

Remarks by the Honorable Frank M. Coffin,  
Chief Judge, U. S. Court of Appeals  
for the First Circuit,  
Colby College Commencement,  
Waterville, Maine,  
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Confederation and Interdependence

Commencement has always been a problem for college presidents. They are prisoners of those roisterous and ribald medieval universities which went in for this sort of thing. The whole idea is a strange transplant to our soil -- to get everybody gussied up in costumes they will never wear again, rouse them early on a Sunday morning after a last fling, and assemble them for something they never hear at that time of day except from a pulpit, when all -- both graduates and their parents -- have their minds on a thousand other things. Yet the institution serves a purpose or it would not have survived for six or seven hundred years. The commencement address remains the most effective mechanism available to college and university officials to reduce a large audience to silence and create an atmosphere in which the presentation of diplomas will appear as an exciting event. True, we have made the mistake of having such addresses in English rather than in Greek or Latin; this has created the unfortunate expectation that the content of these addresses will match the significance of the occasion.

When I bespoke my skepticism to your persuasive President, he said, "Well, even so, it's a good chance to say something that's been on your mind." So this is what I shall do. I shall feel better for having done it. What has been on my mind increasingly in recent months is an old fashioned word, "patriotism", in a new kind of context, and contemplating enlarged dimensions of patria. What I have to say will sound strange in the light of today's headlines and rhetoric. What gives me courage to say it is the actuarial fact that your life expectancy is long. By the year 2000 you will be only 46 or 47 years old.

Sixteen years ago, in 1959, I spoke to another college graduating class. On rereading that address I was struck by the tricks that fate has up its sleeve. I said to those graduates "[O]ur history has been one of almost continued success . . . [The past decade has been one] of release from the coiled spring of public crisis, a decade of concentration on one's job, and home, and family. For you the decade was one of immersion in your high school and college experience. You cannot justly be blamed for thinking that domestic repose and tranquillity is the permanent posture of our national life." Nothing could seem to us more archaic or more bucolic.

You graduate from college remembering assassinations, violence on the streets and campuses, the inexorable crumbling of our foreign policy in southeast Asia, the exposure of incredible corruption at the highest levels of our government, an economy reeling from inflation and unemployment, and a world increasingly rent assunder by the relentless pressure of 80 million additional people each year on limited food, dwindling oil, and polluted oceans.

At such a time we are also, a month hence, to enter our 200th year of independence. It is a time of both humiliation and celebration. Whether we would have chosen this time or not, it is the only major national birthday any of us shall ever see. Paradoxically, I think this can be an excellent time for a bicentennial. For there is no better way to celebrate it than to try to see what

we have learned from our past that can be useful for our future. And, since creative reflection finds a better soil in humility than in arrogance, 1975 is a better time for cerebral celebration than the placid 'fifties.

One of the lessons from our past comes close to being a parable for our times. It teaches us how, out of the clay of clashing interests mixed with a modicum of idealism, talent, and energy, subjected to the crucible of harsh necessity, durable institutions can emerge. I refer to the making of our Constitution and the conditions which led our Founding Fathers to that fateful and incredibly complex decision. Today we look upon the founders as almost demigods in our Pantheon of heroes. The truth of the matter is, the historians tell us, that while some of the signers had stars in their eyes, most of them had their share of orneriness and scheming self interest. The saving grace was that there were a dozen of the thirty-six possessed of extraordinary talent.

Much of what transpired in the dozen years between Independence and the ratification of the Constitution was shaped by the interests and maneuvers of several groups: those who held notes issued by the state governments or the Continental Congress to fund the war against the British; those who had gotten hold of or wished to get the goods and lands of Tory loyalists; those involved in speculative schemes to sell the western lands claimed by various colonies; merchants seeking freedom to trade; and growers seeking markets. All the Founding Fathers -- Franklin, Jefferson, Hamilton, Madison, Washington and so on -- were enmeshed in the machinations of one or more of these groups. In their day this was not to be looked down upon; it was the business and agriculture of their land, and it went with them to the counsels of state. The best differed from the worst only in methods and depth of thought.

They were also men of ideas. After Britain and the states made peace, unifying and divisive forces began to operate against one another. There was need of a central government. Different states vying for foreign trade allowed the European nations to play them off against each other so that whoever prevailed got a bad bargain, and the European merchants prospered. Speculation in the public debt and the use of state governments by whatever group of creditors or debtors held sway crippled the economies of many of the great port cities where stability and capital were needed to fund mercantile development. Growers in turn were hurt by erratic markets. The Spanish on the Mississippi and the British along the Great Lakes encroached on the new nation's territory, hindering westward expansion, but the states were too much at odds over who had rights to the territory to make provision for its use. When western lands were sold, the public profited less than the speculators. The persecution of Tory merchants, in violation of the peace treaty, drove needed capital away. Poor and debt-ridden farmers staged a rebellion in Massachusetts; the Confederation Congress was unable to lift a finger to help the beleaguered state. The Indians began to stage terrorist raids in Georgia. New York and New Jersey clashed over the tariffs New York imposed on vessels bound to or from New Jersey, and the tax New Jersey imposed on the lighthouse New York maintained at Sandy Hook. Virginia, Maryland and Delaware fought over oyster rights.

In response to all this Congress did nothing. That was all it could do. It had no tax power, no power over the states, much of the time no quorum, and no court whose writ was respected in any state. It was a forum for bickering, but little more. These were the conditions which led men of differing interests and ideals to produce and ratify a compromise national Constitution which Madison felt was not too much for the states to swallow, and was strong enough to serve the nation for perhaps a generation. They built better than they knew, not because a few dreamers had the vision of a great nation, but because somehow barely enough debtors, creditors, planters,

merchants, shippers, artisans, and farmers came to see that they could not survive and prosper under the Articles of Confederation.

The Confederation was a loose league of sovereign states. Today the United Nations is a loose league of 138 sovereign nation-states, each ever so sensitive to its prerogatives, each shaping its own foreign policy. Today -- or if not today, a very close tomorrow -- the question is whether the planet can be so managed that mankind may survive on its limited resources, without committing suicide by war or pollution. Wherever we look we see problems which defy solution by the traditional approach of nation states. In peacekeeping, we see the inability of even the great powers to work their will, the proliferation of nuclear powers -- now approaching two dozen -- and of trade in weapons, and the spreading virus of terrorism. In resource allocation, we see the Arab nations, for a brief interval, rich in oil, but otherwise poor; Europe and Japan rich in technology but lacking in critical resources; Latin America lacking technology but with an abundance of people and some resources; North America rich in food and technology but lacking sources of energy and some raw materials; South Asia, rich in people and some technology, lacking food, energy, and resources; and 42 countries of the world, with one billion persons, lacking in everything except people.

Resources are so unevenly distributed that the creator must have intended some means of accommodation other than bilateral diplomacy under the ground rules of the Council of Vienna. Those ground rules have spawned the ugly concept of "triage", writing off the poorest of countries as hopeless, pushing them off the fragile raft to which they have been clinging. In business and finance, we see balance of payments crises exacerbated by massive oil debts, international inflation and recession, the demand for new trade barriers, and the omnipresence of the multinational corporation creating a demand for its regulation. And in environment, we see oil spills, air, river, and ocean pollution, radioactive waste, man-produced changes in climate, congestion in outer space and on radio wave frequencies, and the problems of exploitation and conservation of resources in and under the oceans -- all of which know no national boundaries.

Yet we -- and the world -- continue on a "business as usual" basis. A few weeks ago, I visited the United Nations building. A Dutch friend, a U.N. official himself, took me into the Delegate's Lounge to see a mammoth modern tapestry which had been given by the People's Republic of China. It portrayed the Great Wall of China, which, I am told, is the only man made structure on earth which one can see from the moon. I can think of nothing more inappropriate to hang in that place than what is probably the most grandiose representation ever made of a structure meant to separate one country from another. But at least it is an honest statement of the facts of life today.

The wall philosophy is not confined to China. In 1945, at the birth of the United Nations, would anyone have predicted that thirty years later, the United States would have fought for fifteen years in southeast Asia, negotiated an ineffective paper agreement in Paris, withdrawn its troops, evacuated a hundred thousand Vietnamese, sent in Marines to Kho Tang and bombed ships to secure the release of a freighter and its crew -- all without reference to the United Nations? Or that the most celebrated United States diplomat in recent memory should be known for his fast shuttling personal diplomacy -- as if the U.N. had never existed? I say this not because recourse to the U.N. at any particular moment would have been a better alternative. I think it may well have been, but I do not have enough knowledge to say so. I say this simply to make the point that we still live in the heyday of the nation state, the world being dependent on the chance that 138 different foreign policies will somehow avoid ultimate confrontation.

Simply put, this is a world hostile to the predicate of embripled nationalism. I do not

speaking as an idealist, coveting the neatness of a unitary, all-encompassing world government. I suppose I am a disciple of Justice Brandeis who disdained bigness in all its forms. I tend to think that we best manage our smallest institutions. A town, a college, a hospital, a small company -- we run these superbly well. From there on up, we go down hill. So I have no a priori ideal which moves me; I speak from unvarnished self interest. Human beings are, so far as we know, unique in the universe; I would like to think they could survive indefinitely. Nor do I think that it helps matters by speaking of a world government. There is too much diversity of tastes, cultures, values. But I do think that, if we are to serve humanity -- which is us -- we must shortly begin the turnover of some functions and some decisions to some kind of international machinery.

This is not impossible, although at present it is thought visionary to speak in these terms. Our forefathers, in 1787, faced a host of questions that we might think were impossible: how could states with large populations prevent dilution of their people's voice? how could small states avoid being swept aside by the big states? how could an evil or foolish president be checked? how could individuals be protected against impassioned majorities? To these questions a handful of men brought durable answers in Philadelphia. They had a deep sense of self interest and saw that they could not continue to live under their Articles of Confederation. And they were ingenious enough to change their system, even though it meant giving up some sovereignty of their precious states.

Today the stakes are much greater. It is not prosperity we seek, but survival. The great opportunity for this, the oldest of the large democracies, in its time of reflection and celebration, is to take some initiative to strengthen the machinery of interdependence. We have swelled with pride over the Mayaguez incident, where we showed a small nation that freedom of the seas was not to be trifled with. And we have earnestly reassured our allies that we really are reliable. But how much better it would be if we could take a risk in the direction of building a new set of structures. Have we not reached the point where access to orderly international process is more important than holding or influencing some remote real estate, and having ships, helicopters, and troops lurking off the shore of some far-off land? What if we, radically, were to submit an important controversy to the World Court -- that unheard of, little used, but distinguished body of international jurists? What if we voted for, instead of against, an appraisal of ways and means to improve the United Nations? What if we put our best people to work at trying to figure out various mechanisms, processes, and arrangements to strengthen international decision making -- different voting requirements, operation by consensus, improving the bureaucracy, different global compacts? In short, what if we brought to international looseness the same kind of ingenious, self interested, broad minded calculus that a handful of our forbears brought to the making of our own Constitution?

Such questions point to substituting the words "international policy" for "foreign policy", to stressing interdependence rather than independence, not as an article of idealistic aspiration but as a matter of profound self interest. Political leaders today cannot afford to speak in these terms, for any suggestion that we be prepared, however cautiously, to yield our power of decision in a given area to international machinery would be labeled as softheadedness. It will be possible to have serious national debate on this range of issues only when significant numbers of citizens like you serve notice that you expect our leaders to expand their definition of patriotism to embrace the whole of this tiny and fragile planet Earth.