

Remarks on Installation of Juan Torruella
as Chief Judge, U.S. Court of Appeals for the First Circuit
by Senior Circuit Judge Frank M. Coffin.
Boston, September 7, 1994.

103 years ago last June the Reverend Phillips Brooks offered up prayers for the brand new First Circuit Court of Appeals. Justice Horace Gray, Circuit Judge LeBaron Bradford Colt, and two district judges were on the bench. Today we celebrate the ascension of the court's 13th chief judge, the Honorable Juan R. Torruella. In the same period we have had 26 judges. The formula of one chief to one Indian has remained constant; even today, if we count Justice Breyer, five of our ten judges wear or have worn the mantle of chief. And, as between chiefs and Indians, you know who does the work.

Here, at the threshold of another stage in the distinguished career of Judge Torruella, I see every indication that he will be a superb chief judge. First, he is our most honored sailor. For thirty years we've been boat-oriented. Bailey Aldrich, long time skipper of his diminutive Misdemeanor, once cruised the Caribbean with Tom Cabot looking for treasure buried on a remote islet. I have also spent a good part of my life messing around in boats. And Judge Campbell once hosted our entire court in his Glockenspiel in the middle of Boston Harbor — all three of us: he, I, and Judge Bownes. True, Judge Breyer did most of his navigating on land and in law, but with what skill. Now comes our Olympics sailor who has followed Columbus's route to the new world. There is no truth to the rumor that the new courthouse plans provide for a slip for a 50 foot yacht. But I am optimistic that the day will come when we shall once again confirm the opinion of the bar that the First Circuit, as usual, is at sea.

There are other promising straws in the wind. Judge Torruella can criticize us unmercifully in Spanish without jeopardizing our cherished collegiality. As an experienced father, he is used to dealing with difficult children. He has been blessed with a wife who can curb any temperamental excesses. And, perhaps most important, he is bigger than any of us.

There are other, less dramatic reasons to be optimistic. Our new chief does not dissimulate; he is up front and completely open in his discussion of cases. He listens and has often proved that he can change his mind. And, what I intend as one of the highest compliments that can be paid to a judge, he is unpredictable. No ideology or formula encloses him. Finally, his great capacity for friendship, his deeply felt respect for his colleagues, and his surpassing fealty to this court all augur well for our court in the challenging period that lies ahead.

I close by noting a delicious irony. We are celebrating the induction of a descendant of far off Catalonia as Chief Judge of a bench established under Article III of our Constitution. Way back, at the turn of the century, Supreme Court Justice Henry Billings Brown, who reportedly bore no love for those of Hispanic background, wrote the central opinion in Downes v. Bidwell, one of the famous, or infamous, Insular Cases, in which he opined that "Puerto Rico is a territory appurtenant and belonging to the United States, but not a part of the United States within the revenue clauses of the Constitution [182 U.S. at 286]." This led Finley Peter Dunne, the beloved Mr. Dooley, to comment, "[N]o matter whether th' constitution follows th' flag or not, th' supreme coort follows th' illection returns."

Well, while Justice Brown may be whirling in his grave, we rejoice today that this American from Puerto Rico is not only appurtenant to us but thoroughly at home within Article III of our Constitution. We look forward to a happy and successful cruise under our new skipper.