

Still a City upon a Hill?

“The Soul of a Nation” by Wilfred M. McClay, in *The Public Interest* (Spring 2004),
1112 16th St., N.W., Ste. 140, Washington, D.C. 20036.

When the World Trade Center towers fell to earth, American flags suddenly sprouted everywhere, and millions of Americans flocked to churches for solace and strength. American “civil religion” was back, though for how long it’s difficult to say.

Civil religion blends the religious and the secular in a sometimes uneasy union, explains McClay, a historian at the University of Tennessee at Chattanooga, bestowing “many of the elements of religious sentiment and faith upon fundamental political and social institutions.” It’s the civil religion that makes the Declaration of Independence a “sacred” text and the religious notion of America as a “city upon a hill” a secular touchstone. And it’s the civil religion that steels Americans to sacrifice for the common good.

Throughout American history, there have been critics who’ve seen the whole idea of civil religion as a dangerous invitation to national self-righteousness or to religion’s subordination to the state. But most Americans have accepted the civil religion, concerning themselves chiefly with the constant renegotiation of the boundary between the political and the religious that it involves.

Since the 1980s, however, there has been growing disenchantment among committed Christians on the Left and Right, who question whether Christianity is compatible with an America that pursues such policies as intervention abroad (says the Left) or legalized abortion (says the Right). The liberal Methodist theologians Stanley Hauerwas and William Willimon even argued in 1989 that churches should see themselves as “colonies in the midst of an alien culture.”

That disenchantment has been fueled by the rising strength of those who question the place of *any* civil religion in America. It can be seen in the criticism of President George W. Bush’s post-9/11 “God talk”—which is perfectly in conformity with American tradition, says McClay—and the current controversies over the Pledge of Allegiance, gay marriage, and bioethics. Yes, McClay concludes, there’s always a danger of too close an identification between the religious and the political, but a greater danger today is that committed Christians will choose to confine their faith to their churches and cease to consider themselves “loyal and obedient American citizens.”

Talking Back to the Court

“We the People” by Larry Kramer, in *Boston Review* (Feb.–Mar. 2004), E53–407,
Massachusetts Institute of Technology, Cambridge, Mass. 02139.

Nearly everyone now takes it for granted that the final word on the Constitution’s meaning belongs to the Supreme Court. Yet “broad acceptance of judicial supremacy is of surprisingly recent vintage”—and ought to be overturned, argues Kramer, a law professor at New York University.

Judicial supremacy didn’t begin with *Marbury v. Madison* (1803), as is commonly supposed, he argues. That decision established the principle of judicial review of acts of Congress, but it didn’t imply that the Supreme Court would have the last

word on all things constitutional. In invalidating a federal statute, Chief Justice John Marshall avoided using Federalist arguments for judicial supremacy (though he favored it) and instead cribbed Democratic-Republican ones for “departmentalism.” This theory, which emerged in the 1790s, grew out of the notion that the different departments of government, by checking and balancing one another, would keep the people informed about controversial proposals. The people themselves would serve as the ultimate arbiter of