Packing the U.S. Senate

A 104-seat Upper Chamber is on the agenda if Democrats sweep the election.

By
The Editorial Board
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Democrats are threatening to pack the Supreme Court if Amy Coney Barrett is confirmed, but they might not have the Senate votes if the chamber is closely divided. No problem: The number of seats in the Senate, as on the High Court bench, can be adjusted to fit Democrats' evolving ideological preferences.

In June the House for the first time passed a bill that would make the District of Columbia a state, and Barack Obama in July called Puerto Rican statehood a progressive priority. Senate Democratic leader Chuck Schumer said recently that he'd "love to make them states." This can be done with an act of Congress, so a 104-seat Senate would be on the table with a Democratic sweep.

From the opinion pages of The Wall Street Journal, critical perspective and analysis on developments from Washington

Many Americans think they are voting for a temporary Democratic government after four years of Donald Trump. They may be surprised to find they actually voted for Senate-packing and a permanent shift in partisan power.

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Admission of states for partisan advantage was common as the U.S. frontier pushed westward in the 19th century, but it would be unprecedented in the modern era. The newest states, Alaska and Hawaii, were admitted as a pair in 1959 to maintain the Senate's political balance. Democrats wanted to admit Alaska to balance the Republican desire to admit Hawaii. President Eisenhower agreed to admit Alaska when he saw it was the only way to admit Hawaii. The partisan leaning of those states has changed, but the admission principle holds.

The admissions of the District of Columbia and Puerto Rico, by contrast, would both be designed to enlarge the Democrats' Senate majority. Puerto Rico sometimes elects GOP-aligned candidates, but Democrats would likely have an advantage once the statehood issue is taken out of Puerto Rican politics.

Statehood movements in Washington, D.C., and Puerto Rico have existed for decades, and both parties have endorsed a path to statehood for Puerto Rico if residents want it. But the political salience of both movements has exploded on the political left during the Trump Presidency. The shift is driven by two changes in Democratic politics.

First, Democrats have moved sharply to the left. Hard-left parties in the West since Marx have found their political base primarily in cities. Yet the American winner-take-all election system limits the electoral advantages from highly concentrated majorities. To be competitive in the Senate, Electoral College and even the House, parties need to reach beyond their electoral strongholds.

This means the median state is, for now, several points more Republican than the median U.S. voter. Yet the Senate has never aligned perfectly with popular opinion, nor was it designed to. Senate-packing is the left's remedy.

The second progressive ideological change is the growing view that American institutions are fundamentally corrupt, their purposes tainted by past sins. The Founders balanced state interests with the Connecticut Compromise, which represented states equally in the Senate and by population in the House. But if you're skeptical of the Founders' purposes and the Constitution's federal structure, as progressives increasingly are, the Senate is an affront to pure democracy. Democrats will justify Senate-packing as a step toward fairness rather than a power grab.

The Senate, with its six-year terms, was also designed as a brake on the country's ideological change and to foster compromise. Even as America's professional class has moved sharply to the left, bringing many of the country's institutions with it, the Senate is going on six years of Republican control. Since 2014 liberal Senate candidates struggled in states of all sizes outside the West Coast and Northeast.

As the statehood push intensifies, one argument Democrats will bring to bear is that because Washington, D.C., and Puerto Rico have large African-American and Latino populations, respectively, opposition to their immediate admission to the Union is racist. The party's media and academic wing is already pointing to calculations claiming that whites are overrepresented in the Senate. Yet U.S. partisan and ethnic distribution is not fixed but dynamic as it has been for all of U.S. history.

The Founders developed a model of representation that would hold a diverse republic together. Basing representation on race and identity politics—like Lebanon and Belgium—is not a model for national harmony or strength.

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The fight over statehood shouldn't be about partisan interests but the durability of the Constitution in a time of deepened polarization. As David Rivkin and Lee Casey noted in these pages in July, the Founders created a federally controlled district in the seat of U.S. government to maintain federal sovereignty. If D.C. were a state, it could use its power as leverage over the national government by withholding public services or not providing security.

As for Puerto Rico, the U.S. policy since the 1950s has been to move the territory toward statehood if it wishes. Yet strong Puerto Rican resistance—as well as a significant population that wants an independent commonwealth—remains. The results of a 2012 referendum are disputed, and a subsequent referendum was boycotted by the anti-statehood side. By admitting the territory in an act of partisan brinkmanship, a polarized U.S. would absorb a state with a secessionist movement.

That's not to say new U.S. states should be ruled out indefinitely. But making Senate-packing a new front in America's cycle of partisan escalation could delegitimize institutions in ways even advocates can't imagine. Mr. Trump has undermined many 20th-century American political norms. If Democrats get power, they need to decide if they want to restore normalcy or act on their own version of 19th-century scorched-earth politics. We wish we could say the latter outcome isn't more likely.