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THE RESULTS OF THE 1998 PUERTO RICO
PLEBISCITE

REPORT

BY

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“The Results of the 1998 Puerto Rico Plebiscite”

Summary

On December 13, 1998, the government of Puerto Rico conducted a political status plebiscite under local election laws. The 1998 vote was an important effort by the local government to advance a process of self-determination leading to resolution of the political status of Puerto Rico. However, the plebiscite was inconclusive because the results do not constitute a clear expression of the will of the United States citizens of Puerto Rico regarding their ultimate political status. Congress should establish by federal statute a structured process of self-determination through which the ultimate political status of Puerto Rico can be resolved based on the constitutionally valid status options that Congress is willing to consider.

Background

On December 14, 1994, and again on January 23, 1997, Puerto Rico's Legislative Assembly formally petitioned Congress to sponsor a referendum on the future political status of Puerto Rico. Puerto Rico's petitions to Congress requested that the referendum be based on status definitions Congress judges to be compatible with the U.S. Constitution and federal law. See, H. Rept. 104-713, Part 1, pp. 50 & 51 and H. Rept. 105-13 1, Part 1, pp. 68 & 69.

The House responded to Puerto Rico's petitions on March 4, 1998, by approving H.R. 856, the United States-Puerto Rico Political Status Act, legislation to sponsor a status referendum on constitutionally valid options defined by federal law. On September 17, 1998, the United States Senate approved Resolution 279, supporting self-determination for Puerto Rico and confirming the authority of Congress to determine the ultimate status of Puerto Rico. While the approval of these measures demonstrated bipartisan support for self-determination and status resolution, the 105th Congress adjourned without approving final legislation authorizing a federally recognized self-determination process for Puerto Rico.

On August 17, 1998, while deliberations in Congress on the measures described above were on-going, the Legislative Assembly of Puerto Rico approved Public Law 249, authorizing a plebiscite under local law to be administered consistent with any measure Congress might adopt. Specifically, this local statute provided for a ballot presenting any status definitions approved by Congress prior to the vote, or, in lieu thereof if Congress failed to act, definitions prescribed by the Legislative Assembly of Puerto Rico based on the House passed bill (H.R. 856) and applicable U.S. Supreme Court rulings.

Because Congress did not sponsor a status vote before adjourning, by operation of the local plebiscite statute a status vote was held in Puerto Rico under local election laws on December 13,

1998. The definitions of status options on the plebiscite ballot were those prescribed by the local law and appear in Appendix A.

On February 22, 1999, the results of the vote held on December 13, 1998, were certified by the Governor of Puerto Rico, and appear at Appendix B. Thereafter, in a letter dated April 16, 1999, the Chairman of the Committee on Resources invited the three principal local political parties to present their views on the 1998 status vote for consideration by the Committee. In addition, an organization in Puerto Rico that was certified by the local election commission to advocate its interpretation of free association requested to submit its views on the 1998 vote to the Committee. The requesting letters and the materials submitted by these local political entities appear at Appendix C.

The record before the Committee indicates that this plebiscite was yet another impressive demonstration of the vitality and orderliness of the local constitutional and democratic process in Puerto Rico, with more than 71 percent of eligible voters participating in a lawfully conducted voting process. All three major parties, the New Progressive Party (NPP), the Popular Democratic Party (PDP) and the Puerto Rico Independence Party (PEP), as well as other organizations and individuals with a wide range of differing views, campaigned vigorously, freely and openly.

Although there were legal challenges to the plebiscite law in the courts, these were resolved without judicial intervention in the process. There were no reported incidents of fraud or abuse that call into question the legitimacy of the process.

Plebiscite History

The local plebiscite law governing the 1998 vote did not employ the same nomenclature for the status options on the ballot that had been used in previous status votes conducted under local law in 1967 and 1993. Instead of the traditional "statehood", "commonwealth" and "independence" terminology, the options were numbered 1 through 4. An additional "None of the Above" option was also added. Results of the 1998 vote in comparison to the 1967 and 1993 votes are displayed in Appendix D.

The December 13, 1998, ballot options for Statehood, Independence, and Free Association were supported respectively by the New Progressive Party, the Puerto Rico Independence Party, and PROELA, the parties certified by the Puerto Rico State Electoral Commission as advocates of their status. However, the Popular Democratic Party, which has been the long-standing advocate of commonwealth, did not support the Commonwealth ballot definition. Instead, the PDP officially adopted and advocated an alternative commonwealth definition that did not appear on the ballot and contained principles rejected on a bipartisan basis by the Committee on Resources during consideration of H.R. 856.

Conclusion

The actual meaning of the 1998 results may only be truly understood retrospectively after final resolution of Puerto Rico's status. Given the history of previous status votes, as well as the speculative nature of any interpretation of the "None of the Above" vote in 1998, the Committee concludes that the true will of the voters

in Puerto Rico regarding their ultimate political status can only be ascertained through further self-determination in the future.

Both the 1993 vote which led to Puerto Rico's petition for Congressional sponsorship of a status referendum in 1994, as well as the 1998 vote, confirm the validity and soundness of the Committee on Resources' recommendation in 1996, and again in 1997, that Congress by federal statute enable Puerto Rico to implement a structured process of self-determination based on constitutionally valid options Congress is willing to consider. Such a structured process of self-determination will enable Congress and the voters in Puerto Rico to make informed decisions with respect to status resolution.

Congress retains the plenary authority under article IV, section 3, clause 2 of the United States Constitution to determine the ultimate disposition of the political status of Puerto Rico and the United States citizens residing therein. Congress must fulfill its moral and legal responsibility toward self-determination and authorize a structured process of status resolution for Puerto Rico.