. Such was the situation which had developed out of the tendency noticed above for the magistrate to be advised by his council in all important matters. Again, the earlier control of foreign policy developed into a definite claim put forward by the senate and recognized by the constitution to conduct all negotiations with a foreign power and frame an alliance which should merely be offered to the people for ratification. For the organization of a new Roman province even this formal ratification was dispensed with, and a commission of senators alone aided the victorious general in the organization of his conquests. The senate also held an important power in its right to distribute spheres of rule among the various magistrates. It seems also to have had entire control over the external relations of the free cities which were scattered through- out the provinces, but formed no administrative parts of those provinces, holding their rights by charter for which they de- pended upon the senate. The control of finance was also en- tirely in the senate’s hands. Three circumstances had combined to bring about this result. The censors, who were only occasional officials, were entrusted with the leasing of the public revenues; the senate not only directed the arrangements made by them, and received appeals against oppressive contracts, but also controlled any financial assignments that had to be made during the vacancy in the censorship. Again, the details of public cx- penditure had been in very early times entrusted to the quaestors, who, when the magistracies were multiplied, occupied an en­tirely subordinate position; this strengthened the position of the senate as the natural director of a young and inexperienced magistrate. Thirdly, the general control exercised by the senate