Supreme Court ruling puts torpedo in administrative state

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The Supreme Court has gutted one of the load-bearing walls of the deep state, returning power to the people and likely making life much more affordable in the long run. On a 6-to-3 vote, the court said President Trump can fire at will allegedly independent bureaucrats, meaning we're closer to a day when voters control the government, not the other way around.

This welcome result comes courtesy of the long-anticipated Trump v. Slaughter case, which revisits a 90-year-old precedent called Humphrey's Executor that insulated independent agencies from dismissal by the president.

Previously, firings of employees directly within the president's administrative control could only be "for cause," and disagreement over political issues was not a cause.

The justices ruled that requirement unconstitutional, and now, those government employees will serve at the president's pleasure. The justices decided, however, that a member of the Federal Reserve Board of Governors could stay on a technicality.

Overturning the artificial protection enjoyed by bureaucrats matters because the alphabet soup of independent agencies controls some of the most important policy levers in the federal government, including the Federal Trade Commission, which can block corporate mergers and was the agency at issue in Slaughter.

Then there are the SEC, CFTC, and FDIC — which control financial markets and banking insurance. There's the FCC — which controls free speech. The FEC — elections. The NLRB — labor markets and unions. FERC — every aspect of energy markets. The EEOC — affirmative action. And the USITC controls much of trade policy.

Throw any three or four letters together, and you'll probably have another bureaucracy with way too much control over our lives — one that simultaneously imposes astronomically high regulatory compliance costs that, well, slaughter consumers and businesses alike.

These agencies make up a substantial part of the federal government, all previously outside the control of the president. That puts them outside the control of voters, whose only influence is the president and Congress they elect. But with the filibuster paralyzing Congress, that boils down to only the president if you want something to change.

The decision in Slaughter put the ball back in voters' hands.

How did we get here? It started with socialist Progressives waging a century-long jihad to take the government away from voters and turn it into a self-licking ice cream cone that, in practice, serves the Progressive revolution.

The landmark moment was the 1883 Pendleton Act, which established an independent bureaucracy insulated from political — and therefore voter — control. The excuse was to fight corruption, which, of course, only got stronger, and voters became spectators while federal workers became an occupying army.

Good presidents could stop things from getting worse but couldn't undo previous damage; the deep state was born.

It consolidated into socalled independent boards starting in 1887 with the Interstate Commerce Commission, which unconstitutionally regulated business, then it took off in FDR's socialist New Deal, with dozens of alphabet-soup agencies created to rule the country without voters.

By 1946, this occupying army won the right to effectively write law, with the Administrative Procedure Act, and then wrangled for itself near-immunity from being fired in the 1978 Civil Service Reform Act.

That brings us to today, when almost 90% of laws are written by bureaucrats, not by elected officials. And, until the Supreme Court intervened last month, there was nothing you could do about it.

Slaughter now joins a parade of recent decisions turning the tide, including Seila, Collins, and Loper Bright that give presidents more control over bureaucrats while giving Congress a bigger role in actually writing the laws that, according to the Constitution, they alone are supposed to write.

Fewer bureaucrats creating fewer rules and regulations mean less costs imposed on Americans.

But there are miles to go. On the very same day, the justices stayed Mr. Trump's firing of Fed Governor Lisa Cook — allegedly on a technicality, though possibly out of reluctance to let elected presidents influence the Federal Reserve, an unconstitutional body that all but controls the economy.

Meanwhile, while Loper and now Slaughter dramatically reshuffle the cards, federal rulemaking, court deference, and federal worker protections remain stubborn and will need multiple decisions to root out.

For now, Mr. Trump can purge independent agencies so they stop sabotaging his agenda, while agencies like FTC and SEC are likely to pull back on major regulatory pushes to keep their heads down.

Later, we could see major reductions in the regulatory tax on the economy that studies imply could double or even quadruple wages. And, assuming the Cook firing is refiled with the technicalities fixed, we could even see a Federal Reserve that actually answers to the people it abuses.

•*Peter St. Onge is a senior economist and E.J. Antoni the chief economist at the Heritage Foundation.*