

# BIDEN'S SUPREME COURT COMMISSION IS ABOUT ONE THING

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Disregard the policy, the law school lecture language, the obfuscation and don't be misled by the bureaucratic psychobabble.

President Joe Biden's executive order creation of a commission to study of the U. S. Supreme Court is about one thing - court packing, expanding the nine-member court by an as yet undetermined number whose only qualification will be a pledge to carry out the Democratic Party's left wing agenda.

The order is another in the administration's inch by excruciating inch leftward, attempting mollify the party's vocal progressives to whom expanding the court and stocking it with jurists who share their views is a non-negotiable demand.

The left's lukewarm reaction to Biden's order, however, is a warning to the president that the progressives' appetite for imposing their rigid ideology on government is insatiable.

As a candidate, Biden opposed court expansion, once describing it as "boneheaded."

Weeks before his election he declared he was open to a broad study of the court, including but not confined to its membership.

In broad and often vague terms, the announcement promoted the task of the 36-member commission as "providing an analysis of the principal arguments for and against Supreme Court reform, including an appraisal of the merits and legality of particular reform proposals."

The commission would address such topics as "the genesis of the reform debate; the Court's role in the Constitutional system; the length of service and turnover of justices on the court; the membership and size of the court; and the court's case selection, rules and practices."

Tucked in there near the conclusion, one finds the only issue that genuinely matters - "the membership and size of the court."

At his core, Biden is an institutionalist who believes in a government of order and balance with each branch respecting the Constitutional prerogatives of the others and paying deference to the principle of co-equality.

He is also a centrist, a believer in building consensus, receptive to negotiation and compromise - qualities dismissed by the far left and many on the right as outdated and quaint notions no longer relevant in today's polarized political environment.

It was little noticed, but the White House provided further explanation of the commission's role: It will not deliver specific recommendations to Biden at the conclusion of its report and its findings will merely guide Biden's thinking on the matter.

The clarification prompted suspicion Biden intends to use the study to put court packing to rest, a not uncommon tactic to buy time, use the interval for the issue to fade, and eventually move toward a predetermined decision.

Biden's long history has shaped his conviction that expanding the court to achieve ideological ends would turn the tribunal into a political arm of the party in power - a politicization that will undermine the court's independence and destroy public confidence in it as an unbiased, fair-minded arbiter of justice.

Requiring nominees to the court to commit to rule in favor of a politically driven outcome would crumble the institutionalist foundation so revered by Biden.

It is contrary to the view of every judicial nominee of both parties to refrain from pre-judging cases or engaging in discussions of specific issues which could come before the court.

Many in Congress worry also that increasing court membership invites retaliation should partisan control swing to Republicans who would move to repeal the expansion, no matter the ensuing administrative chaos.

Biden has indicated his openness to working with the left wing but he's also made clear their style - "we give you a list of demands and you accede to them or face mayhem" - isn't acceptable.

Biden's attempt at appeasement is understandable (unity is preferable to factionalism), but his patience and understanding have limits.

He may have better served himself as well as served notice on his critics on the left that he still believed court packing is "boneheaded."

Moreover, convincing the razor thin majority in the House and the numerical tie in the Senate to support legislation to add justices is impossible.

Biden could have emerged from the controversy with his institutionalist posture burnished and with broad political and popular support if he had acted quickly and decisively.

It seems that with the commission report due in six months, Biden's Christmas gift to the left will be a refusal to satisfy its appetite.

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