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### Cicero's authority

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**Title:** Cicero's Authority

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On a stray planet in an out-of-the-way corner of the universe live odd beings with patterns of behavior odder still. It can be frequently observed that one of them stands before another and moves its limbs or produces some sounds, and the other responds--apparently quite as the first expected. But why? Why should these feeble motions have such force?

This puzzle or wonder may be presented to us most conspicuously in the phenomenon we know as authority. Authority is exercised paradigmatically in transactions like the following:

(1) The speaker says: "Do [or: believe] this." The auditor replies: "Why?"

And the speaker replies in turn: "Because I say so, that's why!"

--and that seems enough said. Police officers might thus address traffic violators; parents, children; expert paleobotanists, the ignorant; and senior colleagues, junior. In each case, the speaker simply being who she is, and her saying something, is enough to justify or indeed compel the auditor's response. This transaction seems doubly odd. We find here mere sounds exerting significant social force. Moreover, we find the participants themselves wondering about this force: they question authority. Political philosophers, after all, have doubted the legitimacy of political authority, and logicians have declared the appeal to authority a fallacy. Police, parents, experts, seniors--and those subject to them--all may deny that the words exert, or ought to exert, force. So authority raises even more pointedly the basic question: Why, if at all, should one person's say-so force another to follow?

To answer this and similar questions must be the central task for rhetoric--at least when the mysterious arm-waving or noise-making occurs in a civic setting. Authority as a social and cultural system has, of course, been studied extensively. To pursue a rhetorical inquiry into the subject means to begin with particular transactions (Black 1978: 134). In this essay, I propose to develop a model of how one person brings her authority to bear on another. I will attempt to account for why her being who she is, and the fact that she says something, leads so expectably to her auditor's doing what she wants. To put this another way, I will attempt here to lay out the practical reasoning that accounts for this "dyadic" behavior: the reasons why the auditor of the appeal considers himself forced to follow, and (correlatively) the reasons why the speaker of the appeal can expect just this response.

In the first section of this paper, I take up a particular authority-transaction to reconstruct the practical reasoning which constitutes one sort of authority: what I will call the authority of dignity. In this transaction we may observe the specific

verbal moves through which authority is deployed and deflected; perhaps even more importantly, we can listen to the "meta-discursive" commentary, as the participants in the transaction explain to each other why just these moves should or should not have force. From these two sources of evidence, and relying on our own sense of what, pragmatically, makes sense, we can unravel the complex reasoning that is occurring on both sides of the transaction. In the second section, I re-arrange or represent this intricate practical reasoning, trying to capture what could loosely be called its shape and functionality in a general model of the authority transaction; I further consider whether authority thus modeled should count as a fallacy. Finally, I close by extending this model to other sorts of transactions:

to the "epistemic" authority commonly exercised by experts, and to the authority of command commonly exercised by officers of the state (for distinguishing these types of authority, see Goodwin 1998: 271-4).

I select the transaction that forms the basis of this study by consulting our authorities on authority: the ancient Romans; for it was, as Arendt noted, among this people "that the word and concept of authority originally appeared" (Arendt 1993: 121). In his magisterial survey of classical rhetoric, George Kennedy placed the appeal to authority among the defining features of all Roman oratory (Kennedy 1972: 100-1). His student James May has gone on to trace the appeal throughout the extensive corpus of forensic speeches surviving from the late republican orator, Marcus Tullius Cicero (May 1988). In Cicero's discourse we have rich evidence of Roman authority in action: his attempts as a "new man" in politics to avoid the authority of established leaders as well as his attempts as a senior statesman to assert his own. So to rephrase again the question driving this study: it is to see why Cicero and his citizen auditors reasonably thought his bare words could compel their judgment.

## Asserting and avoiding authority in ancient Rome

### (a) The core of the appeal

Thanks undoubtedly to his own propaganda efforts, we see 63 B.C.E. as the climax of

Cicero's career. Serving as consul, the highest office in Rome, he expeditiously and nonviolently (except for five executions of questionable legality) suppressed the "conspiracy of Catiline" which had threatened the overthrow of the Republic. It seems surprising, therefore, to find him less than a year later defending one Publius Cornelius Sulla against charges arising out of the man's alleged participation in the plot. The allegations were not improbable. A rich profiteer and nephew of Rome's most recent revolutionary general, Sulla had previously been convicted of electoral bribery and stripped of his own consulship. He thus could be counted among abandoned men with little to lose whom Cicero generally thought were drawn to conspiracy. But even more surprising than Cicero's advocacy is the substance of Cicero's appeal.<sup>1</sup>

He makes a gesture at defending Sulla, walking through the evidence against him, idealizing his character and arousing his auditors' pity. The weight of the speech, however—the first and last appeal, making up over a third of the address—is on what Cicero himself repeatedly calls his *auctoritas*, his own authority (2, 10, 33, 35, 80). Indeed, in what James May has called a "too blatant" manner (78), Cicero claims right at the beginning of the speech that his authority is sufficient to support an acquittal. If he proves, he says, something of himself, he will prove as well the case for Sulla. (2).

What exactly is involved in appealing to authority? Cicero twice explicitly tells his auditors what he is going to do before the third time actually going ahead and doing it. Early in the speech he says what he is not yet saying in defense of Sulla:

(2) Many were the things I heard while consul, about the crisis threatening the Republic; many I searched into, many I followed up. But no mention of Sulla ever came to me, no suggestion of his involvement, no incriminating letters, no suspicions. Such an utterance should (perhaps) have great force—the utterance of a man who while consul investigated judiciously, published candidly and suppressed courageously the threats against the Republic, when he says that he heard nothing of Publius Sulla, never suspected him. (14)

Later, in the course of defending the appeal he will be making, he again informs his auditors what that appeal is:

(3) It seems to be offensive that he who investigated the conspiracy, who brought it to light, who suppressed it, whom the Senate recognized with unprecedented expressions, for whom

alone as a civilian a [military] thanksgiving was decreed, that he should say in court: "I would not defend him, if he had conspired." I do not mean to say anything offensive, I only mean to say what in these conspiracy cases I can take on myself not from my authority but only from my sense of self-respect: I, the very man who was the investigator of the conspiracy and its punisher, certainly I would not defend Sulla, if I thought he had conspired, (85)

And at last, immediately afterwards he turns to actually say what he said he would. Calling the gods themselves to witness, he avows:

(4) Nothing did I while consul discover about this man, nothing did I suspect of him, nothing did I even hear about him. (86)

Let us examine these key passages to see what Cicero thinks are the essential facts from which the force of his appeal arises.

Note first the references to what I will call Cicero's anti-Catilinarian project. Cicero in each passage takes care to characterize himself and picks out the same details to do so. He defines or presents himself as a consul; the consul, moreover, who took responsibility for (in roughly chronological order)

discovering that there was a conspiracy, investigating it, revealing it publicly and taking action to suppress it. By the time of the trial, Roman public opinion had already begun to turn against Cicero's handling of the affair, and in particular against the executions of several conspirators (Berry 1996: 27). So lest there be any doubt that he was now trying to disassociate himself from his former actions, Cicero elsewhere in the speech expressly reaffirms his responsibility for them (carefully avoiding, however, the question of to whom the executions should be ascribed). "At the top of my voice, so that all can hear, I say and will keep on saying" (33), Cicero proclaims, that he had risked his life to suppress the Catilinarians.

Cicero's efforts against the conspiracy had met with remarkable success; his project, in other words, represents a significant achievement (*res gestae*, 27) by him for the public good. Although he does not express this thought in the three key passages, he does elsewhere in the speech prompt his auditors to recollect the dire consequences avoided by his efforts: "burning of the city, slaughter of citizens, devastation of Italy and destruction of the Republic" (33); loss of empire, liberty, lives, homes and temples (86). And because of his achievement, Cicero deserves appropriate acknowledgment from his fellow citizens generally. Indeed, as he notes in the second passage, two unique public honors had already been granted him as tokens of recognition for his services. Certainly therefore his immediate auditors owe him comparable respect.

And how does Cicero's desert relate to the present case? His defense of Sulla, Cicero stresses in each of the key passages, is part of the same anti-conspiratorial project. The same investigation that uncovered and thwarted the conspiracy, revealed nothing about Sulla. So Cicero's judgment about Sulla deserves from his fellow citizens the same respect due to all his efforts. As he asks elsewhere:

(5) If for the great services I rendered to the Republic I sought no other reward for myself from the Senate and People of Rome than an honorable retirement, who would not grant it? Others could keep their honors, their military commands, their provinces, their triumphs, all their other tokens of recognition; for my own part, I would be allowed to enjoy in peace and quiet the sight of this city I had saved.

"What if I do not ask [even] for this?" Cicero continues, but instead is willing to continue labors in service of the Republic (26)? What reward does he deserve then? Cicero does not answer this rhetorical question, for the answer is clear: if he continues his project by defending Sulla, that defense continues to deserve respect.

To openly question Cicero's judgment would therefore be to show him conspicuous and unwarranted disrespect--indeed, it would be to insult him. Cicero nowhere even hints that his auditors might treat him thus, but it's clear that that is what he thinks the prosecutor in the case has done. The young man

had raised a series of challenges to Cicero's defense of Sulla. The specifics of these challenges I take up in the next section; for now, look only to Cicero's response. Cicero treats the prosecution as an affront, and replies indignantly. "No one has ever touched me with the slightest suspicion, which I did not utterly put down, utterly explode" (46). But, he explains with "patronizing condescension" (May 1988: 74), given the prosecutor's youth and bad temper and their longstanding friendship, he is enduring the injury done him, and will keep--for now--his oratorical weapons sheathed (47). Cicero will respect the young man's judgment, for, he says, "I think that you have established for yourself what you consider must be done" (50); suggesting in turn that the prosecutor owes Cicero's deliberate judgment the same consideration.

Cicero's auditors, in sum, can reason with themselves thus: Cicero's judgment regarding Sulla, as part of his ongoing anti-conspiratorial project, deserves their respect. They may want to show this decision the respect it deserves; or at least, they may want to avoid the consequences of showing disrespect, such as the indignation Cicero has shown the prosecutor or the disapproval the public in general might feel towards such impudent conduct. To show him respect, they must at least do nothing to openly go against Cicero's judgment in a matter connected with his project. But that is precisely what convicting Sulla would do. So this is the core of the appeal to authority: to show proper respect for Cicero, they must acquit the accused.

The force of the appeal arises from Cicero's desert--from the fact that he deserved a certain respect for his civic achievements. Latin had a term for this quality: *dignitas*, or dignity (from the large literature on this concept, see especially Hellegouarc'h 1963: 388-424; Poschl 1989: 7- 23). One of a rich vocabulary of recognition terms (including also *honor*, *gloria*, *fama*, and *laus* or "praise"), dignity meant for the Romans as for us the worthiness to be recognized in the most basic sense. Aurel Kolnai comments: "It looks as if our response to Dignity is the purest 'value response' (*Wertantwort*) as such: in particular, less stirring and less impregnated with delight than our aesthetic, less organically connected with approval and with any practical or deontic accent than our moral responses. If Dignity means 'being worthy of . . .', the completion that most aptly suggests itself would seem to be 'worthy of being appreciatively acknowledge as worthy to be thus acknowledged and appreciated, *sans plus*.'" (Kolnai 1976: 253). Gaining and maintaining such civic recognition was the life goal of every Roman leader. The Republican system of offices allowed these ambitious men scope to achieve great things for the Republic, thus earning the respect of their fellow citizens. The Republic also rewarded them with tokens of respect--further offices, triumphs, honorary decrees, statues, their name on everything from the year to the laws. Even the Roman family system was so formed as to allow dignity to accumulate, as memory and indicia of past achievements were passed down from father to son. And as was recognized by the Romans themselves (Cic. *Inv.* 2.166), and confirmed by contemporary scholarship (Enos & Schnakenberg 1994; Hellegouarc'h 1963: 404; Poschl 1989: 15), in the appeal to authority this most characteristically Roman resource was put to persuasive use.

We ourselves are not unfamiliar with the force of dignity. We hesitate to openly go against those worthy of respect; instead, we defer to their judgment. When, for example, a senior scholar speaks, someone whose achievements have formed the current state of a field, those present will avoid confronting her. Even her mistakes will likely go uncorrected (to her face). It would indeed be impudent to challenge such a person; although of course it's possible to start a career off of impudence.

We also may be familiar with the authority of dignity as original appeal *ad verecundiam*--"to shame" or "modesty"--isolated by Locke (Goodwin 1998: 274-5). According to Locke, this *argumentum* "is to allege the Opinions of Men, whose Parts, Learning, Eminency, Power, or some other cause has gained a name, and settled their Reputation in the common esteem with some kind of Authority. When Men are established in any kind of Dignity, 'tis thought a breach of Modesty for others to derogate any way from it, and question the Authority of Men, who are in possession of it. . . . Whoever backs his Tenets with such Authorities, thinks he ought thereby to carry the Cause, and is ready to style it Impudence in any one, who shall stand out against them" (Locke 1975: 4.17). Locke, of course, thought this form of appeal flawed--a topic to which I will return in the central section of this paper. Of interest here are the details of the appeal Locke discusses: a form of authority based on public recognition, that is, "Dignity," which it would be "Impudence" to disrespect.

When we humor our seniors, though, we seem to be doing something less than following their authority. So this discussion has captured part, but not the full force of the appeal to what we may now with justification call the authority of dignity. In the next section I turn to tracing how Cicero develops this core appeal into one which has the compulsive force we associate with authority.

#### (b) Designing the appeal

If we sense that authority may lack force, we share that intuition with the Romans themselves. To refine our own understanding of the potential weakness of the appeal we can look for the specific objections to Cicero's authority preserved in Cicero's speech itself. We can presume that the prosecutor, a reasonably competent speaker with much invested in his speech, will have discovered and pressed the key problems in what Cicero was trying to do. Moreover, we can presume that Cicero would choose to answer the most damaging of the prosecutor's attacks. Look then to the salient weaknesses of authority as revealed by the speech itself. The prosecutor's first move is to charge Cicero with inconstancy. Cicero had suppressed the Catilinarian conspiracy and had helped with the mopping-up by testifying against the surviving participants. Why then is he appearing now for another accessory to the crime? "You shouldn't be defending anyone charged with conspiracy" (48)--the prosecutor claims. Cicero's conduct thus shows him to be a man inconstant and changeable (*inconstans et levis*, 10). Now inconstancy, like any negative character trait, would serve to lessen Cicero's dignity or worthiness-of-respect and thus lessen his authority; in that sense, the

accusation of inconstancy here might be interchangeable with any of the other insults commonplace at Rome (e.g. sexual impropriety, public drunkenness, interest in philosophy, dancing). But the force of this particular vice would seem to be a bit more pointed. Cicero's appeal depends on his judgment for Sulla being taken as part of the same project that made him worthy of respect. To say that Cicero is being inconstant is to say that his defense of Sulla is not part of that project, has likely not received the same care as that project, and does not therefore deserve any special deference from his auditors.

The initial charge of inconstancy opens also a second line of attack, If Cicero's judgment about Sulla is not arising out of his project, then what is he doing demanding respect for it? He must be putting the worthiness he rightfully earned to use for an unworthy, merely personal goal; he must be *abusing* his authority. The Romans had a special vocabulary for such abuse. As Cicero reports the prosecutor saying, "it is *regnum* ["kingly rule," "tyranny"] to speak against whoever you want and to defend whoever you want" (48; also 21, 22, 25, 27)--expecting, one supposes, others defer to your arbitrary choice. Making one's opponent's authority out to be tyranny seems to have been a commonplace technique at Rome (Berry 1996: 177-8); Cicero himself used the ploy when as a young advocate he confronted authority against him, and he faced the same charge repeatedly when as a senior orator he tried to deploy his own. The bite of the allegation harked back (at least in legend) to the pre-Republican times in which Rome was subject to the unconstrained power of hated kings. To be a tyrant is not just to exercise power; it is to exercise an illegitimate and unconstrained power. If Cicero's judgment about Sulla is just his arbitrary--perhaps even purchased--choice, and not based in his ongoing anti-conspiratorial project, then his demand for respect would be just this sort of tyrannical abuse of power.

The seriousness of the twin charges of inconstancy and abuse of power is suggested by the restrained and careful way in which Cicero deploys his authority in defending Sulla. When he announces his opinion, he acknowledges that what he says may be offensive (80, 85). When he defends his dignity, he excuses his numerous self-references by claiming that the prosecutor has forced him thus to defend himself (2, 10, 35, 80). And when he says he will rely on his authority, he admits he will do it only hesitantly and with restraint (10, 80). All this suggests that Cicero was conscious of the difficulties and, as D.H. Berry put it, that "he knew exactly how far to go" (Berry 1996: 294). But it does not yet show how he resolved the problems. If his appeal to authority was successful in this case (and we do know Sulla was acquitted)--if moreover the appeal was routinely successful enough to justify being given a name in ordinary Latin--then we can presume that there were means available to speakers which would successfully meet these objections. In the following paragraphs I tell a story which, although it does not represent the process by which this or any other speech was actually designed, provides an account of how the designed features of the complete appeal to authority might work to assure auditors that the speaker was not inconstant, not abusing his power.



Let us start with a baseline case: a rhetorical transaction that proceeds with no designed features, no speech at all. It is in fact possible for authority to be effective even in silence. If it's public knowledge what a man of great dignity wants in a particular case, his "auditors" will have reason to show him respect by deferring to his judgment. (This is how, after all, the *exempla* of the honored dead could be thought to exercise *auctoritas*; Hellegouarc'h 1963: 303). In this situation, does the authority give the "auditors" any security that his opinion deserves that respect? The answer is clearly no. In this case, the man of dignity is under no pressure to use his dignity with care, for if it later turns out that he was wrong he can simply deny that he ever even tried to abuse his authority. In an early speech, we find Cicero crafting just such a denial for a senior statesman. Cicero was defending a man most of his auditors thought already convicted in the judgment of (by chance) his later client's uncle, Lucius Sulla Felix, the just-retired but still leading man in Rome. But the senior Sulla, Cicero carefully explains, was far too busy with his general project of running public affairs at Rome to concern himself with this minor matter (*Rose. Am.* 21, 130-1); the true facts, moreover, were being concealed from him by a wicked henchman (*Rosc. Am.* 25-26). Cicero's construction of the senior Sulla's position may or may not have been true. Given the man's silence, however, the claim is at least colorable. So the authority can be reasonably assured of getting away with "inconstancy"--with a sloppy or ill-informed or even corrupt judgment on the case--because he never gave an undeniable sign of his involvement.

The deniability of such silent authority should be enough to raise the "auditors'" suspicions that authority is being abused and thus give them reason to resist deference. But note also that the same denial that is available to the "speaker" in such a transaction is available to the "auditors" as well. Should they openly go against the authority and find themselves blamed (by him or by the onlookers generally), they will be able to claim that they weren't showing him disrespect, for they didn't know he was involved at all. The "auditors" can be reasonably assured of avoiding any appearance of insulting a silent authority; thus what I have called the "core" force of the appeal is here substantially diluted.

There is of course an easy solution to limit these mutual denials: the authority must design an action to indicate conspicuously his involvement. The Roman court system allowed a convenient way to do this. By convention, those supporting one side at a trial would join the advocates on the benches arrayed before the jury. (Other signals could suffice in other contexts, as for example those going first in a deliberative assembly could exercise *auctoritas* by their votes; Hellegouarc'h 1963: 303). Throughout his speech for the younger Sulla, Cicero points out to his auditors the eminent men that had thrown in their lot with his client,

(6) these leading men and most illustrious citizens, whose commitment and dignity make the court crowded, the case notable and the innocence of this man protected. For laying things out in an oration is not the only mode for a

defense; all who are present, who trouble themselves, who wish him safe come to his defense by their conspicuous adherence and authority. (4) Does an authority's mere presence or other conspicuous sign suffice to assure his auditors that he is not being inconstant? The authority can't in this case deny that he is involved. But he still has an excuse, and will thus be able to avoid blame. There are many reasons for joining the accused on the bench; one might be present in pursuit of a civic project, or, with equal legitimacy, one might be present for friendship or for pity. Cicero is forced to suggest just such an excuse on behalf of those who joined his client on the bench, for they had, alas, also appeared with the arch-conspirator, Catiline (81). Indeed, Cicero jibes, the prosecutor's own father has to excuse himself for once appearing for that villain:

(7) He as consul represented Catiline in a bribery case--Catiline, a scoundrel, but a suppliant; perhaps abandoned, but once a friend. When he was lending him a hand, after that first conspiracy was reported to him, he indicated that he had heard something of the matter, but had not believed it. . . . But if your father even when he had an inkling of his own peril was led by his kindness to honor the defense of this most wicked man with the pomp and circumstance of his person and office, why should the former consuls [sitting here] who were also involved be criticized? (81) If presence (or other sign) is thus open to interpretation, the authority signaling his involvement will later be able to avoid blame if it turns out he was trying to act abusively. His auditors still have been given no reason for trusting his constancy.

And again, the excuses are mutual, not only raising the auditors' suspicions but also weakening the authority's force. The auditors for their part will be able to avoid blame for the potential insult of going against the authority by claiming that they themselves were mistaken-- they thought man of dignity just present as a friend, ignorant of the defendant's crimes. But if they can thus go against the man of dignity without insulting him, the force of his authority will have been diluted.

To limit finally this symmetrical weakness in the appeal, the authority must so design what he does as to limit the possible interpretations of his conduct--to not only signal his involvement, but to make evident *why*. And this is what the authority's "say so" accomplishes. In defending Sulla, Cicero puts great weight on the three expressions of opinion quoted at the beginning of this analysis; they are highly figured passages (Berry finds in the first a "tricolon, tetracolon, anaphora, homoeoteleuton and polyptoton," Berry 1996: 160) that Cicero expressly marks off as his "utterances" (*vox*, 14) or signals with an "illocutionary force indicating device" (that is, saying that he is saying; *dico*, 85, *testor*, 86). In all three he both states his judgment of Sulla's innocence and explicitly claims this judgment as part of his ongoing project. And by this explicit say-so, he at last gives his auditors some security of his constancy. If it is later discovered that Cicero did not take care in making this judgment, he has now put himself in a position to be held accountable for abusing his authority. As Berry says, Cicero's defense of Sulla put him "at great personal

risk," for his "reputation is here in jeopardy as in no other speech" (Berry 1996: 42, 62). Knowing this, Cicero has strong reasons *not* to abuse his authority and instead exercise the same care in judging Sulla that had been so successful in the rest of his anti-conspiratorial project. As he explains to the jury:

(8) When my highest honor is at stake, the unique glory of my achievements--when the memory of the salvation won through me is renewed each time someone is convicted of conspiracy-- would I be so mad, would I allow it to appear that everything that I achieved for the safety of all I accomplished more by accident and chance than by virtue and good judgment? (83; see also 10) No, his auditors can believe, he would not thus risk his dignity except for a good cause. So from his say-so they have reason to trust that he is not abusing his authority. And we find a final mutuality here as well. The same say-so that eliminates Cicero's excuses also eliminates his auditors'.<sup>2</sup> If they now go against his judgment, they will not be able to claim ignorance or mistake; they will unavoidably be showing him disrespect. By expressly speaking his judgment and claiming it for his project, therefore, Cicero imposes on his auditors the full force of his dignity.

There may remain further weaknesses in the appeal to authority. If for example there is manifest evidence of Sulla's complicity in the conspiracy Cicero's auditors may still distrust his constancy, inferring that he expects to use some further strategy to avoid blame for abuse of authority or that he just doesn't care. But the complex story I've told suggests that with a say-so, Cicero has said enough to resolve at least the most salient general objections against his appeal to authority. I step back now from reconstructing this particular rhetorical transaction to consider a more general model.

## 2. Towards a more general theory

### (a) A model of authority

At the core of Cicero's appeal to authority we found a basic transaction: to avoid insulting Cicero, a man of great dignity, his auditors must not openly oppose him. In order to secure this basic transaction, Cicero must design what he says to both put his auditors in a situation such that the insult will be inevitable, and simultaneously give them assurances that his judgment is trustworthy. To rephrase this more generally--that is, to sketch a general model of authority--the speaker exercising her authority proceeds by "blackmail," and by offering a "bond." I will take up these two aspects in turn.

Cicero does give the jury he faces some reasons for thinking Sulla uninvolved in the conspiracy, and also spends some time refuting the reasons offered by the prosecutor. But as has been noted by theorists as otherwise diverse as Hannah Arendt (Arendt 1993: 93) and Robert Paul Wolff (Wolff 1970: 6), authority must be distinguished from such persuasive argumentation. When Cicero exercises his authority, he does not *give* reasons so much as *create* them. That is, he directly modifies the world so as to change their evaluation of

the courses available to them. After he speaks, if his auditors do not follow his judgment they will be showing him conspicuous and inexcusable disrespect. Cicero can presume that his auditors will not want to disrespect him, relying on their sense of shame as well as on their wish to avoid the consequences of disrespect, especially their wish not to be disrespected back. So his say-so serves as a way to back his auditors into a corner where they will have only one choice--his. The appeal to authority can thus be analogized to pulling a gun; or somewhat more civilly, to blackmail. The blackmailer threatens to do something to make life unpleasant for her victim if he does not do as she wishes. She changes the futures her victim faces, thus forcing his decision in the direction she desires. In appealing to his authority, Cicero creates a situation that is similarly portentous.

This seemingly sordid transaction actually is of some significance for theory--meaning here

the theory of argumentation now being pursued by several disciplines. Recent work by Michael Billig (Billig 1996) and Deanna Kuhn (Kuhn 1991) in psychology has revived an old speculation (e.g. Isocrates, *Antidosis* 256) that our capacities to argue with others and to think for ourselves are deeply intertwined. Certainly this hypothesis has its attractions: after all, the reasons we give to others often look the same as the reasons they would use if we left them to themselves (and if they were thinking straight, of course). The force of such reasons is independent of their being spoken. But the appeal to authority seems to work quite otherwise. In this case, arguing (loosely) and thinking are asymmetrical. Unless Cicero says something--indeed, something rather particular--his auditors will find it easy to avoid his authority. So the appeal to authority is what we could call a specifically *rhetorical* form of argument: one whose full force depends upon its utterance.

Even as he corners his auditors, Cicero also gives them reason to trust his judgment, and this, as Arendt (Arendt 1993: 93) and Wolff (Wolff 1970: 4) again pointed out, distinguishes authority from violence or power. By the same say-so that makes their noncompliance a conspicuous insult, he also stakes his dignity on the correctness of what he asks. To the same extent that he eliminates his auditors' wiggle room, he eliminates his own. If things turn out badly, he has put himself in a position to be held responsible for that outcome. Indeed, his punishment will be swift and sure. For even as dignity is granted by the recognition of Cicero's fellow citizens--that is, the very people he is addressing--it can be taken away by them; they have in their hands the power to both judge the ultimate correctness of Cicero's judgment and to penalize him with disrespect if he's wrong. And even as he can presume his auditors will want to avoid their unpleasantness, they can presume that he will want to avoid his--either because he values his dignity for itself, or at least because he values what he can do with it. In sum, in the appeal to authority Cicero offers his dignity as a hostage for his judgment, bets it on his judgment, or, to use another analogy, posts it as a bond guaranteeing the correctness of his judgment (compare Kauffeld 1998a: 33; and "guarantor" as a technical

meaning for *auctor*, Heinze 1925: 3 5 1; Hellegouarc'h 1963: 296).

Again, this aspect of transaction is of some interest for theory. It is a very general problem for every speaker that her "talk is cheap." She knows her auditor will recognize that her appeals are directed to induce him to respond in some way beneficial to her. But why should he think that responding in that way will be beneficial to him? We should expect people generally to ignore attempts to influence them, as in fact we do ignore much advertising.<sup>3</sup> So a speaker knows that in general, her auditor will not likely waste attention, belief or other resources on what she says. Because of this, a speaker needs strategies to *earn* attention (or other response)--strategies to make talk *costly* for her. In his "Presumption, Speaker Responsibilities, and the Efficacy of Communicative Acts" (1998a) Fred Kauffeld has followed Dennis Stampe and H.P. Grice and argued that such precisely a strategy is what constitutes the basic speech act of saying something. In saying something seriously, a speaker openly takes responsibility for the truth of what she says; she puts herself in a position to be held accountable if it turns out it is false. This licenses her auditor to presume she is speaking veraciously and thus to take what she says as true, since he can reason that she would not thus leave herself open to criticism unless she had reasonably investigated the matter, was speaking truthfully and so on. The appeal to authority would seem to be a development from this basic strategy. When she deploys her authority, a speaker openly puts her dignity at risk; in a society that values dignity, this will generate a correspondingly strong presumption that what she says is true.

In the appeal to authority, "blackmail" is linked with "bond": the speaker stands to lose the very resource--dignity--that gave her power to corner her auditors. This means that the speaker's say-so prompts both parties to the transaction to make simultaneous, interlocking calculations about each other's calculations about dignity. The authority can safely risk her dignity, because she can expect her auditor to follow, because she knows he will want to avoid risking insult to her and will be able to trust her judgment, because he (the auditor) can expect her (the authority) to take the trouble to get the judgment right, because he knows that she will want to avoid serious risk to her dignity. Where dignity is great, the penalties both sides face are substantial and each will find the other's behavior highly predictable. There is only one happy way out: for the speaker to judge well, for the auditor to follow. (I invite the reader to imagine a game-theoretical matrix here.)

The theoretically interesting point here would be to see how much of the persuasive force of civic hand-waving and sound-making can be accounted for by such simultaneous and interlocking calculations about others' calculations.

Recent work in informal logic has been following out the consequences of the idea that the formal relations between propositions do not provide a complete account of the force of arguments as actually used. The transactional context of argument is increasingly invoked as an additional feature of any adequate model of argumentation. One way to do this has been to hypothesize that

arguments occur (or occur ideally) within set forms of talk; Walton's "dialogues" (1998) or the Amsterdam School's "critical discussions" (van Eemeren et al. 1993) are examples. But this in a way builds the conclusion (that sound-making has force) in as a premise of the context (that's just how humans behave within these social forms). Jackson and Jacobs (Jackson, 1992; Jackson and Jacobs 1980) have long proposed an alternative view: that the transactional context of argument is itself created at least in part by the discursive activities of the participants--that is, by speech acts. The analysis put forward here might be seen as taking this proposal one step further, giving a detailed and bilateral pragmatic reconstruction of how one speech act--the appeal to authority--actually works to enforce reasonably expectable behavior from all participants (see thus Kauffeld 1987).

If this general model of authority is accurate, then any transaction with the "blackmail-and-bond" shape should be recognizable as form of authority. Consider, for example, what could be called the "authority of manifest strength" (or, "of fear"). In his maiden deliberative address, Cicero argues that the Roman general Pompey should be given command of a particularly troubling "police action" on the Roman frontier. One reason Cicero offers for the appointment is Pompey's great *auctoritas* (*Leg. Man.* 43-6; see Heinze 1925: 355) Given the man's reputation for success and the impressive army with which he will be equipped, he won't find it necessary to fight; the enemy will simply give in after he is appointed. Why can these capacities be called authority? A man (or country, or alliance) of manifest strength can reasonably expect a small country to roll over once he has committed himself to a certain course. For the threatened country should legitimately fear being crushed, knowing that after trying to throw his weight around, the man (or country, or alliance) of manifest strength will be forced to exert that strength-- and possibly to reveal its weakness--in order to preserve his appearance of strength; a transaction with which we ourselves are familiar.<sup>4</sup>

We need not look so far, however, to find forms of authority beyond the transaction based on dignity. In the following section, I examine two familiar sorts of transactions we call authority-- the authority of experts and the authority of command--to see what they look like if we conceived of them as "blackmail-and-bond" transactions. But first I digress to assess whether the transaction I have been tracing is inevitably open to criticism. In particular, I want to ask whether the authority of dignity is, as the best authorities long held it, a fallacy.

(b) Is the authority of dignity a fallacy?

As Joseph Raz has noted, it has been a typical move for philosophers and social theorists to claim that following authority is unreasoning--that it involves some sort of surrender of judgment (Raz 1985: 6-8). The model developed here should put that idea to rest. Authority is reasoned, quite complexly so. We can still ask, however, whether that reasoning is in some way flawed. After labeling the authority of dignity the first of his *argumenta ad*, Locke goes on to claim that "it argues not another man's opinion to be right, because I, out of

respect, or any other consideration but that of conviction, will not contradict him" (Locke 1975: 4.17). To apply this to the transactions we have been considering, we might say that the fact that Cicero is a man of great dignity, and the fact that he says Sulla was not a conspirator, do not support the conclusion that Sulla was indeed not a conspirator.

But this seems an overstatement. As we have seen, by his appeal Cicero has indeed given his auditors good reason to presume that what he says is true. He had made it his project to find out about the affair for some time; now, he is willing to stake his dignity on his opinion. This licenses his auditors to take it that, to avoid blame, he has exercised care to secure his beliefs. Unless we are to exclude presumptions from our inventory of allowable inferences--which would be unhappy (Kauffeld 199Sa: 1-3)--this sort of "bond" does "argue," to some extent, Cicero's opinion to be right."

Furthermore, it seems important to read Locke carefully. By appealing to authority, Cicero

is not trying to persuade of a truth, but to persuade to a certain action: the action of *following* his authority, which in this case means, as Locke puts it, "not contradict[ing]" him. The auditor of the appeal can still believe whatever he thinks justified; the appeal only forces him to act in a certain way--and that, only in public. Deferring to the authority's face is not incompatible with laughing at her behind her back, or worse. Erving Goffman, always a good observer of rhetorical transactions, has noted: "The central example in Anglo-American society, practiced primarily by children, consists of sticking out the tongue or putting thumb to nose after someone whose authority has had to be accepted turns from the encounter in which the authority was expressed. I believe these two conventionalized acts give children not merely a device by which to vent their feelings against authorities, but also, and perhaps mainly, an opportunity to practice what will be a life-long circumstance of social activity--an ecological division between what can be seen about oneself and must therefore embody certain standards of propriety, respect, etc., and what is shielded and therefore relatively free" (Goffman 1971: 153). Now, as Whately argued, someone might still face criticism if she attempted to deceive her auditor--tried to make it appear that her authority justified not deference to her but acceptance of her proposition. But as long as she proceeds, as Cicero did proceed, "plainly, and *avowedly*" (Whately 1975: 193), her say-so does seem to provide sound practical reasons for her auditor to defer.

Our doubts about the appeal thus do not seem to arise from the reasons that constitute it. Questions about the logical soundness of the appeal resolve instead into questions about the ethical soundness of the authority transaction.

There does seem to be something awry about deploying authority. We might feel the appeal to be coercive, constraining, a form of duress. We might feel the authority herself intrusive, interfering and overbearing; as the ancient Roman teacher of rhetoric, Quintilian captures this sentiment: "Another form of



arrogance is displayed by those who declare that they have judged the case for themselves, which they would not otherwise have undertaken. For the jurors give but a reluctant hearing to such as presume to take over their function, and the orator cannot hope that his opponents will regard his *ipse dixit* with the veneration accorded by the Pythagoreans to that of their master" (*Inst.* 11. 1. 28). Something like this uneasiness is what made the charge of tyranny plausible at Rome and makes the analogy to blackmail attractive now. But as we have seen, the appeal to authority contains an answer to the tyranny objection; and equally, the "blackmail" analogy is inadequate on precisely this point. Blackmail involves threatening something *wrongful*--something perhaps legal, but still criticizable on some moral grounds (Katz 1996). But in appealing to authority, the person of dignity has done nothing wrong. She has only done what she has a right to do, that is to state her opinion on a matter of concern to her ("within her project"). It's not her fault if her auditor feels forced to respect her. Indeed, respect is what she *deserves*. Thus when the prosecutor charged "it is tyranny to speak against whoever you want and to defend whoever you want," Cicero replied, "On the contrary: it is slavery not to speak for or against as you choose" (48; see also 21, 25).

If there are no ethical problems--at least in general<sup>5</sup>--with particular authority transactions, our concern instead might be with the overall distribution of the resource, dignity, which grants to some more than others the opportunity to demand respect. (As, for example, even if such exploitation is not strictly speaking coercive, we may still criticize the overall distribution of wealth that allows sweatshop owners to do what is their right and offer sweatshop wages to desperate workers; see Wertheimer 1987, especially chap. 13, for this sort of argument.) And indeed, the institutions we maintain to provide contexts for our rhetorical transactions do suggest that we are trying to meet this concern. The Roman adoption of the secret ballot at trials can, for example, be viewed as an attempt to limit the power of dignity (and other influences, such as bribery) in judicial proceedings; as Cicero complained, it allowed jurors to keep their "faces open, thoughts hidden" before their betters (*Planc.* 16; see also *Leg.* 3.33-9). Modern courts have instituted an even stricter requirement, adopting a rule prohibiting advocates from personally endorsing the guilt or innocence of the accused.<sup>6</sup> And in general, we now try to maintain what Michael Walzer has called "the society of misters" (Walzer 1983: 258) or what Charles Taylor has described as the regime of "citizen dignity" (Taylor, 1992: 27), in which everyone has an equal, but only an equal, claim to respect.

All the same, it must be admitted that political theorists have at times found the Roman system of unequal dignity and (consequently) unequal authority not entirely unattractive. It puts the instruments of persuasive force into the hands of those who have proven conspicuously successful at civic affairs, constraining them meanwhile to act with care and putting them in a position to be held responsible should things go wrong. It was the first "invisible hand" theory, harnessing the love of recognition in service of the public good (Adair 1974; Pocock 1975: 517- 9; Hirschman 1977: 9-12). I am conscious that I have done



no more than survey some of issues here. But I hope it is enough to suggest that the appeal to the authority of dignity is at least not conspicuously unsound.

### 3. Other authorities

#### (a) The authority of experts

The charge of "fallacy" is ordinarily addressed not to the authority of dignity but to the authority of experts. Several attempts to rescue this more familiar appeal have organized much sound advice for those who need to rely on experts (usefully reviewed in Walton 1997: chapters 4 and 7). But I'm concerned that, however common sense, these analyses have yet to develop a model justifying our reliance on what others say they know. I join Coleman's recent inquiry: "on what basis can it be claimed that . . . these and only these are the conditions which must be satisfied" to exercise authoritative expertise (Coleman 1995: 373)? As the poet says, we are being told "everything about the wasp, except why."

To say *why*, we might begin by noticing the very great extent to which we rely on what Patrick Wilson has called "second-hand knowledge" (Wilson 1983).<sup>Z</sup> A brief inventory of my own mental contents suggests that I have secured for myself only a tiny fraction of what I think I know; most of my knowledge of political and foreign affairs and of the physical and natural worlds at scales above and below the "middle range" where I live comes from what other people have told me. Given this wide range where second-hand knowledge is the norm, it seems likely that there are many, many reasons for listening to what others say. In an extreme case, if I know I don't know then I might ask almost anyone else in an attempt to inform my guess. Douglas Walton is fond of this kind of example (e.g. Walton 1992: 43-4): one finds oneself lost in a foreign city, and asks directions. Or I might be in a situation where I am obliged to at least repeat back others' knowledge; I might be in school. Even if I think I know, I might be challenged to reconsider my belief if I found a consensus against me, since after all I do know that some things I think I know are wrong. Or I might require not only assurances that the other person knows, but also that she is taking my interests into consideration in giving me advice (Kauffeld 1998b). Or, or, or.

But none of these transactions would we call authority. To speak of an expert's authority is, according to the model developed in the previous section, to conceive of what is happening specifically as a "blackmail-and-bond" transaction. Consider first the "bond" aspect. What has the expert got to lose if what she says turns out to be wrong? Not her knowledge; either she didn't know what she was talking about in the first place, or she still knows now. Instead, what the expert backs her opinions with is her *reputation* for knowledge. Prior to her exercise of authority, she was recognized as knowledgeable--as an expert in a field. If it turns out she was wrong, she will be blamed, and her standing in others' eyes will drop. If she is wrong consistently, she will likely lose her expert status. Now, if it's clear that the expert benefits

from her reputation for knowledge, then her auditor can presume that when she stakes her reputation on her opinion, then that opinion is part of her "project" of being an expert: that she has done what needs to be done to secure her opinion, is speaking honestly and, in general, can be trusted.

What then is the "blackmail" or coercive effect exerted by an expert's reputation? An expert's say-so creates a portentous situation for the auditor. Given the expert's *manifest* knowledge, he will be acting with conspicuous imprudence if he fails to at least consider what she says. He may want to act prudently; or at least, he may want to avoid the consequences of appearing imprudent, including disesteem for wilfully ignoring a prior warning. Either way, it will be much more attractive to him to just go along, shifting responsibility for the matter onto the expert's shoulders.

I don't have room here to examine actual transactions to confirm this hypothesis through rhetorical inquiry. But I can say that our institutions and practices of expertise do seem to be consistent with this conception of expert authority. In particular, our "knowledge industry" or our "sites for the production of knowledge"—that is, the contemporary academy—could be more accurately described as sites for the production of the reputation for knowledge. The most visible outputs of the industry are, after all, credentials: tokens or "outward and visible signs" of recognition. There are degrees, earned and honorary, awards, prizes, appointments and citation analyses for individuals; reputational rankings and Nobel prize counts for institutions. Even the central act of scholarship, publication, can be seen not so much as a stage in the testing of a hypothesis (that, after all, could be achieved through blind review) but as a necessary step to secure reputation. Wilson comments: "Individual workers not only try to make such additions [to the body of public knowledge] but also to be recognized as having done so. Workers in this industry do not seek anonymity. They seek reputation, which depends on how much of a contribution one is thought to have made to the increase of public knowledge. Reputation is not (or not exclusively) sought for its own sake but for the recognition of cognitive authority that will be based on it. One can view the public sector of the knowledge industry as a collection of arenas of struggle for authority. Each actor in the arena tries to force others to recognize him as having the highest possible degree of cognitive authority within the sphere of the struggle. The chief way of doing this is by making contributions that the others working in the same area find themselves, however reluctantly, compelled to recognize as interesting and important; and the contributions must be public—that is, published" (Wilson 1983: 44). Overall, the academy seems to work as a system for reliably creating and accumulating reputation for knowledge, even as the Roman constitution was a system for creating and accumulating reputation for civic achievements.

Lest this seem too cynical, let me add that such a system need not be corrupt. As Isocrates commented about the system of civic recognition, the easiest way to appear as something is to be it. If so, then our system for accumulating expertise may be quite attractive, for it puts the instruments of persuasive force

into the hands of those who have proven conspicuously knowledgeable, constraining them meanwhile to act with care and putting them in a position to be held responsible should things go wrong.

(b) The authority of command.

Finally, I turn to the question of authority in its perhaps most paradigmatic form: why we as citizens rightfully obey official commands, including perhaps the commands of the law. This is of course a philosophical problem that has generated a deal of intelligent discussion; as provoked, say, by Wolff's challenge *In Defense of Anarchism* (Wolff 1970). Here I can do no more than point to how the model I propose might add to the conversation.

Begin by noting that Cicero would have found our question unintelligible. The Romans had a vocabulary of power much richer than our own. They knew the *dominium* of master over slave (and other property), the *imperium* of general or governor over troops or provincials, the *potestas* of father over son, or magistrate over some affair, the *magisterium* of teacher over student and the *regnum* of ruler over subject. But they did not conceive the relations between citizens (I need to add, *qua* citizens) in any of these terms. Quite the contrary, they did what they could to exclude all such powers from the civic realm; they were anarchists, if not precisely of a Wolffian or philosophical bent. Those holding military command could not enter into the sacred boundaries of the city. Notoriously therefore republican Rome went without police; citizenly self-help and the dignity of the great were relied on to keep minimal order. And an ordinary way of attacking a leading citizen--as, we saw, Cicero's opponents attacked him--was to accuse him of trying to achieve lordship, command, power, mastery or rule over his fellows. There were, in short, supposed to be no official commands for the citizen to obey. Roman *libertas* meant precisely the citizen's being free of command, however abashed by dignity or subject to powers he might be in other spheres.

But for us, the authority of commands *is* a question. We have surrounded ourselves, even as citizens, with officials petty and great: tax collectors, building inspectors, cops. Why, when we question them, do we question their *authority*? We, unlike the Romans, must (I propose) be taking what happens when an official gives an order as a "blackmail-and-bond" transaction. It seems clear enough what trouble the commanded person faces. Failure to do as commanded is disobedient; the commanded may want to be obedient, or at least he may want to avoid the consequences of disobedience, such as coercion or punishment. And we certainly possess institutions effective for catching him out and sending him away. But to call the transaction *authority* requires also the second dimension: the commander's responsibility. The official issuing the commands must be putting something on the line--putting on the line what gave her authority in the first place. There must be reliable means, in the hands of those she commands, for stripping her of her very officialness should things, according to them, turn out badly. Similarly, we could by extension speak of the authority of the law, if the law, or perhaps the

lawmakers, could reliably be held responsible, and un-lawed.

It remains to be seen whether the authority of command is desirable or necessary: whether power even with such a guarantee is legitimate. It also remains to consider the social arrangements that might realize the conditions of such a "bond," assuring those commanded that the commander can be held responsible for a failure to meet their standards. In his

Philip Pettit (Pettit 1997) has recently opened an inquiry in these directions, arguing for a republican conception of liberty as non-domination and republican institutions to achieve it. Liberty in this view does not consist in freedom from all interference; interference does not limit liberty if it "tracks" the interests of those interfered with and can be held accountable for doing so. But this seems precisely parallel with the model of authority developed in this essay. So it might be that if some form of power counts as authority, then that power is compatible with republican liberty.

That argument I will follow no further. Still, it would seem to be a step forward to understand what question we are asking when we question authority. To confront all power by asking its authority is to seek a specific kind of answer. It may be that framing just this question is the peculiarly modern contribution to the history of human freedom.<sup>8</sup>

## ENDNOTES

<sup>1</sup> I rely throughout on Berry's fine edition and commentary of the *Pro P. Sulla Oratio* (Berry 1996). References to the speech identify the standard section numbers. Translations are my own; I have attempted to preserve Cicero's word choice and structure at the cost of English elegance. The reader may also consult the complete translation by MacDonald in the Loeb series (MacDonald 1989).

<sup>2</sup> Berry suggests that Cicero's argument is circular: that he tries to prove his client's innocence by his authority, his authority by his integrity, and his integrity by his client's innocence (Berry 1996: 293). The analysis here suggests that it would be better to say that as finally designed, Cicero's say-so accomplishes two things simultaneously. As Cicero himself puts it, he employs his express utterance both to defend his constancy and to bring his authority to bear (*utor hac voce*, 14).

<sup>3</sup> I oversimplify. For recent and relatively plain language reviews of the capacities and incapacities of "cheap talk," see the articles by Farrell and Rabin (1996) and by Austen-Smith (1992).

<sup>4</sup> In the debate--taking place as this paper was written--surrounding NATO's bombing of Serbia for "ethnic cleansing" of Kosovo, it is most commonly being argued that continued military action is (or is not) required to secure NATO's

"credibility"--a perspective that tends to emphasize the (respectable) "bond" over the (unappealing) "blackmail" aspect of the transaction. But it is still possible to say, for example: "The Serbs' bloodlust appears to have increased in direct proportion to the air strikes. But the answer, as problematic as it might appear, is not to halt the air strikes. That would make a hero out of Slobodan Milosevic, at least in the eyes of his minions. More importantly, it would vastly undermine NATO's integrity, *authority* and power" ("Now Justice" 1999: 44, emphasis added).

5 There are special situations where the ethical problems still need to be sorted out. For example, even if the appeal is not criticizably coercive in the basic two-person case, it may become suspect when a third party's rights are involved. Cicero deserves respect from his immediate auditors, but they as jurors also have obligations (perhaps to the public in general, to the prosecutor or to the accused). In that case it may be that Cicero by appealing to his authority is indirectly treating these third parties unfairly; or it may just be that the jurors have conflicting reasons for action that they will need to deal with somehow.

6 E.g., "A lawyer shall not . . . in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused," ABA Model Rules, 3.4(e).

7 In this discussion, I take citations of third party authorities by participants in an argumentative exchange to be parasitic on the two-party transaction between an expert who states her opinion and the non-expert who finds himself bound by it. see Colernan; Walton 1997: chap. 5.7.

8 I am happy to thank Fred Kauffeld, Steve Wildman and Tom Goodnight for their advice and support. I alone of course am responsible for what I have done with it.

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