

Your guide to a disrupted world

Offer not available to existing subscribers

Save 33%

Opinion **The FT View**

The Supreme Court has weakened legal predictability in America

Turn to the right has consequences not just for social issues but economy and business

THE EDITORIAL BOARD

invalidate state labour laws, kneecapping popular progressive efforts to ban child labour, improve working conditions and limit working hours.

In both periods, Americans had to live for years with the fallout from such repressive rulings. But there was an inevitable backlash, and ultimately a progressive reversal of such legal precedents. The backlash to today's court is already brewing. A Gallup poll shows that confidence in the Supreme Court has sunk to a record low and some Democrats are beginning to complain that certain Trump-appointed justices illegitimately occupy their seats.

Beyond this, there are big worries within the business and investment community about how this court's rulings are dismantling the federal administrative state. In some cases, they are giving individual states more power to make their own decisions; in others they are limiting what federal agencies from the EPA to the Securities and Exchange Commission can do.

This has major implications for US business. Companies that have pledged to support their workers with equal access to healthcare must now worry that they could be sued for providing benefits that allow a female employee to seek out-of-state abortion services.

Likewise, companies that want to address climate change are dismayed by the court's decision that prevents the EPA from using the Clean Air Act to drive investment in green technology and force a shift to cleaner energy. The EPA is not the only federal agency that would be affected by the court's rulings. There is already concern about whether various SEC regulations could be challenged by the industry as exceeding their statutory authority. That could lead to a chaotic situation in which new products go unregulated or face different rules in different states.

Some investors inside and outside the country are asking whether the US is becoming less of a rich, liberal and predictable democracy. To the extent that Republicans represent the business community, this is something that should worry them. Business needs stability to thrive. Having a clear law of the land is perhaps the most important aspect of stability. Today's Supreme Court has moved away from that, to the detriment of both politics and economics.

