

# HYPERBOREUS

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STUDIA CLASSICA

ναυσι δ' οὔτε πεζὸς ἰὼν κεν εὔροις  
ἐς Ἵπερβορέων ἀγῶνα θαυμαστὰν ὁδόν

(Pind. *Pyth.* 10. 29-30)

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## CONSPECTUS

VIKTORIA T. MUSBAKHOVA A Scythian Ares (Aesch. <i>Ch.</i> 161–162)? .....	181
CARLO M. LUCARINI, MARIA SCERMINO Il ruolo di Posidonio e della dossografia per la datazione del <i>Περὶ κόσμου</i> e i rapporti di quest'ultimo con l' <i>Elogium geographiae</i> . I .....	198
AUDRONĖ KUČINSKIENĖ Play on the Meaning of Name in Cicero's <i>Verrines</i> : Some Remarks on <i>Div. Caec.</i> 48–50 .....	229
WJATSCHESLAW K. CHRUSTALJOW <i>Sic est (non) iusta causa belli?</i> Issues of Law and Justice in the Debate Concerning a Roman Annexation of Egypt in 65 BC .....	244
SOFIA EGOROVA <i>Novisque rebus infidelis Allobrox</i> (Hor. <i>Epod.</i> 16. 6) .....	265
DENIS KEYER The Train of Thought in Horace, <i>Epist.</i> 2. 2. 213–216 .....	274

## EPIGRAPHICA

NADEZHDA NOVOSELOVA, ANNA NAMOYLK A Chalcedonic Die of Astynomos Ἡράκλειος from Tauric Chersonesus	289
NATALIA PAVLICHENKO, NIKOLAJ FEDOSEEV A New Inscription of Herakas, Son of Pontikos, ἀρχερμηγεὺς Ἀλανῶν .....	315

## COMMENTARII BREVIORES

S. DOUGLAS OLSON Some Late 4 <sup>th</sup> -century Comic Fragments (Antiph. fr. 288 = Timocl. fr. 41 = adesp. tr. fr. 123a; Antiph. fr. 167; adesp. com. fr. 149) and Eratosthenes of Cyrene on Demosthenes .....	339
EKATERINA NOVIKOVA De <i>rutilo</i> metri Graeci nomine .....	343
Keywords .....	346

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Статьи сопровождаются резюме на русском и английском языке  
Summary in Russian and English

*SIC EST (NON) IUSTA CAUSA BELLII?*  
ISSUES OF LAW AND JUSTICE IN THE DEBATE  
CONCERNING A ROMAN ANNEXATION  
OF EGYPT IN 65 BC\*

1. Introduction

The “Egyptian question” occupied an important place in the political life of the Roman Republic in its last decades. In this paper I shall examine just one episode in Romano-Egyptian relations during this period, namely the attempt, initiated in 65<sup>1</sup> by censor M. Licinius Crassus, to turn Egypt into a Roman province. This subject has often attracted the attention of scholars.<sup>2</sup> However, almost all have been chiefly interested in discovering the role these events played either within the context of Roman foreign policy, or Rome’s internal power struggle during the 60s. I can hardly contribute anything new to this discussion, so I shall touch upon the political background of this episode to a minimal extent (see section 3). Instead I concentrate primarily on the specific content of the polemic between the proponents and opponents of the annexation. As far as I am aware, these issues have only been examined, to some extent, in the books

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<sup>1</sup> All dates are BC unless otherwise noted.

<sup>2</sup> E.g., Bloedow 1963, 36–38; Sumner 1966; Ward 1972; Marshall 1976, 65–67; Colombini 1991; Piegdoń 2014, 108–113. It is also examined in the general works on the history of Ptolemaic Egypt and Romano-Egyptian relations; see, e.g., Bouché-Leclercq 1904, 128–130; Olshausen 1963, 32–35; Hölbl 2001, 223–224; Huß 2001, 680.

of Ciaceri<sup>3</sup> and Crawford.<sup>4</sup> In a recent paper, Yakobson referred to the debates on the Egyptian issue in 65 in order to underpin his view that the Roman concept of *bellum iustum*, i. e. “just” or “legitimate” war, had a pronounced ethical meaning which was far from a pure formality for the Romans themselves.<sup>5</sup> However, he did not analyse the contents of the polemic in detail. Thus it would seem appropriate to re-examine the lines of reasoning used by both sides in this debate and, in the same spirit, to trace their possible connections with the general ideas which influenced Roman foreign policy in the first century.

## 2. Modern Opinions on the Roman Concept of *bellum iustum*: A Brief Overview

To put the argument in proper context, it will be useful to summarize the modern theories relating to the Roman understanding of *bellum iustum*, a concept that was central to the Roman laws of war. Of course, it is impossible in this paper to discuss trends in research of Roman imperialism in detail, so I shall only refer to the major works.<sup>6</sup>

There are two different views on *bellum iustum* in modern scholarship. According to the first, the Roman concept had an entirely formal character and was closely connected with religion.<sup>7</sup> On this view, the correct fulfilment of rituals preceding a declaration of war was the only element of real significance to the Romans themselves. As long as all ceremonies had been duly performed, every war was considered to be just and lawful. The attempts made by some members of the Roman political elite in the second and first centuries to give their wars an ethical rationale were influenced by Greek philosophical doctrines, particularly by Stoicism, and directed towards Greek public opinion only; the best-known example being that of Cicero (*Off.* 1. 34–41; *Rep.* 3. 34–35).<sup>8</sup>

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<sup>3</sup> Ciaceri 1939, 150–153.

<sup>4</sup> Crawford 1994, 44–46 and 51–56.

<sup>5</sup> Yakobson 2009, 61–63.

<sup>6</sup> Further bibliography can be found, e. g., in: Baltrusch 2008, 127–129; Cursi 2014.

<sup>7</sup> See, e. g., Brunt 1978, 175–178; Rüpke 1990, esp. 121–122; Kashcheyev 1993 [В. И. Кашчеев, *Эллинистический мир и Рим: война, мир и дипломатия в 220–146 годах до н. э.*], 139–141; Harris 1992; Loreto 2001.

<sup>8</sup> See further, e. g., Keller 2009; 2012. For a slightly different view, see Loreto 2001, 13–33 and 97, who thinks that the judgment of Cicero was “una mera sistemazione della materia romana tradizionale del *bellum iustum* e degli *iura belli*”. For severe criticism of Loreto’s work, see, e. g., Girardet 2005.

But, we are told, these speculations were too theoretical and too idealized to be of any practical significance.<sup>9</sup> That is, for the Romans (at least up to St. Augustine), *bellum iustum* never meant a “just war” but always a “properly declared war”.<sup>10</sup> In another variant, some scholars believe that in more ancient times the concept had included the ethical component contained in the archaic *ius fetiale*, but that this had gradually disappeared because of the general decline of fetial law.<sup>11</sup>

By contrast, according to the second view – with which I am more sympathetic – the Romans were always deeply convinced that any war led by Rome should have a moral, and not just a legal, justification.<sup>12</sup> For example, Albert supposes that the theory of a just war was first formulated by Cicero, but its components can be traced back much earlier, to the time of the Italian Wars. Cicero’s concept of *bellum iustum* does not differ much from that of other late Republican and early Imperial authors or from Roman public opinion.<sup>13</sup> For Riggsby, the Roman theory of just war was “circumstantial rather than motivational” which implies that, to initiate *bellum iustum*, only the proper (“just”) circumstances, that is, the valid occasion, were required, and the motives of the actors were absolutely unimportant. Although this form of ethics is quite foreign to the modern Western world, in which *motives* are generally regarded as relevant to the moral quality of an *action*, this does not mean that the theory had no ethical grounds. It was close connection with the ethics of individual life that gave this theory real moral force.<sup>14</sup>

It should be mentioned that the majority of scholars discussing the meaning of *bellum iustum* in the first century focus on Cicero’s philosophical treatises (primarily on *De re publica* and *De officiis*) and pay less attention to other sources, especially to the orations.<sup>15</sup> But the political speeches often provide the best evidence for an evaluation of public

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<sup>9</sup> See Harris 1992, 35–36 and 169–175.

<sup>10</sup> Cf. Boterman 2007, 143: “richtiger, regelrechter Krieg”. She also comes to conclusion that Cicero did not offer an “ausformulierte Theorie des *bellum iustum*” at all (Botermann 2007, 150).

<sup>11</sup> E.g., Frank 1912; cf. Watson 1983, 57.

<sup>12</sup> See, e. g., Albert 1980; Kostial 1995; Riggsby 2006, esp. 157–189 (with further bibliography).

<sup>13</sup> Albert 1980, 12–36, esp. 17–18 and 25.

<sup>14</sup> See Riggsby 2006, esp. 160–161, 166–167 and 244 n. 16.

<sup>15</sup> Cicero’s rhetoric on *bellum iustum* in the speech *In Pisonem* was discussed by Steel 2001, 48. Riggsby 2006 thoroughly examines Caesar’s justification of his Gallic wars which is contained in his *Commentarii*. So did also Botermann 2007, who compares the idea of *bellum iustum* in Caesar’s *Bellum Gallicum* with that in Cicero’s works, first of all, in the speech *De provinciis consularibus*.

opinion on the matter because, to be persuasive, an orator had to say what his audience (the Senate or the people at *contio*) liked and expected to hear. Thus, in order to see the whole picture, it will be reasonable to consider specific arguments which Roman orators made to their compatriots when discussing important problems of imperial affairs or foreign relations. The analysis of the one discrete episode, namely the dispute about the annexation of Egypt in 65, provides a good opportunity for this.

### 3. Political Context of the Debate on the Annexation of Egypt in 65

Before starting the discussion of the contents of the polemic, it is necessary to briefly outline the background to the events in question. The mysterious incident concerning Ptolemy Alexander's testament, wherein he supposedly left his kingdom to the Roman people (Cic. *Leg. agr.* 1. 1; 2. 41, 42; cf. *Schol. Bob.* 92 St.), was an important milestone in Romano-Egyptian relations in the first century. There were two Egyptian kings known under this name, and whether Cicero's *Alexa* is to be identified with Ptolemy X Alexander I Philometor or his son, Ptolemy XI Alexander II, remains ambiguous. It has been customary to associate the testament mentioned by Cicero with Ptolemy XI, who was killed by the Alexandrians in 80 (App. *BC* 1. 102; Porphyr. *FGrH* 260. fr. 2. 8).<sup>16</sup> However, after the publication of Badian's article, in which he presented strong arguments in support of Ptolemy X's candidacy,<sup>17</sup> many scholars subsequently agreed with him,<sup>18</sup> and I also share this opinion. Nonetheless, the alternative view still has many supporters,<sup>19</sup> so it is too early to consider the problem completely resolved.

In my view, however, Cicero's sparse references do not confirm with absolute certainty that Ptolemy's testament was ever in existence at all. Even if such a document did exist, it is impossible to ascertain whether it was authentic or counterfeit.<sup>20</sup> Of far greater importance is that its

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<sup>16</sup> See, e.g., Strack 1979, 64; Mahaffy 1899, 224; Bouché-Leclercq 1904, 121; Volterra 1938–1939; Ciaceri 1939, 151; Volkmann 1959a; Bloedow 1963, 26–29.

<sup>17</sup> Badian 1967.

<sup>18</sup> Shatzman 1971, 363; Harris 1992, 155; Crawford 1994, 43–44; Hölbl 2001, 222; Mittag 2003, 186; Herklotz 2009, 139.

<sup>19</sup> Braund 1983, 24–27; Klodt 1992, 23; Siani-Davies 1997, 307; Lampela 1998, 229–230.

<sup>20</sup> For example, Jonkers 1963, 9 and Olshausen 1963, 29–32 speak in favour of the will's authenticity. Maehler 1983, 2, 12–13 n. 23 and Huß 2001, 660–661, in turn, completely deny its existence.

authenticity was recognized by many in Rome, a reception which could have been used to legally justify the annexation of Egypt. However, the internal political situation in the Republic in the 80s was not conducive to the annexation of this kingdom, and the issue of accepting the Egyptian inheritance remained suspended.<sup>21</sup>

As a result, the struggle for power continued in Egypt among the members of the Ptolemaic dynasty, resulting in the enthroning of the young Ptolemy XII<sup>22</sup> in September of 80.<sup>23</sup> However, his right to the kingdom was not officially recognized by the Romans until 59. The agenda for Egypt's annexation could be raised any time, as eventually occurred in 65. The initiative came from the newly elected censor M. Licinius Crassus, who proposed "to make Egypt tributary to Rome" (Αἴγυπτον ποιεῖν ὑποτελῆ Ῥωμαίοις), i.e. to turn it into a Roman province (Plut. *Crass.* 13. 1–2; cf. Cic. *Leg. agr.* 1. 1, where Crassus' name is not mentioned).<sup>24</sup> Crassus' plans met with violent resistance from his colleague Q. Lutatius Catulus. Plutarch does not name any other opponents of this project. But it is difficult to imagine that Catulus acted alone and did not receive support from a significant number of influential senators – the very *principes civitatis*<sup>25</sup> who had previously opposed the Gabinian and Manilian bills (that had given Pompey extraordinary commands against the pirates and Mithridates, respectively). Cicero, who had supported the Manilian law in 66 and opposed Catulus and his allies

<sup>21</sup> For more details, see Badian 1967, 187–189.

<sup>22</sup> His hieratic title was Θεὸς Φιλοπάτωρ Φιλᾶδελφος Νέος Διόνυσος; see Bloedow 1963, 82–88; Hölbl 2001, 223; Huß 2001, 674–676. This ruler is better known by the nickname "Auletes" (Αὐλητής), given to the king for his partiality to playing an αὐλός (Strab. 17. 1. 11; Athen. 5. 206 d; Dio Chrys. 32. 70).

<sup>23</sup> For the date, see Samuel 1962, 154.

<sup>24</sup> According to Adcock 1966, 37, Crassus did not actually endeavor to annex Egypt, but only desired to receive an "honorable and possible lucrative commission to regularize Auletes' position vis-à-vis the Roman state". Barely any scholars have acceded to this hypothesis, although Marshall 1976, 66 characterizes it as "attractive". In my view, fr. 9 of the speech *De rege Alexandrino* (all references to the fragments of Cicero's orations follow the numbering in Crawford 1994) demonstrates clearly that Crassus' project entailed precisely the military operation. Besides, Crassus' desire to turn Egypt into a province seems to be implied in the term ὑποτελής used by Plutarch. In his *Parallel Lives* this word occurs four more times: Plut. *Cim.* 11. 3 (when speaking of the Athenian allies); *Pyrrh.* 23. 1 (on Greeks who were tributaries of the Mamertines); *Cam.* 2. 2 (on the taxed orphans); *Art.* 21. 5 (on Greek cities subjected to the Persian king). However, other Greek authors (see App. *BC* 2. 100; *Mith.* 118; Cass. Dio 51. 17. 1) sometimes use ὑποτελής to denote the establishment of Roman provinces: Plutarch might also be using the term in this way.

<sup>25</sup> This is the expression of Asconius (Ascon. 60 C).

at the trial of the Pompeian partisan C. Cornelius,<sup>26</sup> now took a stand against the annexation plans. In the course of these debates, he also delivered in the Senate<sup>27</sup> an oration “On the king of Alexandria” (*De rege Alexandrino*), which was later published. The disagreements between Crassus and Catulus on this and a number of other issues<sup>28</sup> led to both censors voluntarily stepping down from office, not even having revised the Senate lists or having held a census.

Unfortunately, Plutarch does not provide any details on what actions were undertaken by Crassus in order to fulfill his plans. Since censors did not have the right to bring bills before the popular assembly, he would have had to find someone to do it for him. And we do have another testimony that seems to be related to the very same events. In his biography of Caesar, Suetonius reports the following about Crassus’ activities during his aedileship in 65 (*Jul.* 11. 1):

Conciliato populi fauore temptauit per partem tribunorum, ut sibi Aegyptus prouincia plebiscito daretur, nactus extraordinarii imperii occasionem, quod Alexandrini regem suum socium atque amicum a senatu appellatum expulerant resque uulgo improbatur. Nec obtinuit aduersante optimatium factione.

Having won the favour of the people, he made an attempt, through the agency of the tribunes, to have Egypt awarded him as a province by plebiscite, seizing the opportunity to ask for this extraordinary post when the Alexandrians had expelled their king, who had been termed ally and friend by the senate, and the expulsion was widely condemned. But he was not successful, due to the opposition of the aristocratic faction (trans. C. Edwards).

The interpretation of this testimony presents many difficulties. Suetonius assigns Caesar’s attempt to obtain Egyptian command to 65, although Ptolemy XII only received the status of *amicus et socius populi Romani* in 59.<sup>29</sup> His banishment by the Alexandrians also occurred much later,

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<sup>26</sup> For more details on this trial, see Ciaceri 1939, 158–163; Ward 1970, 554–556; Griffin 1973, 211–213.

<sup>27</sup> For evidence that Cicero spoke in the Senate, see scholiast’s commentary (*Schol. Bob.* 93 St.) on Cic. *Reg. Alex.* frs. 4 and 8.

<sup>28</sup> Chiefly, on extending citizenship rights to the inhabitants of *Gallia Transpadana* (see Cass. Dio 37. 9. 3). On political context of their conflict, see Liubimova 2017 [O. В. Любимова, “Марк Лициний Красс и транспаданцы: *nimum parcus in largienda civitate*”] (with further bibliography).

<sup>29</sup> See Broughton 1952, 188 (with references to primary sources).

at the end of the summer of 58.<sup>30</sup> Additionally, Suetonius' indication of Caesar's solicitation of an extraordinary command for himself in Egypt is highly questionable. It seems very unlikely that Caesar, merely a quaestorius and a curule aedile, could have sincerely expected to obtain such an important position.<sup>31</sup> Admittedly, when decisions on the annexation of Cyrenaica and Cyprus were made, the men the senators delegated were not of the highest status: quaestor P. Cornelius Lentulus Marcellinus in 75 and quaestorius M. Porcius Cato (with *imperium pro praetore*) in 58, respectively.<sup>32</sup> However, Egypt's case stood apart from the rest; armed resistance to the Roman invasion was likely to be so strong that assignment demanded the command of a large army. Gelzer thought that the precedent of 29-year-old Pompey who obtained the proconsulship of Spain in 77 before holding any magistracy can support the view that Suetonius rightly understood Caesar's plans,<sup>33</sup> but I cannot agree with him. During the preceding decade the political situation in the Republic had altered noticeably. In 67 and 66, Pompey himself had already faced many challenges when attempting to obtain extraordinary military commands, and Caesar, despite his erstwhile popularity with the people,<sup>34</sup> lacked both Pompey's prestige and military experience.

However, two of the above-mentioned difficulties cease to exist if we are to accept a hypothesis offered by Bennett: that when narrating the reason for Caesar's actions in 65 as the flight of Egyptian king from Alexandria, Suetonius does not imply that the one event immediately preceded the other. In fact, he most likely does not write about Ptolemy XII, but rather about Ptolemy X Alexander I, banished from the country in 88. Although there is no evidence confirming that the latter was an avowed friend and ally of the Roman people,<sup>35</sup> such an understanding of Suetonius' testimony is preferable to other interpretations (which assume that the whole story is a product of anti-Caesarian propaganda of the 50s,<sup>36</sup>

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<sup>30</sup> Cass. Dio 39. 12; Plut. *Pomp.* 49. 7; Porphy. *FGrH* 260. fr. 2. 14; cf. Cic. *Rab. Post.* 4; Trog. *Prol.* 40. See further, e. g., Siani-Davies 1997, 317–322.

<sup>31</sup> Strasburger 1938, 114; Balsdon 1966, 217; Ward 1972, 247–248; Marshall 1976, 66; Hölbl 2001, 224. For the opposite opinion, see, e. g., Gelzer 1968, 40–41; Havas 1977, 39–40; Colombini 1991 and recently Tariverdieva 2017 (with extensive bibliography).

<sup>32</sup> For references to ancient sources, see Broughton 1952, 97 and 198.

<sup>33</sup> Gelzer 1968, 41.

<sup>34</sup> Which he acquired by demonstrating great generosity while holding the aedileship (Sall. *Cat.* 49. 3; Plut. *Caes.* 6. 1–3; Suet. *Iul.* 10; Cass. Dio 37. 8).

<sup>35</sup> Bennett 2019, n. 16. 2.

<sup>36</sup> E. g., Gruen 1974, 75 n. 117; cf. Strasburger 1938, 113–114; Hölbl 2001, 223–224.

or that Suetonius writes about the events of 56, when the issue of the exiled Ptolemy XII's restoration to the throne was discussed).<sup>37</sup> Caesar was in 56 a proconsul in Gaul, and did not have the opportunity to participate personally in the Egyptian project. Taking this into consideration, Suetonius' account of the plebeian tribunes (who in 65 apparently brought a bill relating to the extraordinary command in Egypt before the people) seems plausible, and it should be connected with corresponding activities of Crassus. If it indeed took place, the plebeian tribunes' proposal should have been discussed in the Senate as well as at *contiones* and it would have been defeated due to resistance from the Senate leaders. It is quite likely that, just as in the case of P. Servilius Rullus' agrarian bill in 63, it never reached the voting stage. I am inclined to assume that Caesar was indeed behind the tribunes who introduce the proposal, but was not an influential enough political figure to seek the command in Egypt for himself. That is, despite Suetonius' statement, Caesar stayed in the background. In bringing the annexation bill *through the tribunes*, he helped Crassus who expected to obtain an Egyptian command. However, the name of Crassus might not have been included in the text of the proposal, and this would explain why Suetonius writes nothing about his role in those events. Such an appointment would grant Crassus additional political weight, an army, an opportunity to increase his already considerable wealth (at the expense of the Ptolemaic treasury) and moreover, an opportunity for easy military glory and a triumph to match Pompey's recent and ongoing achievements in the East.<sup>38</sup> In turn, Caesar might hope for Crassus' support in his subsequent political career.

It is also possible to establish a more precise date for the Egyptian bill. Censorial elections were held shortly after the consuls took up office (see e.g. Liv. 24. 10; 39. 38–41), i.e. after 1 January. Both Plutarch (*Crass.* 13. 1, 2) and Cassius Dio (37. 9. 3) note that, due to mutual disagreements, Crassus and Catulus did not revise the Senate lists and did not hold either a census or a review of the equestrian order (*recognitio equitum*); plans for the annexation of Egypt and the grant of citizenship to the *Transpadani* were at the core of their conflict. In view of this fact, it seems highly probable that Crassus put forward his annexation project

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<sup>37</sup> Sullivan 1990, 419 n. 22; Crawford 1994, 47.

<sup>38</sup> It may be objected that Crassus' censorship could have prevented him from obtaining the Egyptian command, since his term of office was expected to end in the autumn of 64. Proper attention has not been paid to this fact in historiography. On the other hand, Crassus soon resigned from the censorship on grounds of disagreements with his colleague Q. Catulus. He might have done the same, had his Egyptian plans succeeded.

at the outset of his term of office. As against this, Suetonius (*Iul.* 10, 11) writes that Caesar had proposed his bill through the plebeian tribunes after he had already won the people's favour with magnificent spectacles. Cassius Dio (37. 8) recounts that during his aedileship Caesar organized the extravagant Megalesian games (held 4–10 April) and Roman games (beginning on 5 September),<sup>39</sup> as well as the gladiator shows in honour of his father (which could be held at any time). On the basis of these arguments, I estimate that the legislation relating to the annexation of Egypt could have been proposed in late spring or in the summer of 65 at the very latest.

Such a reconstruction would be in line with the majority of modern scholarship.<sup>40</sup> Nonetheless, some authors deny the possibility of cooperation between Crassus and Caesar, and there is disagreement as to who was the driving force behind the plan for Egypt's annexation.<sup>41</sup>

#### 4. *Sic est iusta causa belli:*

##### The Arguments of the Proponents of Annexation

Now I shall analyse the fragmentary evidence concerning the contents of the polemic between the proponents and opponents of incorporating Egypt into the Roman state. The chief source on this matter is Cicero's aforementioned oration *De rege Alexandrino*. Unfortunately, only eleven

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<sup>39</sup> See Scullard 1981, 97–100 and 183–186.

<sup>40</sup> See, e.g., Hardy 1917, 167; Gelzer 1926, 310; Gelzer 1968, 40–41; Ciaceri 1939, 151; Marshall 1976, 66; Piegdoń 2014, 108–109 and 111–113. As Ward 1972, 248–250 supposes, Crassus and Caesar sought control over Egypt mostly in order to strengthen their position in negotiations with Pompey, with whom they hoped to enter into an agreement. According to Piganiol 1956, 137–138, Crassus' actions supported by Caesar were a response to a secret pact that was concluded shortly beforehand between Pompey and Ptolemy Auletes.

<sup>41</sup> According to Strasburger 1938, 112–117; Olshausen 1963, 33–35 and Crawford 1994, 44, Crassus acted completely independently. Sumner 1966, 573–574, at the other extreme, presumes that Crassus had nothing to do with the bill: for him the scheme was invented in order to give Pompey the Egyptian command. Thus, Sumner considers the proposal to annex Egypt on a par with Gabinian and Manilian laws. Caesar, when supporting it, just wanted to strengthen the ties of *amicitia* with Pompey. Huß 2001, 680 regards Caesar as the true perpetrator of this machination. Drummond 1999, 153–156 thinks that the plebeian tribunes initiated the annexation project on their own without having had a specific candidate for the Egyptian command in mind, and only later the bill was supported by Crassus and Caesar who acted independently of each other. The view of Jonkers 1963, 7–8 and 87, can be ignored here, since it is fraught with serious factual errors; cf. Bouché-Leclercq 1904, 128–129.

of its fragments have come down to us, nine of them preserved in the anonymous<sup>42</sup> late antique commentaries usually known as *Scholia Bobiensia*.<sup>43</sup> The part of the text containing the fragments of *De rege Alexandrino* is in reasonably good condition and there are barely any omissions or corruptions. However, the commentary itself lacks a few pages: the beginning and the end are missing, as well as twelve pages from the middle. That is why, despite the fact that the scholiast cites the fragments in the right order, it is practically impossible to determine or even estimate the length and structure of the speech. Cicero also touches upon the events of 65 in his oration against Rullus' agrarian bill in 63 (*Leg. agr.* 2. 41–44). It should be emphasized, of course, that the extant sources do not allow us to reconstruct lines of argument used by each side of the debate in detail, so many of my statements will be of a general nature. This is particularly true for the proponents of the annexation, whose arguments have not come down to us in their original wording but were preserved only in the interpretation of their critic and opponent, Cicero.

It is beyond doubt that the supporters of the annexation project had raised the issue of Ptolemy X's testament. The Bobbio scholia on fr. 1 of *De rege Alexandrino* bear clear testimony to this.<sup>44</sup> The Senate had already discussed the issue (most likely in late 87 – early 86<sup>45</sup>) and decided to accept the legacy, but, for some unknown reason, this decision was never implemented; in all likelihood, it was vetoed by a certain plebeian tribune. Thus, in his speech in opposition to Rullus' agrarian bill, Cicero speaks of *senatus auctoritas* rather than *senatus consultum* (*Leg. agr.* 2. 41, 42). However, the Senate did send its envoys to collect

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<sup>42</sup> Some scholars assume that these scholia could be composed by the grammarian Volcacius who is twice mentioned by Hieronymus as the author of a commentary on Cicero's speeches (*Hieron. Apol. contra Rufin.* 1. 16; *Epist.* 70. 2); see Herzog 1989, 140–141. On his personality and literary works, see Strzelecki 1961, 758.

<sup>43</sup> Hildebrandt 1894, 33–63; 1907, xxiii–xxiv considers the scholia to be the late third- or early fourth-century revision of the second-century original. For discussion, see also Madvig 1828, 142–152; Stangl 1884, 431; Zetzel 2018, 143–144. A number of scholars have mistakenly attributed the surviving fragments to one of two of Cicero's speeches on king Ptolemy Auletes delivered in 56 (e. g., Bouché-Leclercq 1902, 2; Stangl 1912, 91; Havas 1977, 40–42). However, these speeches were not published by the orator, most probably for political reasons; see Crawford 1984, 150–151.

<sup>44</sup> *Schol. Bob.* in Cic. *Reg. Alex.* fr. 1. 91–92 St.: '*Vt rapiat, ut latrocinetur*'. *Vehementibus et inuidiosis uerbis utitur; non enim dixit: ut exposcat hereditatem, ut sibi uindicet* <...>. Cf. Cic. *Reg. Alex.* fr. 3, 92 St. (n. 46).

<sup>45</sup> See Badian 1967, 187–188.

the money left by the deceased king in Tyre, and it was safely delivered to Rome.<sup>46</sup> Presumably, the bare fact of a Senate's decision to accept the inheritance was brought forward by Crassus and Caesar as the legal foundation for their actions.

However, they did not limit themselves to this. It is evident that the proponents of annexation also attempted to find an ethical justification for their actions.<sup>47</sup> The plan to annex Egypt would certainly require the use of military power and a declaration of war on the ruling king, Ptolemy XII Auletes. In his account of the opponents' arguments, Cicero says: "So it is a just reason for war, as it was, as Crassus reminded us, in the case with Jugurtha".<sup>48</sup> But what made Crassus claim the war against Ptolemy XII was a "just" one? While there are no direct indications, the choice of historical example is indicative. It is well known that king Jugurtha unlawfully seized power over all of Numidia, killing his cousins and co-inheritors Adherbal and Hiempsal. By drawing a parallel between him and Ptolemy Auletes, Crassus was apparently pointing to the crimes committed by the Egyptian king and his illegitimate rise to the throne. The reason behind this particular choice of analogy is clarified in frs. 9–10 and the Bobbio scholiast's commentary on them; in alluding to the criminal mindset of Ptolemy Auletes, Crassus was accusing him of the murder of his predecessor, king Ptolemy XI Alexander II.<sup>49</sup> Shortly after his enthronement, the latter ordered the disposal of his sister and wife, Cleopatra Berenice III, who enjoyed great popularity with the Egyptians. Having discovered this, the Alexandrians revolted and the king was killed in a gymnasium in 80, on the nineteenth

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<sup>46</sup> *Schol. Bob.* in Cic. *Reg. Alex.* fr. 3, 92 St.: *Temptauerat Crassus adseuerare non semel de hac Aegypti hereditate, sed frequentissime praeiudicatum, ac primo quidem illo tempore, quo pecunia repetita esse ab Tyriis et aduecta Romam uidebatur seposita iam nuper ab Alexa rege.* This money might have been once lent to Ptolemy X by the Roman *publicani*.

<sup>47</sup> See Yakobson 2009, 63.

<sup>48</sup> Cic. *Reg. Alex.* fr. 6: *Sic est iusta causa belli, sicuti Crassus commemorauit cum Iugurtha fuisse.*

<sup>49</sup> See, however, Bennett 1997; 2019, n. 6 who presumes that fr. 9 refers to Ptolemy XI and Ptolemy X respectively. That is impossible for several reasons. Firstly, Cicero says that the preceding Egyptian king *est interfectus*. As a rule (although not always, as Bennett 2019, n. 5 emphasizes; cf. e.g. Cic. *Phil.* 2. 55; 13. 7; 14. 12), the orator uses this expression to refer to premeditated murder or execution. But Ptolemy X had died in battle; see Huß 2001, 672 n. 3. Secondly, the scholiast's commentary demonstrates clearly that in this case the king is blamed specifically for organizing a conspiracy to murder his predecessor. Such accusations could not have been brought forward against Ptolemy XI.

day of his rule (App. *BC* 1. 102; Porphyr. *FGrH* 260, fr. 2.8).<sup>50</sup> It is likely that Crassus accused Auletes of plotting a conspiracy and inciting the crowds to revolt.<sup>51</sup>

The mention of the Jugurthine War might also have had a different connotation. It will have triggered memories of C. Marius and the monuments erected to honour his victories over Jugurtha, the Cimbri and the Teutones, that were destroyed by Sulla and later<sup>52</sup> restored by Caesar (Vell. 2. 43. 4; Suet. *Iul.* 11; Plut. *Caes.* 6). The proponents of annexation hardly mentioned Marius directly in the Senate, where the leading positions were held by *Sullani*, but at the *contiones* his name must have evoked a very different reaction. Besides, the proposers of the bill could remind the people of the circumstances surrounding the outbreak of the Jugurthine War, which bore close parallels to the current situation: yet again the Senate was attempting, under different pretexts, to avoid entering into a direct conflict with a foreign king, unwilling to punish him for the crimes committed, and with the plebeian tribunes making a stand against such actions, i. e. to instead implement the will of the Roman people and protect its interests.<sup>53</sup>

It can be assumed that doubts were expressed about the Egyptian ruler's royal descent, and thus the legitimacy of his claim to the throne, although there is no testimony to this in our sources. Some evidence indirectly indicates the possibility that Ptolemy XII was the illegitimate son of Ptolemy IX Soter II. Pompeius Trogus calls him *Nothus*, which evidently is the Latinized version of the Greek νόθος 'illegitimate child, bastard'.

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<sup>50</sup> See Mittag 2003, 184–186.

<sup>51</sup> *Schol. Bob.* 93 St.: [fr. 9] 'Cum ille rex sit interfectus, hunc puerum in Syria fuisse'. [στοχασμός ἀπὸ προσωπικῶν κεφαλαίων] *haec sumuntur de locis coniecturalibus, qui sunt primi uidelicet in huius status diuisione, a uoluntate et facultate* [ἀπὸ βουλήσεως καὶ δυνάμεως]. *Nam quod pueritiae facit mentionem, uoluntatis est non potuisse Ptolomaeum capitalibus odiis dissidere, quem puerilis infirmitas ab huiusmodi obstinatione reuocaret; facultatis est autem, quod ait in Syria fuisse, ut absens copiam non habuerit illius interficiendi, quem dicebatur interemisse.* [fr. 10] 'Atque illud etiam constare uideo: regem illum, cum reginam sororem suam, caram acceptamque populo, manibus suis trucidasset, interfectum esse impetu multitudinis'. *Congestis ualde praeparationibus fidem fecit* [λύσει κατ' ἀνατροπήν], *ut hanc caedem a populo magis Alexandrino factam probaret, non Ptolemaeo iubente commissam.* The Greek text missing in the surviving manuscript was added by Ziegler 1872, 435 and Hildebrandt 1907, 32.

<sup>52</sup> This was done shortly after the failure of the Egyptian initiative (probably in 64).

<sup>53</sup> This is the depiction drawn in the *Bellum Iugurthinum* by Caesar's supporter Sallust, although it may not largely correspond to the historical reality; see Parker 2004.

Pausanius also points out that Cleopatra Berenice III, the daughter of Ptolemy IX, was his only legitimate progeny.<sup>54</sup> Even Cicero, an opponent of Egypt's annexation, was forced to carefully acknowledge in his speech against Rullus' agrarian bill that it "is agreed upon by all men, that he, who is at this present moment in possession of the kingdom, is neither of the royal family nor of any royal disposition"<sup>55</sup> (trans. C. D. Yonge). But in his speech *Pro Sestio* of 56, Cicero did not voice even minimal doubts about the legitimate descent of either Ptolemy XII himself, or his brother, the king of Cyprus. At that time, the goals pursued by Cicero were completely different, and there was no need to draw attention to the doubtful ancestry of a king deemed by the Senate to be a friend and ally of the Roman people.<sup>56</sup>

We can also surmise that the potential for financial gain was used as an argument for the annexation. Vague allusions to this may be found in three fragments of *De rege Alexandrino*.<sup>57</sup> Besides, similar arguments (the riches of the country and land fertility) were voiced by the proponents of Egypt's annexation in 63 (Cic. *Leg. agr.* 2. 42).

### *5. Non oportere populum Romanum omnium regnorum appententem uideri: The Argumentation of Cicero*

Let us now consider Cicero's argumentation. In all probability, Cicero did not directly deny the existence of Ptolemy X's will since he touches upon this issue in a very careful and ambiguous manner (*Leg. agr.* 2. 41):

Quis enim uestrum hoc ignorat, dici illud regnum testamento regis Alexae populi Romani esse factum? Hic ego consul populi Romani non modo nihil iudico sed ne quid sentiam quidem profero. Magna enim mihi res non modo ad statuendum sed etiam ad dicendum uidetur esse. Video qui testamentum factum esse confirmet.

<sup>54</sup> Paus. 1. 9. 3: ἡ μόνη γνησίᾳ οἱ τῶν παίδων.

<sup>55</sup> Cic. *Leg. agr.* 2. 42: *eum qui regnum illud teneat hoc tempore neque genere neque animo regio esse inter omnis fere uideo conuenire.*

<sup>56</sup> The majority of scholars at present consider Ptolemy XII to have been an illegitimate child. See most recently Chauveau 1998, 1265 n. 11; Ogden 1999, 94–96 and 113 n. 160; Huß 2001, 672 n. 3; Ager 2005, 7; see *ibid.* for speculations on who his mother might have been. However, some scholars do recognize his legitimate descent: according to Otto–Bengtson 1938, 117 n. 1, Auletes was the son of Cleopatra Selena, cf. Volkmann 1959b, 1748–1749 and Siani-Davies 1997, 308–309; according to Bennett 1997, 46–54, 2019, n. 2 and 5, he was the son of Cleopatra IV.

<sup>57</sup> See Cic. *Reg. Alex.* frs. 2, 4, 8 and scholiast's commentary on them.

For who is there among you who is ignorant that it is said that kingdom has become the property of the Roman people by the will of king Alexander? Here now I, the consul of the Roman people, not only give no decision, but I do not even express my opinion. For it appears to me a most important matter not merely to decide on, but even to speak of. I see a man who assures me that the will was certainly made (trans. C. D. Yonge with minor corrections).

He does, however, acknowledge the existence of *senatus auctoritas* that concerned the acceptance of Ptolemy's inheritance (*Leg. agr.* 2. 41, 42): if he had denied this fact, his deception could have been discovered too easily. Altogether, we are not aware of what exactly Cicero said in *De rege Alexandrino* regarding the legal aspects of the situation in place. It is quite possible that he delicately avoided this issue and directed his audience's attention primarily to the moral side of the problem. At least, this is the impression that is formed when the surviving fragments are analysed. First of all, Cicero devoted much time to scrutinizing the unseemly motives of his opponents (those advocating for the annexation). This contradicts Riggsby's theory that honourable intentions had nothing to do with the Roman understanding of just causes for war (see section 2). From Cicero's point of view, his opponents were driven primarily by greed and ambition (frs. 1–3 and 8).<sup>58</sup> The orator's caution should be noted. Although Cicero did hint at M. Crassus, as becomes clear from the scholiast's comment on fr. 2,<sup>59</sup> he did not mention any names, pretending to speak in a generalized sense.<sup>60</sup> This is why I am inclined to think that Cicero was using his speech to criticize the very idea of Egypt's annexation and was attempting to avoid engaging with the initiators of this project personally.<sup>61</sup> A parallel can be drawn with *Pro Cornelio de maiestate I* and *II*, two orations delivered by Cicero in the same year (65), in which the orator defended his client, yet, when possible, attempted to spare the feelings of his opponents, some of whom were very influential

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<sup>58</sup> The same accusations he voiced in 63 (*Leg. agr.* 2. 41 ff.).

<sup>59</sup> *Schol. Bob.* 92 St.: *Dicere quidem generaliter uidetur <...>; sed procul dubio nihil aliud agit, quam ut M. Crassi mores denotet.*

<sup>60</sup> It should also be mentioned that this was one of only a very few cases when Cicero, albeit indirectly, said something about the avarice of Crassus while the future triumvir was still alive. See further Liubimova 2014 [О. В. Любимова, “Красскорыстолюбец: к вопросу об образе Красса в трактате Цицерона ‘Парадоксы Стойков’”], 35 and 49.

<sup>61</sup> Notwithstanding Cicero's well-known habit in his speeches and letters of omitting to name enemies, political opponents, and more generally those he disliked. See Adams 1978, 163–164.

in the Roman state. Such restraint may be easily attributed to the fact that at this time Cicero was already thinking about his own future electoral campaign for consulship. Personal attacks on a figure as powerful as Crassus could have transformed their already strained relationship into an open enmity, and the orator apparently did not want that.<sup>62</sup> A similar tactic was used by Cicero in his speeches against Rullus' agrarian bill of 63, wherein he carefully avoided using his opponents' names (of course, with the exception of Rullus himself). In this case, his task was facilitated by the fact that the annexation bill was introduced by third parties. There are no allusions to Caesar whatsoever in the surviving fragments of the speech. This fact does not allow any far-reaching conclusions, but in my opinion it can serve as a further, albeit very weak, argument against the view that Caesar played a central role in this machination.

Secondly, when repudiating Crassus' claims Cicero argued that aspirations to annex Egypt did not respond to the demands of honour and justice (fr. 4), and therefore the war against Auletes would not be a *bellum iustum*. In *De rege Alexandrino*, Cicero appeared to be elaborating on the criteria for a just war (cf. *Off.* 1. 35–41), and proved that none of them were present in the case of Egypt.<sup>63</sup> In particular, Cicero refuted the accusations against the Egyptian king relating to the murder of his predecessor. He demonstrated that Auletes had nothing to do with it, and thus comparing him to Jugurtha was inappropriate. According to the orator, at the time of Ptolemy XI's murder, Auletes was still a boy (*puer*) and lived in Syria, not Egypt.<sup>64</sup> Ptolemy XII's date of birth is unknown but in all probability Cicero understated his age for rhetorical reasons; in 80 he was most likely not a *puer* but an *adulescens*.<sup>65</sup> Besides, as Cicero

<sup>62</sup> In connection with this, see Cic. *Phil.* 2. 7.

<sup>63</sup> Cic. *Reg. Alex.* fr. 7: *difficilis ratio belli gerendi, at plena fidei, plena pietatis*.

<sup>64</sup> Cic. *Reg. Alex.* fr. 9: *cum ille rex sit interfectus, hunc puerum in Syria fuisse*.

<sup>65</sup> See Bevan 1927, 345 n. 4. In the fourth *Philippic* Cicero called 19-year-old Octavianus *adulescens uel puer* (Cic. *Phil.* 4. 3); this is the upper age limit for his use of the word *puer*. Bloedow 1963, 5–9, followed by Klodt 1992, 23 n. 5, takes Cicero's words seriously and concludes that Auletes was born between 98 and 95 (cf. Strack 1979: "um 95"; Bevan 1927, 357 suggests 96–95), which is unlikely, as it does not correspond with other sources; for a detailed discussion, see Bennett 2019, n. 6. Bennett 1997, 39 and 47, in turn, attributes his birth to approximately 117, but a 37-year-old man could hardly have been called *puer* by Cicero (Bennett thinks that this *puer* refers to Ptolemy XI, which is unlikely, see n. 49). According to Volkmann 1959b, 1749, Ptolemy XII was born between 116 and 108. The issue remains open but it seems that in 80, Auletes was at least over twenty years of age. See also Chrustal'jow 2017 [В. К. Хрусталёв, "Образ египетского царя Птолемея XII Авлета в речах Цицерона"], 96–97.

reported, Ptolemy XI was a notorious villain who himself provoked the Alexandrians' rebellion by ordering the slaughter of the queen, Cleopatra Berenice III.<sup>66</sup> For Cicero there were no sufficient reasons for starting a war with Egypt, therefore moderation had to be exercised.<sup>67</sup> As Cicero wisely said in 63, "the Roman people ought not to seem to covet every kingdom under the sun"<sup>68</sup> (trans. C. D. Yonge); it appears plausible that he articulated the same position two years earlier.

By thus objecting to Crassus and Caesar's expansionist plans, Cicero protected, among other things, the interests of Pompey who was in the East during this period. The demonstration of the bill's anti-Pompeian sentiment could also have become a strong argument in the speeches which the opponents of the annexation gave at *contiones*, since at that time the absent Pompey's popularity with the plebs was on the rise. His name is not mentioned in the surviving fragments of the *De rege Alexandrino*, but this oration was delivered in the Senate, where the influence of Pompey's opponents was strong, and praise of him would have been much more restrained.<sup>69</sup>

## 6. Conclusion

To sum up, it seems clear from the fragments of the speech *De rege Alexandrino* that in 65 both the initiators of the bill (Crassus and probably Caesar) and its opponents (Cicero) appealed to law as well as justice in their discussion of Egypt's potential annexation. Insofar as we can judge, the legal arguments held a much more prominent place in the case for than the case against. Cicero either did not want or did not have an opportunity to contest his opponents' references to the notorious testament of Ptolemy X, and concentrated instead on issues of justice and morality. The usage of such argumentation in the late Republic when discussing important foreign policy matters is significant in itself. It demonstrates that Roman senators, as well as the common audience at *contiones*, expected from

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<sup>66</sup> Cic. *Reg. Alex.* fr. 10: *Atque illud etiam constare uideo: regem illum, cum reginam sororem suam, caram acceptamque populo, manibus suis trucidasset, interfectum esse impetu multitudinis.* The word *trucidare*, which originally applied to the slaughter of cattle, is relatively rare in Classical Latin and has strong emotive connotations (see Walde 1954, 709; Ernout–Meillet 2001, 704).

<sup>67</sup> Cic. *Reg. Alex.* fr. 4: *Debent esse modestissima, quoniam quidem est hoc summi imperii nosmet ipsos de nostris rebus iudicare.*

<sup>68</sup> Cic. *Leg. agr.* 2. 42: *non oportere populum Romanum omnium regnorum appententem uideri.*

<sup>69</sup> Compare, e. g., the first, senatorial speech against Rullus' bill with two others, delivered at *contiones*.

the orators in these cases appeals to certain ethical principles and were ready, at least in theory, to take them into account when making decisions. As Cicero's argumentation shows, it was possible to claim that moral issues, no less than legal obligations, should be considered important in foreign affairs. Despite of the gap between rhetoric and reality which always obtains, to be persuasive such arguments had to have been based on ideas widely accepted by the majority of Romans. They cannot have been just a theoretical and lifeless invention of philosophizing philhellenic intellectuals. Contrary to the view of some modern scholars, Cicero's tactics used in 65 provide solid evidence that those arguments could be directed not only at the Greeks, but also at the Romans themselves, although the political and personal motives of powerful individuals – such as greed or the pursuit of military glory – were often of pivotal importance when a final decision was made.<sup>70</sup>

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<sup>70</sup> For discussion, see Stevenson 2013, 181–193.

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The author examines an episode associated with censor Crassus' proposal in 65 BC to annex the Ptolemaic kingdom, concentrating mainly on the specific content of the debates between proponents and opponents of the annexation. The surviving fragments of Cicero's speech *De rege Alexandrino*, as well as the Bobbio scholiast's commentary on it, make clear that participants in the polemic appealed not only to law, but also to justice. The usage of such argumentation when discussing important foreign policy matters demonstrates once again that Romans of the Late Republic, at least in theory, wanted their wars to be ethically justified; the well-known Roman concept of *bellum iustum* was not of a purely formal character in that period, as some scholars believe.

В статье рассматривается важный эпизод римско-египетских отношений периода Поздней республики, связанный с предложением цензора Марка Лициния Красса в 65 г. до н. э. аннексировать царство Птолемеев. Автор касается политической подоплеки этих событий, однако главное внимание сосредоточено на изучении конкретного содержания дебатов между сторонниками и противниками аннексии. Анализ сохранившихся фрагментов речи Цицерона "Об александрийском царе" и комментариев к ним позднеантичного схолиаста из Боббио демонстрирует, что в ходе полемики обе стороны апеллировали как к праву, так и к справедливости. Сам факт использования подобной аргументации при обсуждении важных вопросов внешней политики ещё раз показывает, что римляне эпохи Поздней республики, по крайней мере в теории, желали, чтобы ведущиеся ими войны имели этическое обоснование, и что хорошо известная римская концепция *bellum iustum* в этот период не носила, как полагает целый ряд авторов, исключительно формального характера.