

**XI.—Sallust and the Attitude of the Roman Nobility at the Time
of the Wars against Jugurtha (112–105 B.C.)**

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Sallust's description of the war against Jugurtha and of the political intrigues existing in Rome at the same time is of special interest at the present moment for several reasons: (1) For almost five decades there has been a lively discussion between two groups of scholars. One group tried to prove that Sallust was an unscrupulous, though very subtle, propagandist who gave a deliberately distorted view of the events which he describes, and above all of the motives of the main actors on the political scene. The other group contended that Sallust was a man of the most lofty ideals and not only tried to mete out praise and blame according to merit but actually achieved a high degree of objectivity. It is quite remarkable that more than 2000 years after the events, when party prejudice that may have made their objective evaluation difficult has disappeared, scholars can still differ so violently in their estimate of the sincerity or insincerity of the author. Much more interesting, however, especially at a time when the whole world is swamped with propaganda, both clumsy and subtle, is the methodological problem which is at the bottom of the discussion, the problem, namely, of whether there are any criteria by which we can determine "objectively" the sincerity or insincerity of a historical work, especially where direct documentary evidence is almost completely lacking. (2) The main subject of Sallust's work is the struggle between what he considered a corrupt and degenerate oligarchy and a popular movement, a struggle in which neither party was in the end victorious since both parties succumbed to a one-man rule which gradually degenerated into despotism. The implications for our own time in this respect are obvious. (3) In the decade following the first World War some rather prolonged wars have been waged by the troops of France and Spain against native leaders in the regions adjacent to those in which the Romans fought against Jugurtha. This makes it easier for us to understand the strategic problems which the Roman generals had to meet. The similarities, on the other hand, between some phases of these wars

tend to show how little the importance of certain geographical conditions has changed over very long periods of time in spite of revolutionary changes in armament and equipment. (4) Finally, the attitude of the two rival parties at Rome towards Jugurtha and towards each other presents some problems of political morals which may claim a special interest at the present time.

It is perhaps appropriate to begin with a brief survey of the modern discussion of Sallust's "objectivity" since it implies a somewhat more general problem of historical method. Mommsen in his *Roman History*, though not quite uncritical in his evaluation of Sallust as an authority, accepted on the whole his verdict concerning the Roman aristocracy both as a body and in its leading representatives because it agreed with his own aversion to any kind of oligarchy and his predilection for a "popular monarchy," which in his opinion was the form of government that Sallust's idol, Caesar, wished to establish. His view predominated until, in 1897, E. Schwartz published a brilliant article on the ancient tradition concerning the Catilinarian conspiracy,¹ in which he gave a thorough analysis of Sallust's famous work on that event. He tried to show that the "Thucydidean objectivity at which Sallust seems to aim was but a mask, and that in actual fact his work was largely dictated by a burning hatred against the senatorial nobility." According to Schwartz, Sallust felt this hatred because he was a typical representative of that "*perdita iuventus*"² which expected everything from Caesar and lost everything through his assassination by the aristocratic fronde.

In spite of Mommsen's authority Schwartz's conclusions were almost universally accepted for about three decades and had a very considerable influence on the historical works dealing with the period in question which were published during that time. Then a reaction set in;³ but not before some of Schwartz's younger

¹ "Die Berichte über die catilinarische Verschwörung" in *H* 32 (1897) 554ff.

² *Cic. Att.* 7.7.6.

³ The most important publications in which an attempt was made to refute Schwartz' thesis are the following: 1. A. Funaioli in the article "Sallustius" in *RE* (the objections raised in this very careful article are very restricted and moderate); 2. Hans Drexler, "Sallust" in *NJW* 4 (1928) 390ff.; 3. F. Klingner, "Ueber die Einleitung der Historien Sallusts" in *H* 63 (1928) 165ff.; 4. O. Seel, *Sallust. Von den Briefen ad Caesarem zur coniuratio Catilinae* (Leipzig, B. G. Teubner, 1930); 5. E. Skard, "Index verborum quae exhibent Sallustii epistulae ad Caesarem" in *SO Suppl.* 3 (1930); 6. G. Schörner, *Sallust und Horaz über den Sittenverfall und die sittliche Erneuerung Roms* (Erlangen-Bruck, M. Krahle, 1934); 7. Werner Schur, *Sallust als Historiker* (Stuttgart, W. Kohlhammer, 1934).

admirers⁴ had tried to improve on his thesis by an attempt to show that Sallust wrote his historical works and pamphlets in order to further the interests of the Caesarian party and to prepare his own return to an active participation in politics. This is not at all what Schwartz had said or implied. But this desire to improve on Schwartz's thesis was a very characteristic result of the belief, very wide-spread among historians of that period, and very popular still with many people, that human beings act always in pursuance of their personal material interests, or at least of the interests of the group or party to which they belong. In fact, they act just as often out of passion, even when the actions to which they are driven by their passions are clearly against their well-understood interest. The deep resentment, therefore, of a man who has been frustrated in his most cherished hopes and aspirations is fully sufficient to explain his attacks on the group or party to which he attributes the destruction of his hopes even if he has nothing to gain by these attacks. In so far as Schwartz's opponents merely showed that Sallust could hardly hope to promote his personal interests by his pamphlets—which, in fact, it was easy enough to prove—they did not touch Schwartz's thesis at all.

In the further course of the discussion, however, a new methodological principle was brought in which deserves even closer attention. H. Drexler⁵ tried to make fun of Schwartz's whole approach to the problem by pointing out that "if we try to prove that an author who, like Sallust, affects the greatest historical objectivity deliberately distorts the truth, we have continually to read between the lines, and so are apt to lose all solid foundation for our criticism." In order to avoid this difficulty he thinks that we must accept Sallust's report as correct, unless we can find definite and independent documentary evidence to the contrary. In making these observations Drexler obviously fails to realize that the methodological principle which he enunciates destroys the very possibility of all historical criticism in cases in which there is little or no direct documentary evidence available. For it will be difficult to find a tendentious author or a propagandist who does not make every effort to convince his readers that what he tells them is the truth and nothing but the truth. Nor would the modern historian be

⁴ See A. Rosenberg, *Einleitung und Quellenkunde zur römischen Geschichte* (Berlin, Weidmann, 1921) 174ff., and L. Volpis, *Sallustio storico partigiano* (Pola, 1911).

⁵ *Op. cit.* (see note 3, no. 3) 390.

in a much better position when inquiring into a period concerning which the works of several authors belonging to different parties have come down to us. For if he is not permitted to use internal evidence in order to decide which of the several conflicting reports concerning any given historical event or detail is more likely to be correct, he has either to go back to the historical method of Herodotus, who tells the different versions of a story and leaves the choice between them to the reader, or he must give up the attempt to write a history of such an epoch altogether. It would hardly be necessary to make this point if it were not for the fact that Drexler's article has met with considerable acclaim and that the mistaken notion of historical objectivity to which he gives expression seems to find other adherents.⁶

Considering the confusion concerning the first principles of historical method which has revealed itself in these recent discussions it is perhaps not quite useless to add a few further remarks. Some widely known contemporary propagandists have expressed the opinion that people in general are not only very ignorant, but also have very poor memories, so that it is perfectly possible by emphatic and insistent affirmation to make them believe in the truth of statements concerning events of the near past which are completely at variance with what these people themselves have experienced. A future historian who—if we may make this assumption—would have to rely exclusively for his historical reconstruction of a period on one work or pamphlet of one of these propagandists would indeed have a difficult task.⁷ But in the case of ancient authors the problem is quite different. In consequence of the special character of the book trade in antiquity they could not hope that their

⁶ I have not found Drexler's methodological principle expressed with equal bluntness anywhere else. But most of the other authors quoted in note 3 have mentioned his article with approval and Schur has even praised it as "feinsinnig," a term which is difficult to translate but implies both subtlety and penetration. In this country Drexler's article seems to have received little attention. But it would be easy to quote examples in which his principle has been followed implicitly. In the field of ancient history this has been especially noticeable in recent attempts to show that Caesar's explanations of his political actions have to be taken at their face value. It would be dangerous for the science of history if the fear of becoming "subjective" while we try to find the truth behind the records which have come down to us should lead to a relaxation of historical criticism.

⁷ The situation would, of course, be very different if several works or pamphlets of the same author had been preserved, since changing events, as experience shows, very soon compel these propagandists to contradict themselves if their propaganda is to remain effective.

books or pamphlets would be read by large sections of the population. They therefore necessarily had to address themselves to a highly selected group of readers who had not only had a very good education but who had also spent most of their lives in politics in one way or another, and hence had not only a rather good recollection of the political events which had occurred during their lifetime but also a solid knowledge at least of the most important events of the preceding period. A book addressed to an audience of this kind, therefore, had to make use of much more subtle methods if its purpose was to give a distorted or one-sided view of the past. For it could not falsify the more outstanding and well-known facts if it was to have any effect whatever. This gives the modern historian his chance. For even if an author succeeds in screening the most significant events in a most artful fashion he will hardly ever be so completely successful that a discriminating eye cannot discover a conflict between the facts and their interpretation. Where no such conflict can be discovered we may be reasonably certain that the author has tried to give an objective account of the events, while, if the opposite is the case, our criticism, even if based exclusively on internal evidence, will certainly not be without foundation.⁸ Where, as in the case under consideration, some records of the views of the opposite party have come down to us, we can apply the same test to them, and so shall have an even better chance to arrive at a more objective evaluation of the events by means of a double process of elimination. The test of such a procedure will, of course, always lie in the detailed analysis to which the general observations made so far are merely meant to pave the way.

I do not propose, however, to take up again the problem of the Catilinarian conspiracy, since I should have to repeat the arguments which E. Schwartz has set forth in the most brilliant fashion, and

⁸ It would perhaps be unjust not to mention in this connection a recent analysis of Sallust's work which is excellent though it has been considered (not, as far as I can see, by its author, but by others) as a further invalidation of Schwartz's thesis. Kurt Latte (*Sallust, Neue Wege zur Antike, Zweite Reihe, Heft 4, Berlin, 1935*) has tried to show that the distribution of light and shadow in Sallust's work is partly due to artistic considerations. There can be no doubt whatever that many peculiarities of Sallust's work can be explained by his artistic aspirations. But it should be obvious that artistic effects may very well be used in a work which has other aims as well, and that an art which makes one party appear in a more favorable, and the other in a less favorable light than the events seem to justify still reveals an ulterior motive on the part of the artist.

which have been obscured by his adherents no less than by his opponents. Instead, I shall concentrate upon the second extant work of Sallust, the *Bellum Jugurthinum*, which has been much less thoroughly analyzed than his book on the Catilinarian conspiracy. Since Schur and others have contended that from Sallust's earliest work on Catiline to his latest work, the *Historiae*, of which only fragments have come down to us, one can observe a steady development not only towards ever greater objectivity, but also toward an ever deeper understanding of the driving forces in Roman history, it seems especially appropriate to analyze a work which is preserved in its entirety and represents Sallust's middle period.

I omit the philosophical introduction which fills the first four chapters, since it would require a different kind of analysis.⁹ The basic theme is set in the fifth chapter with Sallust's remark that he is going to describe the war against Jugurtha because it was a great and savage war and because it was during this war that there arose for the first time a strong opposition to the arrogance and overbearing attitude of the Roman aristocracy. The theme is taken up again in the seventh chapter, where Sallust tells how king Micipsa of Numidia, because he was afraid the extraordinary qualities of his nephew and foster-son Jugurtha might become a danger to his own children, sends the young man away to Spain as leader of an auxiliary force which is to serve with the Romans. It is the king's hope that the dangerous youth in his eagerness to

⁹ The philosophical introductions to Sallust's historical works present another interesting problem of interpretation. W. Schur (*op. cit.* 1) thinks that Klingner has demonstrated the profound seriousness and inherent veracity (den tiefen Ernst und die innere Wahrhaftigkeit) of Sallust's criticism of Posidonius' concept of history. Others—and this does not mean the author of this article only—even after having read Klingner's article, were still not able to discover anything in Sallust's philosophical introductions that he could not have picked up easily in the current schools. They admit, however, that he has made a very clever use of these fragments of contemporary philosophical ideas and doctrines, and that it obviously was his aim to impress his readers with his profound philosophy and his deep convictions.

In a case like this, it is, of course, difficult to find objective criteria by which a decision can be reached as to which of the two opposite views is correct. For even if it can be proved that there is nothing much original in Sallust's philosophy, his convictions could still be sincere. The only real criterion then seems to consist in the agreement or disagreement of his professed theoretical opinions and his actual conduct in life. Since we know comparatively little of Sallust's life after the death of Caesar, his "actions" in that time are mainly illustrated by his works. The ultimate criterion of the veracity and sincerity of his philosophical opinions, then, must still be found through an analysis of the truthfulness and objectivity of his historical descriptions of events.

distinguish himself on the battle field will be killed by the enemy. But things turn out differently. Jugurtha is not killed, but wins great renown both with the Roman general P. Scipio, and with the Numidian warriors. What is more, he not only becomes an accomplished military leader, but learns other things which make him even more dangerous. There were, according to Sallust, a great many young noblemen in the Roman army who were utterly corrupt and tried to achieve prominence not by doing service to their country, but by political intrigues. These young men encouraged Jugurtha to overthrow the legal heirs to the Numidian throne after the death of his foster-father and benefactor Micipsa, and to make himself the sole ruler of Numidia. They also told him that he still had the manly virtues which the Romans had lost, and that in Rome everything was venal. With this latter remark, as the further context shows, they obviously implied that it would be easy for Jugurtha to win the approval of the Roman government for whatever he might do. Sallust tells further that Scipio warned him against the advice he received from these young men, but that this proved of no avail.

In regard to this passage even Schur points out¹⁰ that it is somewhat less than credible. The first conflict between Jugurtha and the sons of Micipsa broke out more than fifteen years after Jugurtha's stay in Spain.¹¹ It seems, therefore, not very likely that it was caused or decisively influenced by the advice which Jugurtha had received from his young Roman friends so long before. It is very hard to believe that the haughty Roman aristocrats would have told the young barbarian prince that he possessed manly virtues which they did not have. A Roman author like Sallust might write such things in order to shame his own countrymen. But one may very well doubt whether even Sallust himself would have expressed such opinions when talking to a Jugurtha of his own time. Finally, even if there had been conversations of this kind, how could any knowledge of them have come down to Sallust? The possibility that Jugurtha himself mentioned them when he was called to Rome in 111 is precluded

¹⁰ *Op. cit.* (see note 3) 141.

¹¹ The destruction of Numantia, after which Jugurtha returned home, is fixed by incontestable evidence in the early half of the year 133 B.C., the death of Micipsa in the year 118. According to Sallust, a personal conflict between the heirs broke out immediately after Micipsa's death. But they did not resort to arms until several years later. See also note 22.

by Sallust's own report.¹² The young Romans would hardly have boasted of the rather discreditable utterances made in the presence of Jugurtha, much less have tried to preserve a record of them for posterity. At best then, there could have been some gossip of which some written record happened to survive. In this case Sallust's bias would still be revealed by the fact that he took up this gossip and presented it as if it were an incontestable historical fact.

Against this conclusion it may perhaps be said that a Roman historian of the first century B.C. cannot be expected to take the same critical attitude towards his sources as we demand of a modern scholar and that, therefore, he cannot be accused of bias, much less of wilful distortion of the truth, if he accepts the interpretation of the events which had become popular. A careful perusal of the following chapters of Sallust's work seems to preclude this excuse. As pointed out above, fifteen years elapsed between the return of Jugurtha from Spain and the death of King Micipsa. Sallust, however, says¹³ that King Micipsa died "a few years" after Jugurtha's return. "A few years" may, of course, be anything, but in the context in which it is used the expression hardly suggests an interval of fifteen years. Sallust tells furthermore¹⁴ that "when Micipsa read Scipio's letter which Jugurtha brought with him from Spain" he was so much impressed by this confirmation of the favorable rumors about Jugurtha which he had heard before, that he adopted him and made him co-heir with his sons. A little later he says¹⁵ that Micipsa had adopted Jugurtha about three years before he died. The unsuspecting reader, unless he has a very exact knowledge of the chronology from other sources, must certainly come to the conclusion that the interval between Jugurtha's stay in Spain and the troubles which broke out immediately after the death of Micipsa was little more than three years, and not sixteen, as was actually the case. He therefore will receive the impression that Jugurtha's attitude toward his co-rulers was the direct result of his presumed conversations with the young Roman noblemen who took part in the siege of Numantia, and will be prevented from raising the objections to Sallust's presenta-

¹² See Sall. *Jug.* 33-34.

¹³ *Ibid.* 9.4.

¹⁴ *Ibid.* 9.3.

¹⁵ *Ibid.* 11.6.

tion of this part of Jugurtha's history which we have set forth above.¹⁶ This erroneous impression of the reader is further promoted by the unusual brevity of this section of Sallust's account.¹⁷ It is very difficult to believe that all this is unintentional and merely the result of a certain carelessness in Sallust's expression. For even the less discriminating reader may feel some doubts concerning Sallust's interpretation of the causal connection of events unless he is first deceived as to their chronology.¹⁸

I have dwelt at some length on this point for two reasons. We shall see later that there are other parts of Sallust's work in which he uses the "relativity of time" with consummate skill in order to obtain similar results.¹⁹ Above all, however, the analysis of his chronological remarks seems to prove beyond doubt that Sallust did not merely, as Schur contends,²⁰ take over and embellish the biased interpretation of the facts which had been handed down to him from adherents of the popular party who lived at the time of Jugurtha. For he tries to mislead his readers in a fashion in which no contemporary of the events could possibly have been misled.

Of the first conflict between the heirs of Micipsa after his death Sallust gives the following account.²¹ At the first meeting of the three co-heirs to the Numidian throne, Hiempsal, the younger of Micipsa's two sons, questions the validity of Jugurtha's adoption

¹⁶ See supra p. 140.

¹⁷ The brevity of this part of Sallust's account in itself may seem quite appropriate since he does not intend to write a biography of Jugurtha, but a history of his relations with Rome. Yet a careful and objective author would all the more have felt obliged to indicate that he covered a considerable period of time with two sentences, while Sallust does the very opposite.

¹⁸ It must be admitted that with some modern readers of Sallust this has not been the case. The inaccuracy of Sallust's chronological statements in the passage mentioned has, of course, been observed long ago. Earlier philologists tried to overcome the difficulty by emending the text, though this procedure destroys the whole context. This is the philological method of correcting the author rather than emending the manuscript tradition at its worst. It must be considered an advance when D. E. Bosselaar in his dissertation *Quomodo Sallustius historiam belli Jugurthini conscripserit* (Amsterdam, 1905) 6f. pointed out that the text is certainly sound and contended that it was Sallust's exaggerated desire for lucidity (*nimia cupiditas omnia quam dilucidissime exponendi*) which induced him to obscure the chronology in order to make the causal connection of events stand out more clearly. He did not observe, however, that this kind of lucidity is of little value since the causal connection which Sallust tries to show is irreconcilable with the true chronology.

¹⁹ See infra p. 158f.

²⁰ *Op. cit.* [note 3, no. 7] 150.

²¹ *Jug.* 11-16.

by his father. In revenge, some time later,²² Jugurtha has Hiempsal assassinated by a gang of his *bravi*, when the latter is imprudent enough to take up his residence in the house of one of Jugurtha's retainers. The older brother, Adherbal, naturally fears for his own safety and tries to rally his forces against possible aggression. In consequence the Numidian nation is soon split into two parties, one of which follows Jugurtha while the other follows Adherbal. When it finally comes to an armed conflict, Adherbal is defeated and flees first to the Roman province in Africa and then to Rome. There he pleads for help against Jugurtha on the basis of the old friendship between his grandfather Massinissa and his father Micipsa and the Roman people. Jugurtha, however, sends his own ambassadors to Rome, who plead his cause both with specious arguments and—more effectively—with bribes. The Senate, against the strong advice of one of its most influential leaders, Aemilius Scaurus, decides to let Jugurtha go unpunished and to divide Numidia equally between Jugurtha, who gets the less civilized but more populous Western half, and Adherbal, who gets the richer and more developed Eastern half, with more cities but a less warlike population. According to Sallust this decision is incontestable evidence of the utter corruption of the Senate.

Again Schur admits²³ that Sallust's account is biased. For nobody, he says, at that time could have foreseen that Jugurtha would dare, a few years later, to overthrow the settlement established by order of the Senate. Even Scaurus, he thinks, was merely in favor of a punitive expedition which was to give more weight to the Senate's decision. We shall discuss later how far this estimate of Scaurus' attitude is likely to be correct. For the present it seems necessary to subject to somewhat closer scrutiny both the general political and legal situation and Sallust's judgment of the Senate's action.

²² It is impossible for us, on the basis of the available evidence, to fix the dates of the assassination of Hiempsal and of the first armed conflict between Jugurtha and Adherbal with the same accuracy as that of Jugurtha's return from Spain and of Micipsa's death. But since Jugurtha's second attack on Adherbal can definitely be dated in the year 112, while Sallust describes the whole period as if all events had followed immediately upon one another, it seems likely that he has again tried to create the impression that the time elapsed between the main events was shorter than it actually was. The date for Jugurtha's first attack on Adherbal suggested by Bosselaar (*op. cit.* [note 18] 10), who places this event in the year 112, is certainly too late. But it is very likely that Hiempsal was not killed before 117, possibly later, and that the first armed conflict between Jugurtha and Adherbal did not break out before 116.

²³ *Op. cit.* [note 3, no. 7] 142.

Numidia at the time of the first disturbances between Jugurtha and his brothers was not formally and directly under Roman sovereignty.²⁴ The interference of the Senate was based on two factors: the traditional friendship between Rome and Numidia which dated from the time of Massinissa, and in the course of which the Romans had more and more assumed the role of protectors; and, second, the fact that at first one party and then the other had appealed to Rome. Yet Jugurtha was still the actual sovereign, and as one of the rightful heirs of King Micipsa, at least to a certain extent the legal sovereign of Numidia. Since the Romans had no troops in Numidia, even a thorough investigation on the spot could not have been undertaken without his consent, or if this consent was withheld, without a military expedition. At the same time, the Senate was not under any legal obligation to undertake such action.²⁵ Not even the tribune Memmius, the most violent opponent of the senatorial aristocracy, in the speech attributed to him by Sallust,²⁶ raises this claim.²⁷ Since a man of Jugurtha's intelligence naturally—as Sallust admits²⁸—succeeded in presenting his case in a favorable light, the Senators were faced with the problem of deciding whether to risk a costly war merely

²⁴ We do not possess very precise information concerning the official and legal nature of the relations between Rome and Numidia at the time of Micipsa and his successors. Modern historians usually speak of Numidia as a Roman protectorate or client state. Inasmuch as this refers merely to the actual attitude both of the Numidian sovereigns of this period, including Jugurtha in the earlier part of his career, and of the Roman government, it is certainly correct. Legally, however, this relation in all probability had no more solid foundation than the tacit continuation of the treaty between Rome and Micipsa's father Massinissa, which had been concluded some ninety years before the first Jugurthan troubles, and the fact that Massinissa in his will had entrusted Scipio with the regulation of his succession and had recommended his successors to his protection (App. *Lib.* 106). At any rate, it is very unlikely that the Romans could claim or actually did claim jurisdiction over internal affairs of Numidia except where the parties concerned themselves appealed to Rome or where the interests of Rome were either directly or indirectly concerned. (For Massinissa's attitude, cf. also Livy 45.13, and for the general question, E. Täubler, *Imperium Romanum* [Leipzig, 1913] 83ff.)

²⁵ See the preceding note.

²⁶ *Jug.* 31.

²⁷ Concerning the arguments used by Memmius or attributed to him by Sallust, see *infra* p. 147f.

²⁸ *Jug.* 15: Jugurtha could claim with some semblance of justification that Hiempsal through his rude and haughty attitude had both provoked the first quarrel between the brothers and caused general enmity against himself, and that after the death of Hiempsal, Adherbal had forced him to act by making military preparations. He, of course, denied any share in the assassination of Hiempsal.

in order to establish the merits of the case more definitely,²⁹ or to act on the assumption that both parties were to blame and give each his share.

History shows that under such conditions, decisions are usually made according to expediency rather than strict justice. It was in the interest of Rome that the country adjacent to the Roman province of Africa should be in friendly hands and, as far as possible, free from disturbances. Jugurtha, through his participation in the war in Spain, had given more substantial proof of his value to Rome than Adherbal, whose claim rested merely on the services of his father and grandfather. The evidence, as far as it had been placed before the Senate, seemed to indicate that the conflict had been due more to rashness and misunderstandings than to evil intent.³⁰ To the less penetrating observer it may very well have seemed wise to bring about what on the surface appeared an equitable settlement and to let bygones be bygones. If Scaurus, on the other hand, dissented from the majority opinion it was probably due to his better estimate of the true character of Jugurtha and of the future troubles that might result from it, whatever alternative he himself may have proposed. At any rate, there is nothing in the attitude of either party in the Senate to suggest the presence of corrupt motives.

Sallust, however, contends that the majority decision was obtained by bribes,³¹ and expresses the opinion that Scaurus, whom he hates especially because he was one of the most intransigent leaders of the nobility, refrained from accepting bribes on this occasion merely because in this way he hoped better to serve his political ambitions.³² It is hardly necessary to characterize this kind of argument. But there is another side to Sallust's presentation of the facts which is worthy of attention. We have seen that on another occasion he tried to mislead his readers by obscuring the chronology of events. But while he gives a forced explanation of Scaurus' motives he makes no attempt to misrepresent his actual attitude in the Senate. The main reason for this difference lies

²⁹ Even if, as is quite possible, the Senate did not expect any attempt at military resistance on the part of Jugurtha against an investigation on the spot, it may still have seemed unwise to offend a ruler who had proved very energetic and who still might be useful to the Romans in the future.

³⁰ See note 28.

³¹ *Jug.* 15.2.

³² *Ibid.* 15.4.

probably in the fact that Scaurus had written his autobiography, though Cicero complains³³ that hardly anybody read it, and that it was easy to check up on the truthfulness of his assertions concerning the way he had voted in the Senate. But apart from this, even Cicero's writings show clearly that the attitude taken by the leading statesmen of the past on outstanding occasions was still widely discussed. Sallust's readers, therefore, could be expected to be more or less familiar with such facts. An exact knowledge of chronological details was obviously less widespread.

The next phase of the Jugurthine troubles is the most interesting because it was then that they became most closely connected with the internal political struggles at home. According to Sallust³⁴ the main course of events was the following. Soon after the Roman commission which fixed the boundary between the two parts of Numidia had withdrawn, Jugurtha renewed his attacks on Adherbal, first by small inroads on his territory, and when this did not provoke him to war, by a full-sized military invasion. Adherbal's hastily collected army was dispersed. When he again appealed to Rome three young ambassadors were sent with the demand that Jugurtha desist from encroaching on Adherbal's territory. Jugurtha answered by renewed protestations of his loyalty towards Rome, but insisted that his own safety required continuation of the war since Adherbal had plotted against his life. Upon a new appeal of the unfortunate king, who had fled to the fortified city of Cirta, another embassy was sent, this time of outstanding members of the Senate, among them Scaurus; but again to no avail. After the embassy had left, Cirta was surrendered on the advice of a group of Italian inhabitants who had helped in the defence of the city, but were confident that Jugurtha would not dare to touch either themselves or their property. As a special condition of the surrender it was stipulated that Adherbal's life was to be spared. Nevertheless, upon entering the city, Jugurtha had his foster-brother put to death under torture, and his barbarian warriors killed indiscriminately both the Numidians and the Italian merchants who had fought against them.

This time the indignation in Rome was great. According to Sallust, there was still a strong group in the Senate which favored

³³ Cic. *Brutus* 29.112.

³⁴ *Jug.* 20ff.

leniency towards Jugurtha. But under the pressure of popular agitation initiated by Memmius, the Senate took energetic action. An embassy from Jugurtha which arrived at Rome was told that unconditional surrender was the only condition acceptable to the Senate. If they could not offer this, they would have to leave the city within ten days. An army under the command of the consul Calpurnius Bestia with Scaurus as his adviser was sent to Africa. Numidia was invaded and several cities captured. But when Jugurtha heard that Scaurus belonged to Calpurnius' council he at once took hope that an easy settlement could be reached. When negotiations were rejected he came to the Roman camp and offered his surrender. After secret conversations with Calpurnius and Scaurus his surrender was accepted. He handed over 30 elephants, great numbers of horses and cattle, and a sum of money to the Roman quaestor.

When the news of these events arrived at Rome a new agitation started. Memmius in a speech full of furious accusations against the aristocracy suggested that Scaurus had been bribed and that the surrender was not genuine. He demanded that Jugurtha be brought to Rome under a safe-conduct granted by the Roman people and be questioned concerning his secret negotiations with Scaurus.³⁵ But when Jugurtha actually appeared before a popular assembly at Rome and Memmius by threats and promises tried to induce him to reveal the suspected intrigues with the Roman nobles, another tribune interceded and forbade him to speak. So it all came to nothing and in agreement with the formal safe-conduct granted to him by the Roman people Jugurtha soon after was permitted to return to Numidia, where he almost immediately started new trouble.

In this account it is certainly somewhat strange that, as Sallust affirms, Jugurtha should at once have begun to nourish hopes of an easy settlement when he heard of Scaurus' presence in the council of the consul, since Scaurus formerly had opposed the lenient attitude of the Senate. Sallust's explanation is, of course, that Scaurus had been bribed in the meantime. But apart from the question of how this could possibly have been done before Jugurtha heard of Scaurus' membership in the council, it must still appear very strange that the man who formerly could not be bribed because

³⁵ *Ibid.* 32.1.

in this way he hoped better to serve his secret ambitions should have changed his attitude at a moment when public opinion was much more violently opposed to a lenient treatment of Jugurtha than on the previous occasion.

Much more important, however, is the question of Jugurtha's surrender and his negotiations and "secret conversations" with Scaurus and Calpurnius. In order to arrive at a correct evaluation of this point it is necessary to discuss briefly both the legal nature and the actual practice of *deditio*. Recent studies³⁶ have left no doubt that *deditio* meant unconditional surrender in the sense that the nation or community submitting to it formally and legally handed over its territory, citizens, and property, throwing itself completely on the mercy of the Roman people.³⁷ Since by the act of *deditio* the community became a property of the Roman people, the occupying Roman soldiers were not permitted to plunder or to commit any other acts of individual violence, as was the custom if a city was conquered by force.³⁸ But this advantage could be only temporary, since the acceptance of the offer of *deditio* did not imply any formal obligation on the part of the Roman people to spare even the lives or personal liberty of those who had surrendered.³⁹ In actual practice, on the other hand, the cases in which the Romans made the most cruel use of the rights acquired by *deditio* by selling the population into slavery or killing the male population or their leaders were very rare.⁴⁰ In the overwhelming majority of cases the treatment was much more lenient; the community which had surrendered merely came under Roman sovereignty in some form and often was granted a status of semi-autonomy.⁴¹

What interests us in connection with Sallust's account, however, is the question of the competence of the victorious general in dealing with the enemy who offered to surrender. There can be no doubt whatever that the general had the right to accept or reject the offer

³⁶ See E. Täubler, *Imperium Romanum* 14ff. and A. Heuss, "Die völkerrechtlichen Grundlagen der römischen Aussenpolitik in republikanischer Zeit" in *Kl Beiheft* 31 (1933) 60ff.

³⁷ See Polyb. 36.4.2; Livy 7.31.4 and 1.38.

³⁸ See Livy 38.32.12.

³⁹ See A. Heuss, *op. cit.* (note 36) 64ff.

⁴⁰ See, for instance, Livy 26.16 and 34 (Capua in 211) and Livy 38.29.11 (Cephalenia in 189).

⁴¹ See Täubler, *op. cit.* (note 24) 22ff. and Heuss, *op. cit.* (note 36) 69ff.

of *deditio* without waiting for instructions from Rome. It is self-evident and further confirmed by many instances that the general had the right to promise that he would exert his utmost influence in Rome in favor of a lenient treatment of those who offered to surrender. There are some cases in which binding stipulations between the two parties were made in favor of a third party: for instance, the life and liberty of an allied contingent which had fought on the side of the surrendering army.⁴² But there is no certain case in which such stipulations were made in favor of the surrendering party itself. In fact, since the Roman Senate had always claimed the right to invalidate a treaty, even with an unconquered or victorious enemy, which had been sworn to by a Roman general, it is difficult to see how any promises made by a Roman magistrate to a surrendering enemy could have been binding.⁴³ The Senate and the people of Rome,⁴⁴ therefore, were obviously the sole masters of the ultimate destiny of the nation which had surrendered. In order to secure this right, furthermore, it was customary to demand immediate surrender of all arms and weapons, of the military and political leaders, and often of additional hostages.⁴⁵ All these different points have to be kept well in mind if we wish to understand all the implications of Sallust's account of the dealings of the Romans with Jugurtha.

Again Sallust's account is somewhat vague, so that it is not quite easy to find out what was the precise accusation made against Scaurus and Calpurnius by their opponents. The accusers could hardly object to granting Jugurtha permission to surrender, since

⁴² For instances see Heuss, *op. cit.* 69.

⁴³ Mommsen's theory according to which the *deditio* itself in later times was a treaty containing stipulations concerning the future treatment and status of the surrendering party, and which, though in a much more restricted form, was still upheld by Täubler, has been definitely refuted by Heuss, *op. cit.* (note 36) 62ff. It is not so difficult to see why in case of *deditio* binding stipulations could be made in favor of a third party, but not in favor of the surrendering party itself. For if, for instance, it was stipulated that an allied contingent should be free to withdraw unharmed, it merely meant that this contingent was not included in the surrender and so became the subject of a separate agreement granting free withdrawal. The surrendering party, however, by its very act became the property of the Roman people, which naturally implied that the Roman people could dispose of it according to its free discretion.

⁴⁴ It is not necessary for us to discuss the difficult question of the competence of the Roman Senate as against the competence of the Roman people in dealing with the nation which had surrendered, since it has no bearing on our particular problem. See Täubler, *op. cit.* (note 24) 99ff.

⁴⁵ For the evidence see Heuss, *op. cit.* (note 36) 67.

it is difficult to see what the generals could have achieved beyond this. The first point mentioned by Sallust is the secret negotiations between Jugurtha and the generals. That there should have been negotiations before Jugurtha made the final offer to surrender is natural. It could hardly have been otherwise, especially since Jugurtha was far from being in a hopeless position. For the same reason it can hardly be doubted that Scaurus and the Consul did hold out hopes and make promises to Jugurtha in case he should surrender voluntarily. His whole history shows that this barbarian chieftain was always rash and overbearing as long as he felt superior or the danger was not imminent, but became frightened when immediately threatened. So he had disobeyed the orders of Rome as long as he had to deal only with an embassy which was not backed up by the presence of an army. But when Numidia was invaded by a Roman army and some of its cities conquered he became afraid and tried to come to terms. The same fear would undoubtedly have had the opposite effect and induced him to continue the war if by surrendering he had expected to forfeit his life or liberty. The very fact, therefore, that he surrendered so easily when he could have retired to the western part of his realm and protracted the war for a long time, proves conclusively that the surrender was accompanied by private negotiations between Jugurtha and the Roman generals and that promises must have been made to him. The nature of these promises is unknown, since even Sallust does not give any details, but it is quite possible that he was given some hope of being reinstated after a time as a semi-independent sovereign of Numidia under Roman overlordship.

If, then, as is very probable indeed, some such promises were actually made, it was, of course, quite possible to base political agitation and political recriminations on this fact. For it could be argued that it was entirely inappropriate to give such promises to a man who was a murderer and had either caused or at least failed to prevent the slaughter of Italian nationals. But it was hardly possible on this count to accuse the generals of a violation of the law, since in this respect they had certainly not overstepped their competence, and since whatever promises they made were not legally binding on the Senate or the Roman people. The generals, on the other hand, might very well argue that the course of action which they had taken was a wise policy in the very best interest of Rome. For if they had acted differently this would in all likelihood

have entailed a long and difficult war, while even if the Senate had felt bound to honor all the promises made to Jugurtha this could have hardly prevented that body from keeping the barbarian king in honorable custody at Rome until conditions in Numidia had been settled in such a way that he could be safely reinstated and easily prevented from starting further trouble.⁴⁶ The very long colonial war, extremely costly in money and human lives, which some of the most able Roman generals later had to wage against Jugurtha when he was driven to desperation gives considerable weight to this political argument.⁴⁷

In fact, the accusations raised against Scaurus and Calpurnius seem to have gone much farther. The tribune Memmius in the speech attributed to him says⁴⁸ that they "betrayed the state," and "sold the authority of the Senate and the sovereign decision of the Roman people." He demands that Jugurtha be ordered to come to Rome so that he can be questioned concerning the way in which he bribed the generals. He furthermore exclaims: "If Jugurtha has really surrendered he will obey your orders; if he disobeys you will be able to judge what kind of an agreement⁴⁹ or surrender it is from which Jugurtha gains impunity for his crimes, from which some influential men derive great wealth, and which

⁴⁶ There are many instances to show that the status of a party which had surrendered was left in suspense for a very considerable period of time, until the political situation had developed in such a way that the final settlement could be made with perfect safety. One might perhaps argue that the Numidians could have continued the war in the absence of Jugurtha since only a very small part of their country had been actually occupied. But in this case they would have been deprived of their most energetic and able leader. At the same time any such contingency naturally would have given the Romans a perfect right to keep Jugurtha in custody until the nation was fully subdued whatever promises might have been made to him at the time of his surrender.

⁴⁷ See *infra* p. 157ff.

⁴⁸ Sall. *Jug.* 31.18ff.

⁴⁹ The word used is *pax*, which means "peace" or "peace treaty," but also any agreement by which a state of peace is restored. As Heuss (*op. cit.* [note 36]), in contrast to earlier theories, has shown, *deditio* or surrender did not in itself imply a two-sided treaty nor was it connected with a treaty, but it could be and in fact usually was connected with promises concerning the future fate of the surrendering party. If Memmius, then speaks of *deditio* or *pax* he obviously suggests that the agreement between Jugurtha and the generals went beyond the customary promises and that the state of affairs created by it resembled more a formal peace than a surrender. This interpretation has also found its way into the Livian tradition, where Calpurnius is even accused of having concluded a peace (treaty?) with Jugurtha without authorization by the Senate, and the people (Livy, *Per.* 63: idque (sc. bellum) Calpurnius Bestia consul gerere iussus pacem cum Jugurtha iniussu populi et senatus fecit; cf. also *infra* p. 154).

brings nothing but loss and dishonor to the state." If this latter argument is to have any validity it must mean that Jugurtha will probably refuse to come to Rome, which, of course, implies that he had bribed the generals to set him free on their own discretion.⁵⁰ We have then to analyze the implications of this suggestion. As we have seen before, it was customary to demand the personal surrender of the leaders of the nation or community offering surrender. Since in the majority of cases it was impracticable to keep the whole population in captivity, the conquering generals naturally had some discretion as to whose personal surrender they would demand in a given case. But where the war had been caused and waged by an individual rather than by a nation, it could very well be argued that it was their absolute duty to keep this individual in custody until the Senate or the people had decided how he was to be dealt with. This was certainly true in the case of Jugurtha. If, therefore, Scaurus and Calpurnius had set him free immediately after his surrender, there can hardly be any doubt that they had in fact grossly overstepped the limits of their authority. This is what Memmius obviously suggested. In addition, a further and similar accusation seems to have been made, namely, that Jugurtha was allowed either to keep or to buy back part of the weapons which he should have surrendered.⁵¹

This accusation was certainly much more serious than the purely political objections against whatever promises the generals might have made to Jugurtha. But was it justified? There can be no

⁵⁰ One might perhaps suggest that Memmius, when he says that if Jugurtha has surrendered he will obey, means that he will obey not by coming to Rome (which he could be forced to do anyway) but by giving testimony against the Roman generals. This interpretation, however, is hardly possible for two reasons. Since the conversations between Jugurtha and the generals had been secret, Memmius' accusations can hardly have been based on more than surmises (cf. also note 54). To say, then, that Jugurtha, if his surrender is genuine, will testify against the generals, would clearly prejudice the case, since it implies that if Jugurtha testifies against the generals their guilt is proved by his testimony, while if he testifies in their favor, their guilt is proved by his refusal to testify against them. To use such an argument is perhaps not beyond the tactics of a passionate party politician. But it would not make his case appear very strong. Above all, however, Memmius can hardly have implied that Jugurtha, as a *dediticius*, could be forced to come to Rome. For if this was so, as later was found to be actually the case, it showed that the *deditio* was not a fake and that in the most essential point the generals had not violated their duty. For the war had been waged by Jugurtha much more than by the Numidian nation, which was divided in itself, and it was therefore most important to secure his person (cf. also note 54).

⁵¹ Concerning this point see *infra* p. 160.

doubt whatever that Jugurtha did come to Rome,⁵² but when he made the journey he came with a special safe-conduct granted to him by the Roman people. Why was this safe-conduct given? The reader who remembers the suggestion in Memmius' speech naturally suspects that otherwise Jugurtha would have refused to come. But though Sallust's account is again somewhat vague in this respect, this is certainly not what it indicates. Cassius, who is sent to bring Jugurtha to Rome "persuades him that, having surrendered to the Roman people, it would be wiser to rely on the latter's mercy than to submit to force."⁵³ The major part of this sentence seems to indicate that the *deditio* was genuine, and that Jugurtha could be forced to come, though the fact that he had to be persuaded and that, as we are told in the next sentence, Cassius had to add his personal pledge to the official safe-conduct, suggests that he had a choice. Nevertheless, there can hardly be any doubt as to the actual situation. For if Jugurtha had been free to refuse, and if it had been necessary to offer him an official safe-conduct in order to bring him to Rome, this, as Memmius correctly pointed out, would have been clear proof that the generals had grossly violated their duty and, with party strife already at the boiling point, would certainly have caused a great scandal. Likewise it would be more than curious if Sallust, who in these chapters does everything to build up the guilt of the generals, had not mentioned the fact. We must, therefore, conclude that Jugurtha's surrender was genuine,⁵⁴ that the generals had secured his person, and that

⁵² We do not know, of course, in what kind of custody Jugurtha was kept or by what other means the generals secured his person. The only essential question is whether he was in a position in which he could refuse to come or whether he was not.

⁵³ Sallust *Jug.* 32.5: Cassius . . . ei . . . persuadet, quoniam se populo Romano dedisset, ne vim quam misericordiam eius experiri mallet.

⁵⁴ This is perhaps further confirmed by a rather remarkable difference in the accusations raised against the generals in M.'s first speech and those raised in his second speech (*Sall. Jug.* 33.4), which he made when Jugurtha had arrived in Rome and was asked to testify against them. In the first speech, the main accusation, as we have seen, had been that the *deditio* was a fake, and that *after* Jugurtha had offered to surrender, the generals had overstepped their authority by entering upon an agreement irreconcilable with a true *deditio*. One would therefore expect that Jugurtha would be asked to testify about this point. Instead, he is asked to tell with whose help (that is: with the help of what highranking Roman nobles) he has committed the crimes against his brothers. This, especially when compared with the concrete accusation of the first speech, is really a very strange accusation, and nothing, as far as we can see, ever came of it. If, as is very likely, Sallust's account in these passages goes back ultimately to contemporary records, the curious discrepancy between the two accusations can be explained only by the assumption that the first accusation in its

the safe-conduct was given for another reason. This reason is indicated in the words of Memmius⁵⁵ when he proposes that Jugurtha be brought to Rome under a safe-conduct "so that through his testimony the crimes of the generals might be more easily revealed." And indeed, as long as Jugurtha's hopes rested exclusively on the promises made to him by Scaurus and Bestia it was not very likely that he would testify against them. He therefore had to get some other and more binding guaranty if this was the purpose for which he was brought to Rome.⁵⁶ But if this interpretation is correct, we arrive inevitably at the conclusion that the main accusation against Scaurus and Bestia was unfounded, that, as far as Jugurtha's person was concerned, they did deliver the goods, and that it was really Memmius and the popular party who induced the people to give Jugurtha the safe-conduct which enabled him to return to Numidia a free man and to start another war which lasted for many years and proved very costly to the Romans.

At this point it is perhaps appropriate to glance at the ancient authors other than Sallust who have written about the period we have been considering. There are only two points which are of interest to us.⁵⁷ The slaughter of the Italians in Cirta is mentioned,

main part had fallen down, and that Memmius had to look for a substitute however incongruous. For though there remained the accusation that some of the Roman officers had accepted money from Jugurtha, and that there had been irregularities in the surrender of the Numidian arms, this accusation was much less serious than the one raised in Memmius' first speech, and, above all, as later events showed, could not be used against Scaurus, who was the prime subject of the hatred of the *populares*.

In order to meet a possible objection, we may perhaps also point out that the fact in itself that a special messenger was sent to bring Jugurtha to Rome does not prove that a mere order to the generals to bring him there would not have been sufficient. For if there was a suspicion of collusion of some kind, and if he was to testify about this question, it was important to remove him from personal contact with the generals as soon as possible. At the same time, Sallust's own account (*Jug.* 33.1) shows clearly that in spite of the general safe-conduct, Jugurtha came as a *dediticius*.

⁵⁵ Sall. *Jug.* 32.1.

⁵⁶ The situation is also illustrated by Jugurtha's behavior on a later occasion. When a few years later he was again faced by a well led and well disciplined army under Metellus (Sall. *Jug.* 46ff.), he again became afraid and began to take steps towards a surrender even to the extent of instructing his officers in cities and villages to obey all the orders given by the Romans. But though Metellus seems to have promised that his life would be spared (cf. Sall. *Jug.* 46.2: *legatos . . . mitti qui tantummodo ipsi liberisque vitam peterent* and 48.1: *quippe cui verbis pax nuntiabatur*) he could not bring himself to rely on these promises and finally decided to continue the war after having given his enemy a considerable advantage by his preparations to surrender (cf. also Dio Cassius frag. 89.1).

⁵⁷ For a more detailed comparison between Sallust's account of this period and the remaining tradition, see C. Lauckner, *Die künstlerischen und politischen Ziele der*

apart from Sallust, only by Diodorus, whose account in this section probably goes back to Posidonius. But the violent outbreak of indignation in Rome after the fall of Cirta can hardly be explained by the death of Adherbal alone, so that Sallust's account in this respect is most probably correct. As to Calpurnius' dealings with Jugurtha and the latter's stay at Rome, the Livian tradition,⁵⁸ which is generally supposed to be more favorable to the Roman aristocracy, deviates considerably from Sallust. It is, unfortunately, not certain what Livy actually wrote concerning the most essential point. The *periocha* says⁵⁹ that Bestia concluded a *pax* without authorization by the Senate, while Eutropius says⁶⁰ that the *pax* which he concluded was rejected by the Senate. This is by no means the same thing. For the wording of the *periocha* implies that Calpurnius overstepped the bounds of his authority, while the passage as formulated by Eutropius, if *pax* is taken in the vague sense of an agreement leading to a cessation of hostilities,⁶¹ need not imply more than that the promises made by Calpurnius were considered completely out of place and rejected by the Senate. Even so, it is noteworthy that the word *deditio* is not found anywhere in the extracts from Livy. There can, on the other hand, be no doubt that Livy spoke of the safe-conduct guaranteed by the Roman people,⁶² but according to his account, Jugurtha escaped secretly from Rome after having been involved in new intrigues and having caused the assassination of the Numidian pretender Massiva,⁶³ while Sallust says⁶⁴ that the Senate ordered him to leave the city.

Concerning this latter discrepancy, Schur thinks⁶⁵ that Sallust's version is probably incorrect because it appears unlikely that

Monographie Sallusts über den Jugurthinischen Krieg (Borna-Leipzig, 1911) 37ff. and W. Schur, *op. cit.* (see note 3) 140ff.

⁵⁸ Since the relevant part of Livy's work is lost, we have to rely on the very meagre extracts in the *Periocha*, Eutropius, Orosius, and Florus.

⁵⁹ Livy, *Per.* 63.

⁶⁰ Eutrop. 4.9.

⁶¹ Unfortunately, the word *pax* is used very loosely by the Roman historians. While it often means a peace treaty between two independent parties, Sallust, for instance (*Jug.* 46ff.), undoubtedly uses it in the sense of a *deditio* in its most complete form, implying only a cessation of actual military hostilities and probably a promise (binding only on the magistrate giving it) to spare Jugurtha's life (see also notes 49, 56, and 43).

⁶² *Per.* 63.

⁶³ *Ibid.*; this version is also found in Appian, *Lib.* frag. 1.

⁶⁴ *Jug.* 35.9.

⁶⁵ *Op. cit.* (note 3) 158.

Jugurtha would have been permitted to leave Rome "in formal fulfilment of the promise given to him."⁶⁶ This argument, however, does not take into consideration that Jugurtha's life was guaranteed not by a promise given by the magistrates, but by a formal decree of the Roman people, and that the Roman government,⁶⁷ while it had no scruples about rejecting the most formal treaties made or promises given by its generals and magistrates, was always most scrupulous in at least the formal fulfilment of agreements officially entered into by the people. Apart from this, it is hardly credible that Jugurtha's escape, if it was an escape, should not have created another great scandal. Yet nothing of the kind is mentioned anywhere in the tradition. It is, therefore, most likely that in this respect, too, Sallust's account is correct.

There can be hardly any doubt that this is the case also in regard to the question of peace treaty or surrender. For the fact that the word *pax* was obviously used by those who contended that the surrender was a fake, explains perfectly why this expression occurs in the very brief accounts given in other sources, while there is no earthly reason why Sallust, who seems so utterly convinced of the guilt of Scaurus and Calpurnius on this occasion, should have spoken of *deditio*, unless at least formally, Jugurtha actually did surrender. It is also difficult to see how Scaurus could escape not only punishment but even trial while Calpurnius and many of his associates were punished,⁶⁸ if he was the only one besides Calpurnius who conducted the decisive negotiations with Jugurtha,⁶⁹ and if the main crime consisted in the conclusion of a peace where there should have been a surrender.

We arrive, therefore, at the conclusion that in regard to those facts for which there must have been some documentary evidence, Sallust's account is not only more detailed but also more accurate

⁶⁶ According to Lauckner (*op. cit.* [note 57] 42) Sallust distorted the truth in order to make the false position of the Senate even more apparent, and Schur (*loc. cit.* [note 65]) agrees with him. But since Jugurtha had a safe-conduct, which was not given either by the Senate or the senatorial party, this argument has no validity, while it would have really been a scandal if Jugurtha had been kept in custody and then had been allowed to escape. So in this respect Sallust seems vindicated.

⁶⁷ This is also illustrated by the scene described by Sallust *Jug.* 33.3 where the angry mob demands that Jugurtha be put in chains, while Memmius, who, though a leader of the anti-senatorial party, is nevertheless a member of the governing class, rejects any such violation of the formal safe-conduct granted to Jugurtha.

⁶⁸ Sall. *Jug.* 29.5.

⁶⁹ *Jug.* 40.4.

than that of any other extant ancient author. This is in perfect agreement both with the purpose of his work and with the public for which he wrote.⁷⁰ Yet by all sorts of innuendo, by putting some facts in the foreground and leaving others unexplained, by reporting statements made by party politicians of the past without pointing out that these statements were at least in part unfounded,⁷¹ he succeeds in creating a false impression of the meaning of the facts reported, and gives a distorted picture of the events in a very artful fashion.⁷²

Before we try to draw further conclusions from the results obtained so far concerning the actual political situation prevailing during the first period of the Jugurthine troubles it seems appropriate to give a very brief analysis of the remainder of Sallust's account down to the death of Jugurtha. The last acts of the Numidian king during his stay at Rome had made it clear that he would always be a source of trouble. The war against him, therefore, was immediately renewed. The consul of the year 110, Spurius Albinus, made preparations for a campaign, but soon returned to Rome, leaving his brother Aulus in charge of operations.⁷³ The latter proved an incapable general and was most shamefully defeated.⁷⁴ When Albinus returned to Africa in order to retrieve the situation, he was prevented by tribunes of the popular party from taking with him the reinforcements which he had assembled,⁷⁵ and on his arrival in the African provinces, found the army there in a state of complete demoralization.⁷⁶ He therefore had to spend considerable time in reorganizing his troops and was unable to undertake any aggressive action. He was replaced in the year 109

⁷⁰ See *supra* p. 137f.

⁷¹ This conclusion is almost the direct reverse of Schur's contention (*op. cit.* [note 3] 153 and 170) that Sallust everywhere tries to give an objective picture of the events and to distribute light and shadow justly and evenly though he was somewhat biased in the choice of the sources from which he obtained his facts.

⁷² My friend, Professor Kapp, when I discussed with him some of the results of this paper, pointed out that with a party politician like Sallust, the interpretation and arrangement of the facts so as to serve his prejudices is probably largely unconscious. This is in all likelihood quite correct, but there is also an unconscious art of propaganda.

⁷³ Sallust, *Jug.* 36.

⁷⁴ *Jug.* 37-38.

⁷⁵ *Jug.* 39.4. This is, of course, another instance in which the representatives of the popular party, in their violent opposition to the leaders of the senatorial nobility, hampered the successful completion of the wars against Jugurtha.

⁷⁶ *Jug.* 39.5.

by the consul Metellus, who, after having completed the reorganization of the army, renewed the war with great energy and skill. He made deep inroads into the Numidian territory, defeating the enemy everywhere, but when another attempt of the Numidian king to surrender had come to nothing,⁷⁷ it soon became apparent how difficult it was to bring the war to a conclusion in a vast country with a very difficult terrain which offered the enemy almost unlimited opportunities of escaping from one place to another, however often he might have been defeated. After two and a half years of victorious but indecisive warfare, Metellus was replaced by Marius, who had served with great distinction under his predecessor and then had contrived to be elected consul for the year 107, the first of the leaders of the opposition to be elected to this office. He renewed the war with greater military forces than any of his predecessors had been granted, penetrating to the western limits of the Numidian kingdom and compelling Jugurtha to seek refuge with the King of Mauretania. But even this did not bring about the successful completion of the war since Jugurtha persuaded the Mauretanian king to join forces with him against the Romans. Marius was forced to withdraw eastward for the winter, and though he won another victory in the eastern part of Numidia the war was ended through the courage and diplomatic skill of Sulla, later the leader of the aristocratic party, who persuaded the Mauretanian chieftain to betray his ally and hand him over to the Romans.

While Sallust's account of Metellus' campaigns is rather long,⁷⁸ his account of Marius' campaign is very short,⁷⁹ so short indeed that up to the present day it has not been possible to clear up the chronology of the events in detail. After a successful operation in southeastern Numidia we find him suddenly more than 700 miles to the west at the Muluccha River, an expedition which, considering the difficulty of the terrain and the ancient means of transportation, must have required very considerable time. This discrepancy in the length of the two parts of the account, together with a special briskness in the description of Marius' campaigns and the author's insistence on the terror which Marius put into the hearts of his enemies, creates the impression of a great superiority of Marius over Metellus. Yet there can be no doubt that at the end of the

⁷⁷ See note 56.

⁷⁸ *Jug.* 46.5-77 and 82.

⁷⁹ *Jug.* 86-94.

greater part of a year Marius found himself again in eastern Numidia, and that the final success was due as much to Metellus' victories as to Marius' expedition. An analysis of this part of Sallust's work, therefore, seems to justify the conclusion that he has again used the same trick of stretching or condensing the chronology in order to create the desired impression which he used on a previous occasion.⁸⁰

Up to this point our discussion has, on the whole, resulted in a justification of the actions of the leaders of the Roman aristocracy. But it is not at all the purpose of this paper to whitewash this group and to put all the blame upon the popular party. It is, on the contrary, the conviction of the writer that the situation was much more complicated, and that we can hope to attain a fuller understanding of the period only if we try to find out how far and in what respect exactly either party was to blame, and by what motives it was driven to act as it did.

There are two points in the accusations raised against the aristocratic leaders which have not yet been fully discussed. The insinuation that Calpurnius and others had advised Jugurtha to kill his brother Adherbal⁸¹ can hardly be considered justified. It is difficult to see what, except trouble, they could have hoped to gain by such advice. This, however, can hardly be said of the accusation that there were great irregularities in the surrender of Jugurtha's army after Calpurnius' victory, and that a great many of the Roman nobles, even including Calpurnius himself, accepted money from the Numidian. It is true that in the violent party strife which started in the latter part of the second century, political leaders were often accused of corruption and even condemned unjustly, the most famous case being that of Rutilius Rufus. But it is equally true that acceptance of money and extortions from subjects or defeated enemies had become very common with a majority of the ruling aristocracy.⁸² There is no serious reason, therefore, to doubt that Calpurnius had accepted money for whatever promises he may have made to Jugurtha upon his surrender,

⁸⁰ See *supra* p. 142 and note 22; see also H. V. Canter "The Chronology of Sallust's Jugurtha," *CJ* 6 (1911) 295.

⁸¹ Sallust, *Jug.* 33.4 and 40.1. As pointed out above (p. 153) this accusation seems to have been put into the foreground after the accusation that the generals had failed to secure Jugurtha's person had come to nothing.

⁸² Cf. the very revealing passages in the fragment of Cato's speech, *De sumptu suo* (*FOR* 1, pp. 197-199).

and that some of the other officers who later were tried and punished had accepted bribes for the permission to keep part of the weapons which the Numidians had agreed to surrender and sold back to them another part which had already been delivered. They may even have tried to put their conscience to rest with the consideration that if only they had secured his person not much harm could be done by leaving his war elephants in Numidia. Yet there can be hardly any doubt that their political opponents were justified if they considered it worth every effort to reveal this scandal.

Actually, however, even this interpretation of the events requires some further modification. On the one hand, the exploitation of and acceptance of bribes from defeated enemies was only one of the many aspects of the utter corruption of the majority of the Roman aristocracy of the time, while, on the other hand, it seems obvious even from Sallust's account that Memmius and his party were less interested in the prevention of such crimes than in the opportunity offered by them to launch an attack against the hated leaders of the nobility, and that they attacked the innocent along with the guilty, regardless of the true interests of the country.⁸³ This gives significance far beyond the special case involved both to the events described by Sallust and to the distortions found in his account.

Though the main facts are very well known, it seems necessary to recall those factors which are most essential for a full understanding of the internal conditions in Rome at the time of the wars against Jugurtha. Roman history almost from the beginning of the Republic had been characterized by the long struggle between the ruling aristocracy and the rest of the Roman people who were striving both for protection against arbitrary rule and for a share in the government. But contrary to the experience of other nations, this internal struggle had not impaired the strength of Rome, but had gone along with an almost continuous expansion of Roman rule over an ever larger area. In fact, the unending wars, which often threatened the very existence of the nation, seem to have

⁸³ In this connection it should perhaps again be pointed out that Sallust does everything to blacken Scaurus' record and that the attacks of the tribune Memmius were also in the first place directed against this man. This is quite understandable, since he was the outstanding man in the conservative party. But there is no real evidence that he had ever accepted bribes from Jugurtha. On the contrary, he had always advocated what later turned out to have been the wisest policy in dealing with the Numidian chief.

had a large share in preventing the internal conflict from becoming disruptive since they forced the conflicting groups again and again to effect a compromise. As a result of this, the ruling class with its strong and valuable tradition of political and military leadership was never completely overthrown, but at the same time it was not allowed to become stagnant, because it had to admit an ever increasing number of outstanding plebeians to a share in the conduct of public affairs, and because at the same time the members of the old patrician families could not rely exclusively on their birthright, but had to prove their worth by outstanding services to the community.⁸⁴

In the century preceding the Jugurthine wars this situation had gradually undergone a complete change. The enormous expansion of the Roman empire had removed all serious danger from foreign enemies and, through the enormous power concentrated in the hands of Roman magistrates outside Italy, had led to the same kind of corruption, only on a much larger scale, which caused the rapid decay of the Spartan state immediately after its decisive victory in the Peloponnesian War. At home, all the power was firmly in the hands of the new patrician-plebeian aristocracy, consisting of the *ordo senatorius* and the *ordo equester*,⁸⁵ while the middle class, especially the peasantry which had been the backbone of the country, had decreased alarmingly in numbers. The two factors, therefore, which had prevented the aristocracy from becoming stagnant, were by now largely eliminated.

The most intelligent and responsible aristocratic statesmen recognized the danger inherent in the gradual disappearance of an economically independent middle class, and as a remedy advocated division of part of the large public domains, which had been lent to big estate owners, into farms of moderate size on which people without landed property could be settled as farmers. But the majority of the senators violently opposed a plan in execution of which they would have had to give up part of what they had come to consider their property, and there was not sufficient pressure either from below or from without to force a compromise. When

⁸⁴ An interesting discussion of some aspects of this situation can be found in A. Momigliano's recent paper "Camillus and Concord" in *CQ* 36 (1942), 118ff.

⁸⁵ There is no room in the framework of this paper for a discussion of the antagonism between the senatorial and the equestrian aristocracy which developed at the time of the Gracchi. But though this antagonism greatly complicated the political situation for some time it has no direct bearing on our main problem.

it became apparent that the plan could not be carried through by legal means because its opponents made use of all the intricacies of the Roman constitution to prevent its execution, the reformers split into two groups. The more moderate, among them Scipio Aemilianus, abandoned the plan or postponed it for an indefinite future, while others, notably Tiberius and later Gaius Gracchus, were resolved to force its acceptance by the people regardless of the technicalities of the constitution.

The details of the ensuing struggle in the course of which the reactionaries remained formally within the limits of the law but made the most excessive use of the emergency provisions of the Roman constitution, are so well known that they need not be repeated.⁸⁶ What is of interest for our problem is the psychological situation which resulted from the nature of the conflict. Paradoxically but understandably, the embitterment on all sides was increased by the fact that the leading representatives of all parties belonged to the highest aristocracy. For the reactionaries looked upon the radical reformers as traitors to their class, while the latter thought that the moderate supporters of their plans were traitors to their aims and ideals. The violence of this feeling is shown by the story that Scipio was assassinated by adherents of the Gracchi.

When things had come to this pass, events took their inevitable course. The idealists, in what became known as the popular party, driven to fury and despair by the cruelty and selfishness of their opponents, went farther and farther in the use of revolutionary methods, while at the same time ambitious demagogues began to make use of aroused passions to further their own private aims. It is, then, not surprising that outstanding conservatives who, though perhaps not very farsighted, were yet comparatively free from the vices of the majority of their class, became even more intransigent in their opposition to the *populares* since they abhorred, not quite without reason, their methods as destructive to the Republic.

It is against this background that one must view the internal struggles in Rome at the time of the Jugurthine wars. In the eyes of the popular party the corruption of the aristocracy, in so far as it expressed itself in the acceptance of bribes from foreign princes, was not the main issue, though such occurrences were welcomed,

⁸⁶ See also my paper on "Emergency Powers in the Roman Republic" in Ann. Report of the Am. Hist. Ass. for 1942, p. 214ff.

when discovered, as an opportunity for an attack on their hated opponents.⁸⁷ But trials of corrupt noblemen, even when successful, were not sufficient seriously to impair the power of the senatorial party, especially since a small minority among the conservatives themselves sincerely deplored the corruption of their class and did their best to counteract it, while the majority of the Senate were at least intelligent enough to refuse protection to those who were too openly compromised, and were quite satisfied to see them condemned if this could save the face of the Senate. These two factors probably also give the true explanation for the fact that Scaurus belonged to the commission which tried the magistrates who had been bribed by Jugurtha.

It is, then, quite understandable that the opposition looked for more effective weapons and found them in the situation created by the first phase of the Jugurthine troubles. The fact that there had actually been irregularities in the surrender of arms by Jugurtha's army together with the popular indignation over the slaughter of Italian merchants in Cirta and the leniency of the Senate after the assassination of Hiempsal, made it possible to build up the fantastic story of a conspiracy between Roman nobles and Jugurtha dating as far back as the latter's stay in Spain, and to stir up political passions further by the suggestion that Jugurtha's surrender after his defeat by Scaurus and Bestia was altogether a fake, an accusation which in the form in which it had originally been expressed was almost immediately disproved. There was obviously no direct evidence to substantiate the first point. So it had to be supported by general considerations. It is quite interesting to see what line of argument the opposition followed in this attempt. On the one hand they contended that the Senate had violated a clear obligation when it failed to support the legitimate sons of Micipsa from the outset against the usurper Jugurtha. On the other hand they argued that the policy of the Senate had violated the best interests of the Roman nation, an appeal to national self-interest which at all times has been a very effective means of arousing popular passion. As to the first point, we have seen⁸⁸ that the relations between Rome and Numidia were somewhat vague and that there can hardly have existed a formal obligation of the Romans to interfere in a purely internal conflict, especially since Jugurtha was one of

⁸⁷ See *supra* note 83.

⁸⁸ See *supra* p. 144.

the rightful heirs of Micipsa, though Massinissa's testament did give the Romans a legal possibility to intervene if they wished to do so. In cases like this it had been the traditional policy of the Romans to decide the question of intervention or non-intervention according to Roman interests. Since nobody at Rome seems to have desired the conquest of Numidia for its own sake, the Roman interest, from the traditional point of view, required protection of the safety of Roman and Italian citizens abroad, the maintenance of order and tranquillity in the regions adjacent to the Roman province, preservation of a government or ruler loyal to Rome, and all this at as little cost as possible. Viewed on the basis of these general principles, the Senate twice committed an error of judgment, namely, when first after the assassination of Hiempsal, and later before the conquest of Cirta it failed to back up its authority by a sufficient show of force. In the end, however, Scaurus and Bestia had acted with some skill and secured the person of the troublemaker at very little cost, infinitely less, in fact, than his final elimination required later when a more intransigent policy had been adopted.

All these conclusions, however, are valid only from the traditional point of view. It was quite possible to contend that the enormous extension of Roman power and the actual protectorate which the Romans exercised over their weaker allies had created new moral obligations beyond their formal commitments, and that the well-understood long range interest of Rome required the fulfilment of these moral obligations and a deviation from the traditional policy which by now had become antiquated. The indignation which the leaders of the *populares* were apparently able to arouse over the Senate's failure to give sufficient support to Adherbal indicates that sentiments of this kind were rather wide-spread, though it is doubtful how far they had crystallized into clear principles of policy, and whether the implications and difficulties of a new policy of this kind had been at all discussed or realized. But in the party struggle described by Sallust these sentiments were merely used as weapons against the hated conservatives, and Memmius and his friends were quite willing to sacrifice even the advantages gained by their opponents over the national enemy if this could serve their purpose.

This interpretation of the facts is somewhat more complicated than the black and white picture given by the majority of ancient

and modern historians of the period. To sum up, one may say that the majority of the Senate at least still had a foreign policy, even if an antiquated one, and carried it out with some skill in spite of the prevailing corruption, while the opposition was perhaps aware of the rudiments of a new foreign policy, but became so blinded by the heated internal conflict that in the end it had no foreign policy at all. Yet there can hardly be any doubt that the short-sighted and stubborn intransigence with which the reactionaries defended their immediate financial interests without any regard to the common good was the real cause of all the evils that followed. For it was this attitude which started a development in the course of which those conservatives who had preserved their personal integrity became more and more politically sterile, while the idealists among the decided reformers gradually lost sight of their original and positive aims in the passionate desire to do harm to their internal enemies.

In conclusion, we may briefly return to Sallust. It is not possible within the framework of this study to discuss the relations between Sallust's philosophy—if he is to be credited with a philosophy—and the philosophy of Posidonius.⁸⁹ But the character of his historical art and method can perhaps be made to stand out most clearly by a comparison with Posidonius' view of the political problems of the same epoch. Unfortunately, we know Posidonius' description of the early phase of the Jugurthine troubles only through an extract of an extract.⁹⁰ But it is perhaps significant that this extract, though it describes the policy of the Senate as lacking in energy and determination, contains no trace of the fantastic story of continuous collusion between Jugurtha and a group of influential nobles.

Of much greater importance is what we know of Posidonius' interpretation of the causes and nature of the internal struggle at Rome. It cannot be doubted that he believed in the doctrine of the superiority of a mixed constitution, containing democratic, aristocratic and monarchic elements, and was convinced of the value of a hereditary aristocracy with strong moral and political traditions. Yet he seems to have been no less aware than Sallust of the corruption and decadence of the overwhelming majority of

⁸⁹ See *supra* p. 139.

⁹⁰ See the fragments of the 34th book of Diodorus in *Exc. de virt. et vil.* p. 604f. and 607.

the Roman nobility towards the end of the second and the beginning of the first century.

We have to reconstruct his views mainly from the traces of his description of the life and career of Marius, which can be found in later authors, notably Plutarch's life of Marius.⁹¹ But this description is a masterpiece. He starts with the early youth of Marius, the son of poor peasants, who, in the simple surroundings in which he lives, has preserved all the old Roman virtues⁹² which the majority of the nobles had completely lost. Ironically, it is Scipio Aemilianus, one of the last and most outstanding representatives of these same virtues among the aristocracy, who, through his praise during the Spanish campaign, starts him on the road to political ambition which later led him to actions most destructive of everything Scipio had stood for. In the beginning of his political career Marius tries to take a stand above the parties and to work for the good of the country regardless of political affiliations. But in the course of this activity he soon comes into sharp conflict with the conservative leader Metellus, to whose family he and his father had been closely attached, and who had personally helped him when he first tried to be elected for a political office. When later he becomes Metellus' legate in the war against Jugurtha, the latter treats him in the most haughty fashion in spite of his brilliant military exploits. The resentment over this treatment makes Marius even more ambitious to rise to a position where he will be the equal of these proud aristocrats. As a candidate for the consulship he boasts of his own merits and ridicules the noblemen whose claim to superiority rests only on the merits of their ancestors. The acclaim which these attacks received from the crowd encourages him to more and more violent attacks, while it naturally increases the bitterness of the nobility against him. So the man who started with an attempt to take a stand above the parties and to work

⁹¹ The assumption that Plutarch's life of Marius is largely based on Posidonius' work rests on the following evidence: 1. Close resemblance between Plut. *Mar.* 2 and 9, and the corresponding fragments of the 34th book of Diodorus. 2. The fact that where Plutarch quotes conflicting opinions of different authors he mentions Posidonius first. 3. The fact that in his life of Marius, Plutarch describes the development of his character under the influence of his experiences and of the general situation, a method which is characteristic of Posidonius, and cannot be observed in Plutarch's other biographies or in any other extant historian.

⁹² It is interesting to compare Plutarch, *Marius* 2-3 with the description of the old Roman virtues in the Posidonius fragment quoted by Atheneus 6.107.

exclusively for the good of the community gradually becomes one of the violent party politicians.

We cannot follow the rest of his career as described by Posidonius in detail, and must content ourselves with a brief summary. Marius in his quality as a military leader still continues to perform the most brilliant services for his country though he no longer exercises a good influence in internal politics. He hurries from success to success, and finally can boast of the unprecedented honour of having been elected seven times to the consulship. Yet even this does not give him the satisfaction for which he was striving, since he is continuously slighted by the aristocracy, until finally, in the struggle against Sulla, he gives full vent to his fury, and after many vicissitudes establishes a regime of unprecedented terrorism in the capital. At this time he not only has lost all sense of responsibility, but is also completely blind to the fact that the forces at his disposal are by no means equal to those of his great enemy. He dies not very long before Sulla returns with a superior army, and brings about the complete downfall of Marius' party.

In this description we are shown step by step how in the poisoned atmosphere of Rome a man of the greatest qualities of leadership and character is gradually driven to insanity so that he destroys everything that he had tried to create. The author probably was quite aware of the decisive initial guilt of the reactionary majority of the senatorial nobility, but he did not try to distribute praise and blame at every successive step of the ensuing struggle. On the contrary, he makes it clear how, once the conflicting parties had lost all mutual respect for one another and had begun to overstep not only the established laws but all rules of common decency, honesty and integrity became sterile, while idealism joined with great ability could become a destructive force, so that in the end nothing could hold up the republic on the road towards internal destruction.

The difference between this description and Sallust's account is enormous. It is of comparatively little importance that he gives a "more favorable" picture of Marius than Posidonius, as many authors have pointed out. Though, as has often been observed, it seems certain that he has taken over many details from the work of Posidonius he lacks completely the qualities which make the latter one of the greatest historians of antiquity. His characterization of the leading historical personalities is very poor. Marius is a brilliant soldier and an inspiring popular leader; but sometimes

he gives too much rein to his passions.⁹³ Metellus is an excellent general of unblemished character, but he is very unfair to Marius and neglects even the interests of his country when he believes that to do otherwise would turn to the advantage of this hated upstart.⁹⁴ Scaurus refuses the bribes offered by Jugurtha because in this way he hopes better to serve his political ambitions, but later decides to accept the bribes at a time when this must be much more dangerous for him.⁹⁵ By this seemingly impartial distribution of praise and blame, Sallust tries to create the impression that he is honestly striving for objectivity. But the personalities whom he described do not really become alive. For his account lacks what makes the greatest merit of Posidonius' work. He omits the detailed analysis of the natural reactions of the political leaders to a given situation, and of the development of their characters. If he had acted otherwise he would have had to admit that though the initial guilt lay with the reactionary majority of the senatorial aristocracy, not all the representatives of the nobility could justly be blamed for the attitude which they took in the course of the ensuing struggle, and that many of the popular leaders of the period which he describes were no less corrupt than their opponents.

His aim is the very opposite of such an objective analysis. By obscuring the chronology of the events, by putting some facts in the foreground and leaving others in the background, and by similar devices, he tries to create the impression that even the outstanding positive qualities of some of the leaders of the senatorial party were completely effaced by their vices, while the leaders of the popular party, even though by no means faultless, were always working for the true good of the country. Since he wrote for a very highly educated public he had to be much more subtle in the choice of his means than most modern propagandists need be. It may be assumed that in addition he had very high artistic aspirations though there is perhaps room for some difference of opinion concerning the degree of his achievement in this respect. His work, therefore, is still worthy of very close study, especially at the present time. But it is a mistake to place him in the same category with a true historian of the rank and penetration of Posidonius, or to use his work without severe criticism as a basis for the reconstruction of the events which he describes.

⁹³ *Jug.* 64.4–5.

⁹⁴ *Jug.* 43.1; 55.1–2; 82–83.

⁹⁵ See *supra*, p. 147.