

Congress of the United States
House of Representatives
Washington, DC 20515-5401

November 14, 2012

The Hon. John A. Boehner
Speaker of the House
H-232 The Capitol
Washington, DC 20515

The Hon. Nancy Pelosi
House Minority Leader
H-204 The Capitol
Washington, DC 20515

The Hon. Harry Reid
Senate Majority Leader
S-221 The Capitol
Washington, DC 20510

The Hon. Mitch McConnell
Senate Minority Leader
S-230 The Capitol
Washington, DC 20510

Dear Speaker Boehner, Leader Pelosi, Leader Reid, and Leader McConnell:

As we finish the important work of the 112th Congress, I write to you regarding the November 6, 2012 political status plebiscite held in Puerto Rico. Although the final results of the plebiscite have not yet been certified by the Puerto Rico State Elections Commission, over 98 percent of the ballots have been tabulated. I would like to apprise you of these preliminary results, to describe their significance, and to express my hope and expectation that the 113th Congress will take appropriate action in light of these results. I sent a similar letter to President Obama yesterday.

The plebiscite ballot consisted of two questions. On the first question, voters were asked whether they want Puerto Rico to remain a U.S. territory, the status the Island has had since 1898. Over 1.74 million people responded to this question. That is approximately 75 percent of all registered voters in Puerto Rico, a level of participation that is substantially higher than the national turnout for the U.S. presidential election on the same day. More than 943,000 voters—54.0 percent—said they did not want the current territory status to continue, while about 803,400 voters—46.0 percent—said they did want it to continue.

On the second question, voters were asked to express their preference among the three alternatives to the current territory status that are legally and politically viable according to the federal government and international law: statehood, nationhood in free association with the United States, and independence. Over 1.32 million people chose an option. 61.13 percent—nearly 810,000 people—voted for statehood; 33.33 percent—about 442,000 people—voted for

Puerto Rico to become a freely associated state; and 5.54 percent—about 73,000 people—voted for independence. In addition, some 472,000 voters did not provide an answer, a point I will address below.

As evidenced by the hundreds of news reports that have appeared in the national and international press in the wake of this plebiscite, the vote was historic in several respects.

This was the first time voters were directly asked whether they want Puerto Rico to continue as a territory. One of the two main political parties in Puerto Rico, the Popular Democratic Party, strongly urged a “Yes” vote. Nevertheless, the “No” vote against the current territory status won by an eight-point margin, 54 percent to 46 percent. Those voting “No” included statehood supporters, as well as advocates of free association and independence.

There is no reasonable way to interpret these results as anything but a decisive rejection of the current territory status. This status deprives the U.S. citizens in Puerto Rico of the two most basic democratic rights: the right to choose the leaders who enact and execute their national laws, and the right to equal treatment under those laws. None of you would—or should—accept this status for your own constituents. So I know that you will respect the fact that my constituents no longer accept it either.

This vote fundamentally alters the terms of the status debate in Puerto Rico, which has seemingly been stuck in neutral for years. In my view, after this vote, the question is not whether, but when, Puerto Rico will cease to be a territory and will instead have a political status—either statehood or nationhood—that provides its people with full democratic rights and full equality under the law. In short: it is clear that a solid majority of my constituents want to close the long territory chapter in Puerto Rico’s political life, and to begin a fresh new chapter.

The result of the second question, which asked voters which status should replace the current territory status, is also of great significance. As noted, of the 1.32 million people who voted for one of the three viable alternatives to the current status, a supermajority of over 61 percent chose statehood. It is critical to note that the number of votes cast in favor of statehood on the second question—nearly 810,000—is also greater than the number of votes—803,400—cast in favor of the current status on the first question. For the first time ever, there are now more people in Puerto Rico who want to become a state than who want to continue as a territory. This fact further undermines the democratic legitimacy of the current status.

Naturally, some are seeking to downplay the historic nature of this plebiscite by citing the voters who left the second question blank at the urging of certain leaders in the Popular Democratic Party. This argument may have some superficial appeal, but it does not withstand scrutiny.

First and foremost, in our democracy, it is well-settled that outcomes are determined by ballots properly cast. Power rests with the citizen who votes, not the one who stays home or refuses to

choose from among the options provided. To conclude otherwise would be to turn the democratic process on its head.

Moreover, this was the first status vote in Puerto Rico's history to include only the valid status options. True self-determination is a choice among options that can actually be implemented, not an exercise in wishful thinking.

Logically, some (or all) voters who left the second question blank may have done so simply because they prefer the current status to any of the three possible alternatives. Those voters were able to—and did in fact—vote for the current status in the first question, so their viewpoint was fully reflected in the plebiscite results. Other voters may have declined to answer the second question because they were led to believe there was another status option that should have been on the ballot—namely, a proposal often called “Enhanced Commonwealth.” But each of the last four presidential administrations, Democratic and Republican alike, has considered and rejected this proposal as a valid status option,¹ as have all key congressional leaders who have examined the proposal.² A blank vote to protest the proper exclusion of an impossible status proposal is entitled to no weight.

To summarize: a majority of voters in Puerto Rico have soundly rejected the current status in favor of a new status. Among the three viable alternatives, statehood won a decisive victory. And, in an historical first, statehood obtained more votes than the current status (or any other status option).

*

*

*

In light of these results, the next Congress has a clear responsibility to act. First, the Constitution, though Article IV, Section 3, Clause 2, assigns Congress the responsibility “to dispose of and make all needful rules and regulations respecting the territory or other property

¹ See, e.g., March 2011 Report by the President's Task Force on Puerto Rico's Status, pg. 26 (“[C]onsistent with the legal conclusions reached by prior Task Force reports, one aspect of some proposals for enhanced Commonwealth remains constitutionally problematic—proposals that would establish a relationship between Puerto Rico and the Federal Government that could not be altered except by mutual consent. This was a focus of past Task Force reports. The Obama Administration has taken a fresh look at the issue of such mutual consent provisions, and it has concluded that such provisions would not be enforceable because a future Congress could choose to alter that relationship unilaterally.”)

² See, e.g., December 1, 2010 Letter from Chairman Jeff Bingaman and Ranking Republican Member Lisa Murkowski, Senate Committee on Energy and Natural Resources, to President Barack Obama (endorsing the view that the “Enhanced Commonwealth” proposal is “incompatible with the Constitution and basic laws of the United States in several respects”); see also House Report 111-294, accompanying H.R. 2499 in the 111th Congress (“Proposals for such a governing arrangement have been consistently opposed by federal authorities in the executive and legislative branches, including this Committee, on both constitutional and policy grounds. Nevertheless, this hybrid proposal continues to be promoted in Puerto Rico as a feasible status option. Such proposals have resulted in misinformed and inconclusive referenda in Puerto Rico in July 1967, November 1993, and December 1998.”)

belonging to the United States.” Second, the U.S. acquired Puerto Rico from Spain through the 1898 Treaty of Paris that ended the Spanish-American War, and Article IX of the Treaty states: “The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by Congress.” Finally, and most fundamentally, the United States is the greatest democracy in history and a champion of peaceful self-determination around the world. A clear majority of the American citizens of Puerto Rico have now expressed a desire to end the Island’s current undemocratic status and to have a fully democratic status. This expression of the democratic will must be met with meaningful action by Congress.

I look forward to working with you on this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "P. Pierluisi", written in a cursive style.

Pedro R. Pierluisi
Member of Congress

cc: Hon. Eric Cantor, House Majority Leader
Hon. Steny H. Hoyer, House Minority Leader