INTRODUCTION

The charge against Gaius Verres is that during a period of three years he has laid waste the province of Sicily: that he has plundered Sicilian communities, stripped bare Sicilian homes, and pillaged Sicilian temples. Here before you, here with their tale of wrong, stand the whole Sicilian people.

(In Caecilium div. *3.11*)

THIS BOOK IS ABOUT THE ORIGINS OF ART AS CULTURAL PROPERTY AND the competing claims that arise when it is seized, appropriated, and collected by a stronger authority. In the long experience of frequent, almost constant warfare in the ancient Mediterranean, we can trace evolving attitudes and expectations about what should happen to this category of an enemy's property during and after battle. Greek and Roman authors comment on art captured in war because art was of central importance to both cultures, and its fate reflected the effects of war on people. Art was also vulnerable to seizure by other agencies with the power to do so: magistrates, governors, and emperors sometimes took coveted items for their own use, and such confiscations were remembered and deplored.

The seizure of statues, paintings, and other art in peacetime, not by an enemy but by the Roman magistrate who had been chosen to govern prosperous Sicily under Roman law, is a central theme in a set of speeches written to prosecute that governor by Marcus Tullius Cicero. This famous Roman legal case of the first century BCE provides

vivid evidence illustrating how issues of ownership of art were then regarded. Because of the continuing prestige of its author, the legal case became an ancient but compelling precedent used in debates during the eighteenth century on the same topics of ownership of art, its fate in wartime, and the ethics of collecting art.

Cicero used the topic of stolen and confiscated art, taken by the very magistrate who was supposed to guarantee stability and security on the island, as a way of making his case urgent to a Roman audience that might otherwise be inclined toward indifference to details of maladministration in a foreign province. Cicero's speeches prosecuting the governor Gaius Verres were never lost and have had a wide audience over many centuries.

Here I address the questions posed by Cicero's use of art in his prosecution of Verres and the impact of his discussion on modern views about the ethics of ownership of art: Why do we [Romans] value art? Who should "own" art? Does art have a fixed location where it belongs? What should happen to it in time of war? When should the victors in war allow the defeated to retain their art, and why should they? Cicero is the first author to discuss these critical questions. Roman experience helped shape the reasoning that provided the historical genesis and foundation for our current laws on the ownership of art.

Greek art in quantity first arrived in Rome as plunder, a result of Rome's expansion into southern Italy and Sicily and then mainland Greece. Roman victories over Greeks resulted in huge amounts of captured booty, including bullion, human captives, moveable goods, and works of art of all sorts. As their military power expanded across the Mediterranean in the first three centuries BCE, the Romans developed a fairly systematic way of dealing with such a vast amount of plunder: a portion was usually dedicated to the gods, including significant captured statues of gods; the sale of captives provided slaves that became ubiquitous in society; money helped fund the army and state treasury;

and other Greek statues, paintings, furniture, tapestries, dishes, clothing, and jewelry were eagerly sought by the wealthy, whose appetite for them did not escape criticism.

The blend of Greco-Roman styles into a notably "Roman" art that would characterize the first and second centuries CE had not yet been realized, and ancient authors depict this as a time when tension was still felt around the opposition between Greek and Roman cultural norms. In part, this was due to the means of acquisition: much of Greek art (often representations of gods) had been taken from Greeks in war as booty, from religious contexts in sanctuaries. Also at work for ancient authors such as Polybius, Cato, Livy, Sallust, and Seneca was nostalgia for the allegedly simpler observances of the Roman past that did not depend on elegant statuary and for the more rustic, plain houses of past heroic Romans, whose austerities were thought to have contributed to their sterling characters. Less than two decades after Cicero's death, any actual cultural tensions began to dissolve into a new and creative cultural synthesis under the emperor Augustus.

Rome faced problems administrating her vast territorial holdings by the first century BCE. The political and legal superstructure that had served Republican Rome so well while she was expanding her control over all of Italy and much of Europe was being undermined by the very people who were entrusted with government. Gaius Verres, a member of the Senate, was brought to trial at the request of the Sicilians because his actions as governor of Sicily had been particularly egregious. When Cicero agreed to prosecute Verres on behalf of the Sicilians, he was then a young lawyer still building his reputation and eager to participate in a prominent case. The prosecution of Verres opened on August 5, 70 BCE, and Cicero's first short speech and the documentary evidence he presented were so damning that Verres immediately went into exile.

Soon after the trial, Cicero published the speech he gave together with five further speeches, written as though they had been actually

delivered in the Forum. Cicero draws a vivid portrait of Verres as an administrator who acted with extreme avarice and duplicity in all aspects of his office and who, in addition, was a peculiarly unscrupulous collector of art. The theme of Verres' improper acquisition of art is the main topic of one of the speeches, and many references to his theft of art occur throughout the others, including the one Cicero had delivered in the Forum. After Cicero published them, the speeches were circulated widely and soon became a model for students of rhetoric, then an essential tool for any participant in public life. Among the earliest literary papyri in Latin found in Egypt is a section of the *Verrines*, perhaps dating to about 20 BCE, just fifty years after the trial.

Cicero was following literary precedents by taking such an interest in art, especially statues. Ancient literary interest in statues – their theft, ownership, and restitution – reflected a deep, pervasive, cultural respect for statuary. This respect included recognition of a spectrum of potency for images of gods and significant humans, from the merely decorative to the potentially numinous, a vehicle for divine manifestation and communication of divine will. Statues were a striking and memorable part of the visual environment in public spaces and temples, and they symbolized power, authority, and celebrity. They were so numerous that they comprised a kind of "second population" in ancient cities and, like living citizens, they belonged in a particular place. The interest in statuary is a part of the ancient authors' larger, primary topic of what happens in war and its aftermath, to those who win and those who lose, including the bronze and marble population: the fate of captured statuary is a symbolic parallel for human fate.

I begin with an overview of the major episodes of plundering in the ancient Near East and in classical Greece that are documented by inscriptions, ancient authors, and the archaeological record. There is a clear record of unease felt over artistic plunder taken from temples and sanctuaries, where most of the captured art had been dedicated, because

its seizure was a serious religious violation and could have retributory consequences. Military episodes of plunder in Greece served as "case law" for Cicero in his prosecution of Verres and offered a body of well-known precedents that he could use to persuade the jurors. Cicero's case was so effective and widely disseminated that we can see its impact in the attitudes expressed by later Roman authors. The ambivalence felt by some Romans about taking art as plunder, as detailed by Cicero in the *Verrines*, becomes an underlying theme in subsequent historical accounts of earlier events projected into the more distant Roman past, such as those described by Livy. Cicero's idealized portraits of compassionate generals who return art to the defeated (drawn as a contrast to Verres) are implicit in later texts and inscriptions referring to the protection of art by Julius Caesar, Augustus, and Claudius.

In the second chapter, I provide an account of Greek Sicily in the time of Cicero, the setting for Verres' depredations, his trial in Rome, and the aftermath, including Cicero's publication of the speeches. The Greeks in Sicily and southern Italy had always been Rome's neighbors, but now Rome ruled them and, although close geographically, they were still viewed ambivalently as foreigners, weak militarily but part of an older, more sophisticated culture. I describe the particulars of the trial and details about the publication of the speeches because the historical context and its explicit cultural tensions are crucial for understanding why Cicero discusses art as he does and why the speeches from this legal case had such an impact.

Next, I discuss views about the social place of art presented by Cicero: at the time of the trial, the appetite of the elite for owning Greek art was increasing, with growing private wealth making acquisition and collection possible. For the modern student of ancient art history, the extensive text of the *Verrines* yields considerable insight into the expectations and assumptions of one particular class of Romans – Cicero, his associates, and readers in the earlier part of the first century BCE – about

Greek statuary, painting, and other portable art. Cicero is the first author to make careful distinctions between public and private uses of art, and he conveys a sense of what is appropriate for each sphere of expression.

Pervasive in his speeches is his view that the primary purpose of art is usually religious expression, that content, context, and veneration elevate art from the merely decorative and utilitarian. Through vivid anecdotes in the *Verrines*, Cicero presents indirectly the first extended commentary from antiquity on the social uses and purposes of art, through the filter of his rhetorical denunciation of one exceptionally avaricious individual, the defendant Verres. His ideas about the social place and ownership of art may seem familiar, since they became embedded in subsequent discussions in antiquity, most notably that of Pliny the Elder. But Cicero's views were not unique. He organized his material according to appropriate rhetorical categories that he expected would persuade his readers, and he must have used preexisting ideas about art and its purposes that they would have understood and appreciated. These widely held views, articulated with skill and elegance by Cicero, were then taken up and repeated in new contexts by subsequent Latin authors, who together convey a distinctively "Roman" set of attitudes about art and its ownership.

Crucial to the success of Cicero's rhetorical strategy is his assumption that art does have a larger significance than just a simple possession, an assumption we still hold. For affluent Romans of Cicero's time, collecting and owning Greek art had become possible only recently, and it soon became indispensable to a suitably furnished life. Gaius Verres was exceptional for his criminal excess and greed, not for his taste. Yet appetite for Greek art, for both private and public uses, continued unabated, and in Chapter 4, I discuss how notable Romans resolved the issues raised by Verres' negative example, including his late-first-century antithesis Novius Vindex. When Constantine moved

the capital of the empire to Constantinople, once again Greek sanctuaries were plundered for the sake of decorating the new capital with furnishings considered necessary for a "new Rome."

In the last chapter, I follow the path of reception of Cicero's ideas about art and their impact in the early modern period. When Cicero's *Verrines* were brought into wider circulation in the Renaissance, they were read avidly and helped to form the general opinion then held that Cicero was the greatest stylist ever. Sicily and Sicilian Greeks are the constant foil for Verres, and when scholarly attention now shifted to Sicilian history, the *Verrines* provided important historical background because Cicero had to educate his immediate listeners about Sicily and its history. In the sixteenth century, Sicily was beginning to be viewed as a part of Italy once again: the Dominican monk Leandro Alberti, for example, had hoped to write a history of Sicily as a continuation of his larger projects on Italy. That was accomplished by another Dominican monk, Tomaso Fazello, author of the first topographical account of Sicily (published in 1558), who used Cicero's speeches as an authority for factual detail. His book in turn influenced the learned treatise of P. Cluverius (1619) and many subsequent descriptions and travel accounts of Sicily written during the following two centuries. This kept alive awareness of the events of Verres' governorship and his nefarious acquisition of art among an audience eager to participate (even if only by reading) in this part of the "Grand Tour."

Because of Cicero's skillful rhetoric and superb prose, the speeches continued to influence later generations of readers, and his views about the appropriate use of art had a decided impact. In eighteenth-century England and France, the speeches were read appreciatively as models of colorful rhetoric – once again important for public careers – and as a component of standard education in Latin. Cicero's strategy includes depicting ideal behavior for administrators and the military as a contrast to Verres' venality and ruthlessness. For readers in the eighteenth

century, this idealism set the tone in public debates on topics ranging from the responsibilities of imperial administration abroad to the ethics of collecting art from Greece and Italy and the fate of art in wartime.

The actual charges brought against Verres were for extortion as governor, and that part of Cicero's text served as a model for Edmund Burke in his lengthy prosecution of Warren Hastings (1788–1793), the first governor of India. For seven years, readers of London newspapers received heavy doses of Ciceronian arguments used by Burke, and some editors provided exegesis and discussion of the original case against Verres. This kept in the public eye tales of art theft in the Roman period, as well as peculation and excessive taxation, as a comparison with contemporary events.

Napoleon and Lord Elgin were excoriated in print for behaving like Verres, and when the opportunity came after Waterloo in the autumn of 1815, the Duke of Wellington arranged for art plundered by Napoleon's army to be returned to Italy, where it belonged, he believed, rather than in Windsor Castle. Although the *Verrines* are just a small portion of Cicero's preserved writings, Cicero's authority in eighteenth- and early-nineteenth-century England and France was so great that even his idealism on these issues was taken up as a model and contributed to the concept of "cultural property." Our basic assumptions about art and its ownership have evolved since then but still owe much to Roman antecedents.

In our own time, looted, stolen, and confiscated art – whether taken in peace or war – has again provoked ongoing debate and litigation, discussed briefly in the Epilogue. Art is highly valued, just as it was in Cicero's time, and so too is there debate about issues of mode of acquisition and ownership. Cicero's comments on art and how later readers used them are worth investigating because they provided the historical genesis for our concepts of "cultural property" and "cultural heritage." Questions about proper ownership of art considered cultural

property have become perennial human concerns; an examination of Cicero's views and their subsequent impact will clarify the fundamental basis for current law and even our own attitudes. I hope to demonstrate in this book the continuing relevance of Cicero's ethical commentary on the acquisition of art.

It is surprising that no modern, full commentary on the *Verrines* exists, even though they have been admired since antiquity and are rich with historical detail: we truly need such a commentary. A thorough, very useful commentary on one of the speeches has been published by Gianluigi Baldo (*In C. Verrem actionis secundae, Liber Quartus* [*De Signis*], 2004). Yet the speeches have not been neglected by classicists: numerous articles and chapters in recent books deal with particular aspects and how they illuminate Roman history and culture in the first century BCE. Certain individual selections of the speeches have been published with commentaries as textbooks for students of Latin, some of them excellent. Students of archaeology and art history will be familiar with the *Verrines* from the excerpts given in sourcebooks on Greek and Roman art used to illustrate Roman appetite for Greek art. Scholars have analyzed rhetorical characteristics of the speeches, most notably Ann Vasaly in *Representations: Images of the World in Ciceronian Oratory* (1993). Shane Butler investigated Cicero's use of written evidence in the case and draws attention to the very significant implications of this legal case for our understanding of literacy and the use of documents in the Roman world (*The Hand of Cicero*, 2002). Frank Cowles's historical study of Gaius Verres, a short monograph published in 1917, and his effort to discern the man behind Cicero's rhetorical presentation remains the fullest modern treatment of the speeches as a whole. The modern scholarly bibliography on Cicero and his other writings is already enormous and rapidly growing (we are in the midst of a Ciceronian revival), but the *Verrines* still need further study. My focus on Cicero's comments on the social place of art and on the impact

of his speeches in later generations is just one of many possible topics one could take up from the *Verrines*.

So vivid is Cicero's text that it becomes cinematic, as we follow Verres' early career as a magistrate, manipulating inheritances and cheating on construction of the Temple of Castor and Pollux in the Forum of Rome; taking gold from the Parthenon, statues from Delos, and images from the Temple of Hera on Samos on his trip overseas as quaestor; forcing himself on young women in Asia Minor; and thus setting up a "pattern of behavior" that he will repeat in full as propraetor in Sicily. Verres' cupidity evidently had many targets but also a special goal: the collection of Greek art.

As I use the term here, *art* includes a range of traditional artifacts that have more than just the intrinsic value of their material: antique statues are the foremost category desired by Verres, but he also wanted paintings, tapestries, and special garments; vessels of every sort, made of gold, silver, or bronze; and lots of ornate and luxurious furniture. It is precisely in this period in Roman history, the first half of the first century BCE, that art begins to emerge as a category of objects considered valuable for its aesthetic qualities; however, throughout antiquity, any aesthetic evaluation tends to be subordinate to other religious, social, or political values. The nineteenth-century concept of "art for art's sake" lay far in the future. Nonetheless, it is here, in the activities of Verres, that we can see the first well-documented attempt of a private individual (not a pharaoh, king, or prince) to build a private "collection" of art, extracted from its religious and public settings and gathered with a connoisseur's attitude.

Cicero's rhetorical portrait of Verres is intended to prosecute and succeeds in overwhelming condemnation, even though the legal charge is extortion, not theft of art. Stolen art, however, is the topic of enduring interest over two millennia. My account of the development of ideas about the fate of art in war, and art as plunder more generally,