

# REPUBLICANISM

A THEORY OF FREEDOM  
AND GOVERNMENT

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# INTRODUCTION

## *Ideas and politics*

It would be utopian to think that what happens in politics is a function of the normative ideas that circulate in and around the political world. The form that institutional policies assume, and the shape in which institutional patterns stabilize, are determined as much by the interests of the parties involved, and by their views on empirical questions—by their views, for example, on what is electorally and institutionally feasible—as it is by their ideas as to how things ought ideally to be.

Yet normative ideas are of the first importance in political life. For it is only possible for politicians and public officials to gain support for the policies they pursue to the extent that they can represent them as legitimate: to the extent that they can represent them as policies that are motivated by this or that agreed, or more or less agreed, commitment. Even the secret police of Eastern European societies couldn't keep communist regimes in place once it became a matter of common recognition that the ideals associated with those regimes were not well conceived, or at least not well targeted, and that few continued to believe in them.

The normative ideas that circulate in and around political life are rarely as coordinated, of course, as the ideas that permeated communist systems. In today's advanced democracies they come in different currents that whirl and eddy around the prominent policy-making issues. Sometimes these currents move together and create a momentum in support of one or another policy direction; sometimes they pull against one another and generate a chaotic and unpredictable pattern.

The main currents that wash around our policy-making rocks are easy to identify. One is the current of economic ideas about the importance of satisfying the preferences, whatever they are, that people bring to the social world and about the need to devise efficient disciplines—usually market-like disciplines—for ensuring maximal preference-satisfaction. Another is the current of ideas about people's universal rights, whether these rights be conceived in a thin or a rich fashion, and about the requirement that political institutions respect and foster the enjoyment of those rights. Yet another is the current of ideas that gives prominence to issues of welfare or fairness or

## 2 Introduction

equality—or that focuses on corresponding grievances like poverty or exploitation, subordination or oppression—and that argues for a system which delivers this or that set of valued outcomes. And another, of course, is the current of democratic ideas that associates legitimacy, more or less exclusively, with whatever policies and patterns derive from the will of the people, as majority opinion is described in this tradition, or at least from the will of the people's elected representatives.

These currents in the whirlpool of contemporary politics are often represented, usefully enough, as rival languages or discourses of legitimation. They are languages or discourses—and not, for example, theories or ideologies—because they allow those who speak them to disagree and debate with each another on matters of detailed policy. They consist in shared assumptions that are abstract enough to leave room for differences and germane enough to act as constraints on debate about those differences; they make conversation possible without predetermining its direction. While they share many common idioms—one, as we shall mention, is the idiom of freedom—they are sufficiently distinct to be cast as rival systems for the political criticism and legitimation of institutional arrangements.

### *Political philosophy*

Granted that politics is inevitably conducted in normative language: in the language, now of this current of ideas, now of that. Granted, in other words, that politics always has the aspect—the partial aspect—of a conversation. What does this say about the role of the normative political theorist: or, if you prefer, the political philosopher?

It implies that whatever else the political philosopher may do, one obvious project is the examination of the languages of political discussion and legitimation, the critique of various of the assumptions from which those languages start, the exploration of how far the languages cohere with one another and with the languages of other times and places, and the search for new and broader terms in which to frame political debate.

This is both a humdrum and an exciting task. It is exciting to the extent that it challenges the philosopher to step back and examine matters that pass without notice in the hurly-burly of engaged debate. It holds out the possibility of making the language in which you choose to discuss political issues truly your own. You can become aware of the presuppositions it carries, and mould them to your own mind,

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rather than being carried along in a medium of debate and thought that commits you in ways that systematically escape notice. To the philosopher's eye the unexamined language, whether it be a language of politics, or ethics, or free will, or consciousness, is not worth speaking: it may introduce too many unwanted assumptions. The excitement of the task described here, like that of any philosophical task, is the excitement of mastering your medium, assuming a degree of control over thoughts that will otherwise control you.

But the task described here is also humdrum. For whatever the individual philosopher achieves in the way of insight and mastery, all that he or she can ever hope to represent is one contribution, at one specific time, in one specific forum, to a conversation that is destined to outrun any efforts they may make to direct it. The conversation of politics, such as it exists in today's advanced democracies, is constantly evolving and shifting, as now one language, now another, comes to the fore, and as the debate turns now in this direction, now in that. No one individual, and so no one philosopher, can expect to do more than play a very humdrum part. They can expect to make their voice heard only in a small circle, and if they reach other audiences that will almost always be because others happen to be saying related things: they are part of a conversational cascade.

It is very important that philosophers recognize this limitation on what they may hope to achieve. If a philosopher comes to the business of political conversation with the ambition of providing the political philosophy to end political philosophies—the philosophical voice to drown out all other voices—then they are bound to be disillusioned. And such disillusion can breed an attitude of despair and scepticism towards the possibilities of conversation in general. It can lead theorists to imagine, as so many contemporaries like to imagine, that there is no real conversation in politics, only the play of naked power: that political argument and exchange never amounts to anything more than the ceremonial waving of flags. Finding that they cannot bend the public conversation to the grain of their own reason, they conclude that there is no reason there at all: not even the sort of reason that is never quickly implemented, never perfectly implemented, never implemented under just its own impetus, and never implemented on all fronts at once.

Such theorists look at developments over the last two hundred years, for example, and refuse to see any signs of conversationally motivated agreement or influence. They fail to notice the long, broken, but still influential debates that took place in various countries on such issues as the abolition of slavery, the reform of pocket boroughs, the

#### 4 Introduction

provision of compulsory education, the extension of the franchise, the admission of women to parliament, the provision of social security, the systematic organization of hospitals, and the development of public health schemes. They make it a badge of professional insight to find grounds for cynicism about the value of any such development or about its having occurred as the result, even in part, of reasoned demand or reasoned outrage.

But to say that no one individual philosopher can expect to do much alone is not to say that political philosophy as such does not achieve anything significant. The prospect of political conversation coming entirely adrift from the reflection of political philosophers is a bleak and chilling scenario. For it is mainly by virtue of the work of such theorists that the terms of political conversation are systematically interrogated and interrelated, and occasionally renewed or replaced. A conversation without any corner for sustained reflection of this kind would quickly run to ground in a babel of dogmatic assertion and counter-assertion. If political philosophers did not exist, we would have to invent them.

#### *The republican turn*

So much on the nature of politics—or at least on the conversational aspect of politics—and on the role of political philosophy. What, then, do I intend to achieve by my efforts in this book?

I want to remind my colleagues in political philosophy—and, ideally, in the more general audience that the discipline sometimes attracts—of a sort of grievance, and a sort of ideal, that has not been given enough attention in contemporary debates. I want to articulate the grievance in question as a complaint about being dominated and the ideal in question as a vision of being free. I want to show that this language of domination and freedom—this language of freedom as non-domination—connects with the long, republican tradition of thought that shaped many of the most important institutions and constitutions that we associate with democracy. And I want to argue that there is very good reason to find a place again for this language in contemporary political discussion. Thinking about politics in terms of the demands of freedom as non-domination gives us a very full and persuasive picture of what it is reasonable to expect of a decent state and a decent civil society.

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another, having to live in a manner that leaves you vulnerable to some ill that the other is in a position arbitrarily to impose; and this, in particular, when each of you is in a position to see that you are dominated by the other, in a position to see that you each see this, and so on. It is the grievance expressed by the wife who finds herself in a position where her husband can beat her at will, and without any possibility of redress; by the employee who dare not raise a complaint against an employer, and who is vulnerable to any of a range of abuses, some petty, some serious, that the employer may choose to perpetrate; by the debtor who has to depend on the grace of the moneylender, or the bank official, for avoiding utter destitution and ruin; and by the welfare dependant who finds that they are vulnerable to the caprice of a counter clerk for whether or not their children will receive meal vouchers.

Contemporary thought suggests that individuals in these positions retain their freedom to the extent that they are not actively coerced or obstructed. But whether or not they avoid interference, they certainly have a grievance. They live in the shadow of the other's presence, even if no arm is raised against them. They live in uncertainty about the other's reactions and in need of keeping a weather eye open for the other's moods. They find themselves in a position where they are demeaned by their vulnerability, being unable to look the other in the eye, and where they may even be forced to fawn or toady or flatter in the attempt to ingratiate themselves.

It turns out, so I argue here, that under an older, republican way of thinking about freedom, individuals in such a dominated position are straightforwardly unfree. No domination without unfreedom, even if the dominating agent stays their hand. Being unfree does not consist in being restrained; on the contrary, the restraint of a fair system of law—a non-arbitrary regime—does not make you unfree. Being unfree consists rather in being subject to arbitrary sway: being subject to the potentially capricious will or the potentially idiosyncratic judgement of another. Freedom involves emancipation from any such subordination, liberation from any such dependency. It requires the capacity to stand eye to eye with your fellow citizens, in a shared awareness that none of you has a power of arbitrary interference over another.

The older, republican tradition of which I speak is the tradition associated with Cicero at the time of the Roman Republic; with Machiavelli—'the divine Machiavel' of the *Discourses*—and various other writers of the Renaissance Italian republics; with James Harrington and a host of lesser figures in and after the period of the English Civil War and Commonwealth; and with the many theorists of republic or commonwealth in eighteenth-century England and

## 6 Introduction

America and France. I focus most often on the 'commonwealthmen' who dominated English and American political thought in the late seventeenth and in the eighteenth century. The commonwealthmen were devoted to the ideal of freedom as non-domination—freedom as escape from the arbitrary—and they helped to shape habits of political reflex and thought that still survive today. Their distinctive refrain was that, while the cause of freedom as non-domination rests squarely with the state and its officials—it is mainly thanks to the state and the constitution, after all, that people enjoy such freedom—still those officials are also an inherent threat and people have to strive to 'keep the bastards honest'; the price of liberty is eternal vigilance.

When traditional commonwealthmen and republicans hailed the ideal of freedom as non-domination, they only ever imagined that it was an ideal for an élite of propertied, mainstream males; they were all men, after all, and men of their times. But there is every reason why we should reappropriate their ideal and reintroduce it as a universal ideal for the members of a contemporary society. That, at any rate, is my own conviction, as will become clear in the course of the book. I believe that the notion of freedom as non-domination fits with many of our agreed preconceptions, that it picks up important desiderata that are already inscribed in many of our institutions, and that it can serve to articulate a compelling account of what a decent state and a decent civil society should do for its members.

I said earlier that there are many languages of legitimation present in the world of democratic politics today. One of the striking features of those languages, however, is that all of them, at one point or another, invoke the notion of freedom; all of them share a common idiom of freedom or liberty. The language of economics directs us to the free market and to the freedom to make whatever contracts we will with one another; the language of rights focuses on rights of free thought, free expression, free movement, and the like; the language of welfare and fairness and equality, or of poverty and exploitation and subordination, claims to articulate the requirements necessary for enjoying freedom or for making freedom effective. And the language of democratic legitimation harps on the legitimacy of what a free people freely decide, and on the way in which individual persons share in that collective freedom.

This overlapping idiom of freedom gives an indication of the importance that all of us, or at least all of us who identify with western-style democracies, naturally assign to the notion of freedom. However we interpret it, the notion has mantric standing in our thought. The fact of this status means that my argument about the republican ideal of

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### *Republicanism*

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freedom has more than antiquarian or analytical interest. I maintain that the traditional, republican ideal of freedom supports and unifies a compelling manifesto of political demands, and that if a state and a society looks after the freedom as non-domination of its members, then most other desiderata will look after themselves. Whatever may be said of this claim, the centrality of the notion of freedom means that it should at least command attention. It may be mistaken but it surely isn't boring.

Neither, I should say, is the claim idiosyncratic. I am not alone in finding the republican tradition of thought a fruitful source of ideas and ideals. Historians like John Pocock (1975) and Quentin Skinner (1978; 1983; 1984) have not only made the tradition visible to us in the past couple of decades; they have also shown how it can give us a new perspective on contemporary politics. Skinner in particular has argued that it can give us a new understanding of freedom and my own argument builds on this, as I indicate in the first chapter. Legal thinkers like Cass Sunstein (1990*a*; 1993*a*; 1993*b*), on the other hand, have gone back to the republican tradition in its distinctively American incarnation in the late 1800s, and have made a strong case for the claim that the tradition suggests a distinctive way of interpreting the US Constitution and, more generally, that it gives us an insightful overview on the role of government. I make a variety of connections with Sunstein's work in the later part of the book. Criminologists and regulatory theorists like John Braithwaite, with whom I have actively collaborated, find in the republican tradition a set of compelling ideas for articulating both the demands that we should place on a regulatory system—say, the criminal justice system—and the expectations that we should hold out for how those demands can be best met (Ayres and Braithwaite 1992). And these are just a few thinkers among many commentators who have begun to chart republican connections, and sometimes to draw actively on republican ideas, in recent years.<sup>1</sup>

### *Republicanism, populism, liberalism*

When thinkers like Skinner, Sunstein, and Braithwaite describe themselves as republican, and when indeed I describe myself in that way, I

<sup>1</sup> e.g., Nicolet (1982), Ferry and Renaut (1985), Michelman (1986), Elkin (1987), Pagden (1987), Weintraub (1988), Taylor (1989), Oldfield (1990), Bock *et al.* (1990), Rahe (1992), Fontana (1994), Hutton (1995), Blom (1995), Spitz (1995*a*), Viroli (1992; 1995). See too Pettit (1996*c*).



should mention that the tradition with which we identify is not the sort of tradition—ultimately, the populist tradition—that hails the democratic participation of the people as one of the highest forms of good and that often waxes lyrical, in communitarian vein, about the desirability of the close, homogeneous society that popular participation is often taken to presuppose (Philp 1996). The republican tradition that is characterized in this book is not inherently populist in this way and indeed, as we shall see later, not particularly communitarian. Republican freedom is a communitarian ideal, in a sense explicated in Chapter 4, but the ideal is compatible with modern pluralistic forms of society. And while the republican tradition finds value and importance in democratic participation, it does not treat it as a bedrock value. Democratic participation may be essential to the republic, but that is because it is necessary for promoting the enjoyment of freedom as non-domination, not because of its independent attractions: not because freedom, as a positive conception would suggest, is nothing more or less than the right of democratic participation.

This point is important to stress because the term ‘republican’ has come to be associated in many circles, probably under the influence of Hannah Arendt (1958, 1973), with a communitarian and populist approach (Viroli 1992: 286–7). Such an approach represents the people in their collective presence as master and the state as servant, and suggests that the people ought to rely on state representatives and officials only where absolutely necessary: direct democracy, whether by assembly or plebiscite, is the systematically preferred option. The commonwealth or republican position, by contrast, sees the people as trustor, both individually and collectively, and sees the state as trustee: in particular, it sees the people as trusting the state to ensure a dispensation of non-arbitrary rule. For this position direct democracy may often be a very bad thing, since it may ensure the ultimate form of arbitrariness: the tyranny of a majority. Democratic instruments of control will certainly be desirable and indispensable, but they are not the be-all and end-all of good government.

So much for the populist alternative to republicanism. What now of the relationship between the republican tradition, as I envisage it, and perhaps the more salient alternative that is represented by the liberal conception of politics?

The republican tradition, as I shall argue, shares with liberalism the presumption that it is possible to organize a viable state and a viable civil society on a basis that transcends many religious and related divides. To that extent many liberals will claim the tradition as their own. But liberalism has been associated over the two hundred years of

its development, an alternative conception of freedom. The liberal assumption that the people have a right to exercise that power in their relationships in the nation and unfreed with issues of poverty that is usually based on a commitment to freedom and satisfaction of basic needs between people.

Liberalism, as I think of liberals as distinguish between make non-interference embrace values like to the value of non-liberals or libertarians it is enough to establish I should mention with this way of c They will see the republican position and they would pr republicanism, and republicanism/lib

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its development, and in most of its influential varieties, with the negative conception of freedom as the absence of interference, and with the assumption that there is nothing inherently oppressive about some people having dominating power over others, provided they do not exercise that power and are not likely to exercise it. This relative indifference to power or domination has made liberalism tolerant of relationships in the home, in the workplace, in the electorate, and elsewhere, that the republican must denounce as paradigms of domination and unfreedom. And it has meant that if liberals are concerned with issues of poverty, ignorance, insecurity and the like, as many are, that is usually because of some commitment independent of their commitment to freedom as non-interference: say, a commitment to the satisfaction of basic needs, or to the realization of a certain equality between people.

Liberalism, as I construct it here, is a broad church (Ryan 1993). I think of liberals as those who embrace freedom as non-interference. I distinguish between left-of-centre liberals, who stress the need to make non-interference an effective value, not just a formal one, or who embrace values like equality or the elimination of poverty in addition to the value of non-interference, and right-of-centre liberals—classic liberals or libertarians (Machan and Rasmussen 1995)—who think that it is enough to establish non-interference as a formal, legal reality. But I should mention that many left-of-centre liberals will be unhappy with this way of casting things (Larmore 1993: ch. 7; Holmes 1995). They will see their liberalism as having more in common with the republican position than with the libertarian (Ackerman 1991: 29–30) and they would probably want to give up the taxonomy of populism, republicanism, and liberalism in favour of an alternative like populism, republicanism/liberalism, and libertarianism.

There is something to be said for this alternative. I mentioned that, where the populist image of government represents the people as master and the state as servant, the republican or commonwealth image depicts the people as trustor, the state as trustee. Left-of-centre liberals would almost certainly endorse this trustor–trustee image also, and one attraction in the proposed taxonomy is that libertarianism can be linked to a third and different image of the relationship between people and state. Self-described libertarians tend to think of the people as an aggregate of atomized individuals—an aggregate without a collective identity—and they represent the state as ideally nothing more than an apparatus for accommodating individuals in the pursuit of their atomized concerns. The model is not that of master and servant, nor that of trustor and trustee, but rather that of an aggregate of

individuals and an apparatus for ensuring their individual satisfaction. For those who like taxonomies that go deep on a number of dimensions, the best available may be: populist, republican/liberal, and libertarian.

But this consideration notwithstanding, I intend to stick with my presentation of liberalism as a broad church that encompasses both left-of-centre liberals and libertarians. The reason is that my primary focus is on how different theorists think of freedom, and I believe that most of those who describe themselves as liberals—most, not all (see Gaus 1983; Raz 1986)—think of freedom in the negative way as non-interference; certainly they do not think of it in the republican fashion as non-domination. Left-of-centre liberals will find the republican line advanced in this book attractive in its institutional implications. But I think that most of them should be ready to admit that the line is supported here from a distinctive base. It may be a base that was familiar to those in the commonwealth tradition that they admire—it may have been familiar to the likes of Harrington and Locke, Montesquieu and Madison—but it is not a base that is generally recognized in self-consciously liberal writing.

Some historians of thought will balk at the breezy way in which I speak here and later of the republican as distinct from the liberal or populist traditions, and a word of qualification is required. While this book starts from a notion of freedom with a distinctive historical provenance, and while I have emphasized that aspect of things in this introduction, the book is not essentially tied to many controversial theses in the history of ideas. Perhaps republicanism is not deserving of the name of a tradition, for example, not being sufficiently coherent or connected to be treated in that way. Perhaps there is such a break in the new seventeenth-century concern about the power of the state—the power of the state as distinct from that of the powerful—that we cannot see a single tradition spanning that rupture (Pasquino, forthcoming; see also Michelman 1986; Manent 1987). Or perhaps there are other grounds for subdividing what I present as one tradition into different periods or strands. I do not have to commit myself on these detailed sorts of question.

All that I strictly need to claim is that the representation of freedom as immunity to arbitrary control is found in many historical authors, that it is a distinctive and challenging conception of the ideal, and that it is worthy of consideration in contemporary political philosophy. I go further than that, of course, in the story that I tell about republican thought. I treat the belief in freedom as non-domination as a unifying theme which binds together thinkers of very different periods and

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very different background philosophies. And I suggest that the commitment to this theme generates shared institutional concerns among such thinkers: concerns about the character of law and government, about the checks and controls on public authorities, and about the cultivation of virtue and the avoidance of corruption. But this historical aspect of the book is secondary. If historians of ideas find it misleading, then they should regard the more substantive historical suggestions as simplifications that are justified only by the colour that they give to my philosophical claims.

### *The case for republicanism*

Why should I expect populists and liberals, whether liberals of a rightist or a leftist bent, to give a hearing to the republican approach? Every grand approach to politics gives us an axiom or set of axioms from which judgements on more particular institutional matters are meant to flow; the axioms need not represent a unique base of justification, as in a foundationalist scheme, but they do claim to be a good starting-point for organizing intuitions. Any such approach is bound to be judged, then, on two fronts: one, for the attractions of the axiom or axioms, both in themselves and in the organizational role that they are allotted; and two, for the plausibility and adequacy of the theorems that are derived from those axioms. The picture fits with John Rawls's (1971) method of reflective equilibrium, as described later in this book.

Republican theory should recommend itself to all competitors, I believe, in the axiom from which it starts. The republican conception of liberty should appeal to liberals, in so far as it focuses on people's individual power of choice and thus has much in common with the negative notion of freedom as non-interference. And it should appeal to populists in so far as it requires, as I argue, that non-dominating government has to track the interests and ideas of ordinary people; this is the idea that lies behind the positive, populist notion of freedom as democratic self-mastery. The central axiom of republican thought is not a newfangled notion, and is not even a notion, like justice or equality, that depends for its attraction on the acceptance of a controverted vision. It is traditional and modest enough, in itself, to make a claim on the attention of all comers.

But though republican theory is organized around a modest and traditional starting-point, it is extremely fruitful and challenging in the

theorems about government institutions which it enables us to derive. It does not leave us with the sparse and heartless sort of government with which rightist liberals pretend to be satisfied. And it does not support the interventionist, majoritarian rule—the potentially tyrannical sort of rule—which populists have to countenance. It points us in a direction that is closest to that embraced by left-of-centre liberals, as the book exemplifies, offering a rival axiomization of many of their intuitions. But the rival axiomization has two advantages. First, it starts from a base that is less contentious than the base which leftist liberals generally espouse; it offers a common ground on which to argue, for example, with their rightist opponents. And second, the republican axiomization develops even shared intuitions in a highly distinctive and yet compelling way. As will become clear, for example, it offers an attractive way of justifying egalitarian and even communitarian intuitions. And it supports an exciting way of rethinking democratic institutions, in which the notion of consent is displaced by that of contestability.

### *The plan of the book*

And so finally to the plan of the book. Chapter 1 tells the story of how the republican notion of freedom emerged and stabilized, and of how it was eclipsed at the very moment of its most conspicuous success in the debates surrounding the American Revolution. It was at this time that the notion of freedom as non-interference took over from that of freedom as non-domination, so I suggest, and that liberalism replaced republicanism as the dominant political philosophy. Chapter 2 gives a philosophical articulation of the notion of freedom as non-domination, regimenting the idea formally and displaying its points of contrast with freedom as non-interference. Chapter 3 argues for the capacity of freedom as non-domination to serve as a guiding ideal for the state. And then Chapter 4 charts the connections between freedom as non-domination and the values linked with it in the French trio of *liberté, égalité, fraternité*; this chapter is designed to display the egalitarian and communitarian character of freedom as non-domination, and to show the appeal that it should have as a political ideal.

Those first four chapters are followed by four that look at the institutional ramifications of organizing a state and a civil society so that the cause of freedom as non-domination is served as well as possible. Chapter 5 looks at what is going to be required of a modern state if it

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is to guard against the arbitrary sort of interference that individuals and groups may practise against one another in virtue of having different levels of resources, different levels of *dominium*. And then Chapter 6 looks at what is necessary if such a republican state is to promote non-domination successfully, and is not itself to represent a form of domination associated, in a twin term, with *imperium* (Kriegel 1995). Where Chapter 5 describes the aims of the republican state in controlling *dominium*—the causes with which it should identify, the policies which it should sponsor—Chapter 6 describes the forms that the state must assume if it is to control *imperium*: in particular, it describes the sort of constitutionalism and democracy required to guard against this danger. Chapter 7 looks at what can be done to make the realization of such republican aims and forms resilient or stable, providing regulatory checks against shortfalls and abuses. And Chapter 8 rounds off the discussion by arguing that if the republican state is to achieve its ends in relation to *dominium* and *imperium*, it must connect with a form of civil society in which republican values are firmly entrenched: it cannot expect to work such wonders on its own. Although this connection with civil society is left until last, it is of the utmost importance. Someone who reads just the first seven chapters of the book will miss one of the most significant aspects of the republicanism it defends.

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