### Index

**Abigail Alliance v FDA (2008) 412**
- access 218–20
- accountability argument 319

**Acid Rain Trading Program (1990) 381**
- acyclicity and social choice 247
- administrative law 21, 24–5, 38, 286, 311, 312, 334, 336, 337, 339, 342, 344, 352, 353, 414
- Administrative Procedure Act (1946) 40, 292, 340–45, 354, 364, 379
- administrators 73–4, 76, 79
- adverse selection 337
- advocacy groups 376–7
- agency costs 24
discretion 338
- officials, appointment and removal of 298–9
- see also statutory interpretation by agencies
- agenda manipulation 236
- agenda setting 89–92, 94, 179, 243–5
- aggregation problem 175, 188, 277
- ally principle 288, 293, 303, 338
- ambient standards 366
- amendment 267–9, 277
- control 179
- thresholds calibration 268
- American Textile Manufacturers Institute 460–61
- Americans for Democratic Action 431
- Americans with Disabilities Act 354
- anti-competitive state regulation, new forms of 441–5
- Anti-Federalists 216, 276
- anti-trust law 292, 374, 376
- antilockup approach 186
- appeals courts 39, 307, 308–9, 439, 440
- appellate courts 105, 106, 121, 122, 125–6
- appointment of agency officials 298–9
- appropriations power 295
- approval regulation game 408–10
- approval voting 101–2
- Argentina 241
- Arrow’s Impossibility Theorem 3, 22, 26–8, 30, 40, 92–3, 117–27, 128
- collective choice 107
- Condorcet criterion 117, 119–20, 121–3,
  125–6, 128
- constitutional design 261
- Corollary 118
- environmental policy 451
- fairness 117–18, 119–20, 122, 124, 126
- independence of irrelevant alternatives 90, 92, 118, 123–5, 128, 176, 247
- institutional reform 105–6
- logrolling and structure-induced equilibria 111–13, 123, 125
- non-dictatorship 93, 118, 126–7, 128, 176, 247
- range 92, 118, 120–24, 128
- rationality 118, 119–20, 122
- representative democracy 175–7
- social choice 88, 92–3, 247–8
- unanimity 92, 118, 123, 125–6, 128, 176, 262, 388
- voice-based justifications for federalism 215
- Articles of Confederation 275
- asymmetry 97–9
- at-large elections 174
- Atomic Energy Commission 346
- attitudinalist/attitudinal model 38–9, 235, 236, 246, 254, 255
- Attorney General 356
- Australia 103, 402
- Averch-Johnson effect 424, 427
- background assumptions 2–4
- bailout plan 95–6
- Baker v Carr (1962) 173
- balance rule 228
- ballot
  - access 148–9, 158, 187
  - measures 147, 158–60
- banking 374
- bankruptcy law 292
- bargaining 236
  - over rules and bargaining within rules 263–5
- behavioral detail 7
- behavioral economics 2
- behavioral sciences 389–90
- benefit-cost analysis 369–70
- Bernoulli trial 409
- ‘Better Regulation’ initiative (European Union) 364
- bicameralism 225, 272, 273, 314, 388
- Bill of Rights 276
bipartisan agreements on redistricting 198
bipartisan cartelization 192
bipartisan election boards 198
Black, Justice 426
blame shifting hypothesis 289–91, 293, 301
Board of Regents v Bakke (1978) 101
bootlegger-Baptist coalitions 384, 386, 461, 469
Borda counting 102
Brandeis, L. 425
Brazil 386
Constitution 276–7
Breyer, S. 378
British North America Act 226
Brown v Board of Education (1954) 240
Brown and Williamson verdict 404
Brownian motion 405
Buckley v Valeo (1976) 188
Bumpers Amendment 292
bundling 269, 277, 303
bureaucratic agencies 242
bureaucratic budget 24, 36–7
bureaucratic control 36–7
Bush, G.W. 299, 380–81, 412
business organizations 65
business-oriented groups 54–5
business-oriented interests 76
Byrd, R. 380
California v Klepp (1979) 354
campaign finance 188–91
Canada 182, 387
Citizens’ Assembly 157, 164
Supreme Court 226
Canadian Federation 226
candidate elections 158–61
cap and trade see tradable allowances
capture theory 56, 421–2, 456
carbon tax 387
cardinal preferences 128
cardinal values 116
Carpenter, D.P. 407–8, 409–11
cartelization, bipartisan 192
Carter, J. 364, 464, 466
case outcomes 250
catastrophic risks 383
central legislatures’ misallocation of local
public goods resulting from predatory
majorities 212–13
central legislatures’ misallocation of local
public goods resulting from universalistic
coalitions 211–12
certiorari writ 127, 236, 243, 244–5, 251
CFCs 384–6
Chicago Edison 420
chief judge 126
Chief Justice 126
China 385, 386
choice 2
choice-of-law clauses 210
see also rational choice; social choice;
suboptimal choice
circuit courts 252
citizen groups 146–7, 148, 217
Citizens Against Rent Control v Berkeley (1981) 147
Citizens’ Assembly (Canada) 157, 164
Citizens Initiative Implementation Oversight
Commission 166–7
Civil Aeronautics Board 31
Civil Rights Act (1964) 292
clearly of responsibility problem 302, 305
Clayton Act 292
Clean Air Act (1977) 31, 345, 375, 378, 380
Clean Air Act (1990) 380, 383, 387
Clean Air Interstate Rule 381
Clean Water Act 286, 480
clinical trials 402–3
Clinton, W.J. 299, 311, 364
c coalitions 109–10, 250–51
collegial, maximum winning 255
curial 252
minimum winning 255
universalistic 211–12
see also Bootlegger-Baptist
cogeneration facilities 434
coherence (social choice) 248–9
collective action 3
environmental 458–61, 462–3
see also interest groups
collective choice 107, 176
collective indeterminacy or irrationality 117
collegial, maximum winning coalition strategy 255
collusion 33
command technology standards 379–80, 382
command-and-control 474, 475
Commerce Clause 112
Commons, J. 420
communications 374
Compact Clause of the Constitution 442–3
compensatory damages 110
compensatory inertia 44
completeness 247, 249, 353
composition fallacy 106–7, 111, 119, 303–4
composition of judicial panel 6
<table>
<thead>
<tr>
<th>Index</th>
<th>489</th>
</tr>
</thead>
<tbody>
<tr>
<td>compromises 156</td>
<td>Congressional control of bureaucracy 37</td>
</tr>
<tr>
<td>Concept 1 democracy 184</td>
<td>Congressional Dominance school 336</td>
</tr>
<tr>
<td>Concept 2 democracy 184</td>
<td>Congressional influence on agency statutory interpretation 285–97</td>
</tr>
<tr>
<td>concurrent vetoes 228</td>
<td>delegation through statutory imprecision 286–94</td>
</tr>
<tr>
<td>Condorset criterion 89–92, 117, 119–20, 121–3, 125–6, 128</td>
<td>determination of delegation of interpretive authority 292–4</td>
</tr>
<tr>
<td>see also Arrow’s Impossibility Theorem; Condorset winners; majority rule</td>
<td>reasons for delegation of policymaking authority 286–92</td>
</tr>
<tr>
<td>Condorset independence 124</td>
<td>ex post influence over statutory interpretation 294–7</td>
</tr>
<tr>
<td>Condorset losers 100, 102, 269</td>
<td>Congressional override 241–2, 245, 252–3</td>
</tr>
<tr>
<td>Condorset Paradox 3, 26–7, 248, 261</td>
<td>consensus 127</td>
</tr>
<tr>
<td>see also voting paradox</td>
<td>consent 388</td>
</tr>
<tr>
<td>Condorset winners 93–4, 97, 100–101, 102, 103, 129</td>
<td>consistency with empirical and historical observations 410–11</td>
</tr>
<tr>
<td>Arrow’s Impossibility Theorem 120, 122</td>
<td>consistency and social choice 248–9</td>
</tr>
<tr>
<td>constitutional design 272</td>
<td>Constitution</td>
</tr>
<tr>
<td>legislatures and appellate courts, comparison between 115, 116</td>
<td>agency insulation and centralization 349</td>
</tr>
<tr>
<td>conduct rules 365–6</td>
<td>Article I 314</td>
</tr>
<tr>
<td>Confederate Constitution 275</td>
<td>Brazilian 276–7</td>
</tr>
<tr>
<td>Congress 4–5, 40–41, 44</td>
<td>collective choice 107</td>
</tr>
<tr>
<td>administrative agencies design 335, 336–7</td>
<td>Compact Clause 442–3</td>
</tr>
<tr>
<td>administrative agency structure and decisionmaking procedures 339, 341, 344–5, 346</td>
<td>democracy and electoral processes 195</td>
</tr>
<tr>
<td>agency insulation and centralization 347, 348</td>
<td>French 275–6</td>
</tr>
<tr>
<td>agency redundancy and overlapping authority 353, 354, 356, 357</td>
<td>hybrid appointments scheme 348</td>
</tr>
<tr>
<td>agency statutory interpretation 298, 299, 301, 304, 305–6, 317</td>
<td>Indian 276–7</td>
</tr>
<tr>
<td>Arrow’s Impossibility Theorem 119–20, 122, 124–5, 126, 127, 128</td>
<td>Ninth Schedule to 268</td>
</tr>
<tr>
<td>Civil Aeronautics Board 31</td>
<td>pharmaceutical regulation 412</td>
</tr>
<tr>
<td>collective choice 107</td>
<td>Spanish 275</td>
</tr>
<tr>
<td>Commerce Clause 112</td>
<td>see also constitutional design</td>
</tr>
<tr>
<td>committee membership 25</td>
<td>Constitutional Convention (1787) 106</td>
</tr>
<tr>
<td>energy regulation and deregulation 419, 428, 429, 431–2, 434, 443</td>
<td>constitutional design 261–78</td>
</tr>
<tr>
<td>environmental policy 451, 460, 466, 467, 474, 479</td>
<td>amendment 267–9</td>
</tr>
<tr>
<td>institutional reform 104</td>
<td>bargaining over rules and bargaining within rules 263–5</td>
</tr>
<tr>
<td>judicial influence on agency statutory interpretation 312–15</td>
<td>centrality 261–3</td>
</tr>
<tr>
<td>judiciary 252, 253</td>
<td>endurance 265–7</td>
</tr>
<tr>
<td>logrolling and structure-induced equilibria 113</td>
<td>normative analysis 270–76</td>
</tr>
<tr>
<td>models 6</td>
<td>bicameralism 272</td>
</tr>
<tr>
<td>monopolistic bargaining 24</td>
<td>constitution-making processes 274–6</td>
</tr>
<tr>
<td>pharmaceutical regulation 403, 404</td>
<td>federalism and secession 272–3</td>
</tr>
<tr>
<td>political process theories of federalism 226, 227</td>
<td>international law 273</td>
</tr>
<tr>
<td>positive mechanism choice 372, 378–80</td>
<td>Presidentialism and parliamentarism 270–72</td>
</tr>
<tr>
<td>rational choice 240, 241, 242</td>
<td>rights 273–4</td>
</tr>
<tr>
<td>see also Congressional: House of Representatives; Senate</td>
<td>constitutional endurance 265–7</td>
</tr>
<tr>
<td>constituptions 388–9</td>
<td>consumer interest groups 65, 76, 423, 429, 435</td>
</tr>
<tr>
<td>regulation 374</td>
<td>protection 382</td>
</tr>
<tr>
<td>continuation strategy 409</td>
<td>contract damages rule 110</td>
</tr>
</tbody>
</table>
contractual rules see expectancy damages rule
Coombs voting 102
cooperaon, lack of 2
coodination and agency insulation and
centralization 350–51
coordination problem and constitutional
design 266
Copeland voting (round robin) 103–4
corruption 272
cost
of experimentation 410
of information acquisition about policy
outcomes 221–2
structure 181
cotton dust standard 460
courts 38–40
appeals 39, 307, 308–9, 439, 440
appellate 105, 106, 121, 122, 125–6
circuit 252
federal 234
lower 245–6
state 234
see also Supreme Court
credible commitment 289, 293, 303
criminal procedure 274
crisis events 382–4
critique and rapprochement 19–45
courts 38–40
interest group theory 30–36
legislatures and administrative agencies,
interaction between 36–8
overview 20–25
voting theory 26–30
crypto-initiatives 159, 161
cumulative voting 175
cyclical preferences 89–92, 98–9
 bicycling 3, 27
Arrow’s Impossibility Theorem 93, 117, 120,
121–2
collective choice 107
democracy and electoral processes 175,
176
empty core 109–11
formal voting protocols 102
institutional reform 104, 106
legislatures and appellate courts, comparison
between 115–16
logrolling and structure-induced equilibria
114
multidimensional issue spectrum with
asymmetrical preferences 97
social choice 91, 96, 249
toxic waste disposal facility location
hypothetical 112–13
unidimensional issue continuum 95

Davis v Bandemer (1968) 191, 192
de gustibus principle 461–7, 471
deadlines, effects of 408
death penalty laws 143
decentralization 208, 218
decision-making, principled or strategic 127
deck-stacking 341, 342
defensive denials 236
defence 306–12, 313, 315–20, 425–6
judicial 309
delegation 7
as abdication thesis 339
democracy and electoral processes 173–202,
388–9
campaign finance 188–91
politics as markets 182–7
redistricting 191–4
regulation of parties 195–8
see also direct democracy; representative
democracy
democratic accountability argument 302
democratic institutions, design of 161–4
Democrats 307–8, 311
Department of Agriculture 402
Department of Justice: antitrust division 292
designing agencies 333–58
insulation and independence 346–8
Legislative Rule doctrine 342–4
legislative views 356–8
non-delegation 344–6
preferences 334–6
redundancy and overlapping authority
351–7
structure and process theory 339–42
unitary executive 349–51
devolution policy 473
dictatorships 388–9
Dietary Supplement Health and Education Act
(1994) 404
diffusion process 405–6
dimensionality 94–7
direct democracy 137–69
decision-making, structure of 155–7
indirect influence 141
voter competence and voting cues 151–5
see also hybrid democracy; interest groups
and role of money
direct regulation 474–7, 480
direct-to-consumer advertising 414
disclosure laws 147, 153–5
discretionary window 288
divergence 140
Dominican Republic 267
Dormant Commerce Clause 442–3, 444
Dotterweich case 404
Douglas, Justice 425
drafting costs hypothesis 293
drug review as stochastic optimal control problem 405–8
dual path initiative process 157
duplication of administrative effort see overlapping authority
Duquesne Light Co. v Barasch (1989) 425–7
duty to serve 423–4
Duverger’s Law 179–82, 183, 186
early entrant protection 408
economic groups 146, 153–4
economic regulation and deregulation 374–5
economic rights 274
economics 4
economies of scale 59–60, 79
efficacy regulation 402
efficiency in judiciary 252
effluent standards 366
elections
at-large 174
bipartisan boards 198
candidate 158–61
general 196
re-election 23
run-off 27
electoral processes see democracy and electoral processes
electric power blackout (2003) 436–8, 444
emissions standards 366
empirical research 5–6, 7–8, 253–6, 410–11
empty core 107–11, 112
enabling rules 187
enactment costs 322
end results test 425–6
endurance 265–7, 269–70, 277
energy regulation and deregulation 419–47
anti-competitive state regulation, new forms of 441–5
federalism 428–30
filed rate doctrine 439–41
government failure versus market failure 436–8
logrolling 430–32
politics of deregulation 432–6
public utility regulation: market failure and rent seeking 420–23
stability of regulatory contract and traditional doctrines of public utility law 423–8
enforcement in constitutional design 277
entrenchment rules 268, 269–70, 277
Environmental Defense Fund 378, 381, 476–7
Environmental Impact Statements 368
environmental interest groups 76–7
energy regulation and deregulation 423–5, 431, 435, 438, 444
positive mechanism choice 377, 379–80
environmental legislation 34–5
positive mechanism choice 374–5, 382
environmental policy 450–81
collective environmental action 458–61
federalism 467–74
government failure 468–72
majority preferences 470–71
median voter model 469–71
race to the bottom thesis 468–70, 472–3
welfare-maximization 471–2
willingness to pay 470–71
government choices and government failure 454–7
instrument choice 474–8
markets and market failure 452–4
preferences and motives: de gustibus principle 461–7
Environmental Protection Agency 76–7, 451, 460, 464–5, 477
administrative agencies design 336
administrative agency structure and decisionmaking procedures 346
agency insulation and centralization 347
agency redundancy and overlapping authority 354
air quality standards 480
normative mechanism choice 370
positive mechanism choice 376, 378
environmental regulation:
CFCs 384–6
GHGs 384–7
environmentalism 31
equal division rule 109, 112
Equal Employment Opportunity Commission 346, 347, 354
Equal Protection Clause 191
equality 176
equilibrium concept and constitutional design 266
Eskridge, W. 115
ethnic minority citizens 173–4
ethnic, racial and minority policies 143–5
European Commission 387
European Union 388, 390
‘Better Regulation’ initiative 364
Emissions Trading System 387
environmental policy 450, 461, 463, 466, 472, 473, 477
environmental regulation: GHGs 386–7
Impact Assessment Board 364
pharmaceutical regulation 401
exclusivity 353, 355–6
Executive Order 12044 364
Executive Order 12291 364
Executive Order 12866 364
executive veto 271
exit options and constitutional design 273
exit, role of 196
exit-based account 228
exit-based normative justification 207
exit-based theories of federalism 208–13, 227
mobility as device for revealing subjects’ preferences for local public goods 208–11
mobility as device to constrain incompetent or predatory unitary states 211–13
expectancy damages rule 110, 112
experimentation costs 411
expertise 288, 293, 303–4, 320–22
agency redundancy and overlapping authority 356
agency statutory interpretation 286–8, 319
externalities 364, 453–4, 457, 468
Exxon Mobil 480
Fair Political Practices Commission 166
Fair Political Practices Commission v Superior Court (1979) 164
fair value test 425
fairness 106, 107, 109, 176, 198
see also Arrow’s Impossibility Theorem
Farber, D. 104, 109–10, 113–14
Federal Communications Commission 300
federal courts 234
Federal Election Commission 346
Federal Food, Drug and Cosmetic Act (1938) 402, 404, 413
Federal Insecticide, Fungicide, and Rodenticide Act 465
Federal Highway Beautification Act 461
Federal Power Act 428, 429–30
Federal Power Commission see Federal Energy Regulatory Commission
Federal Power Commission v Hope Natural Gas Co. (1944) 425
Federal Reserve 455
Federal Trade Commission 292, 347
federalism 207–29, 272–3
energy regulation and deregulation 428–30
pharmaceutical regulation 412–13
political process theories 224–8
see also exit-based theories; environmental policy; voice-based justifications
fiat 388
filed rate doctrine 439–41
financial contributions and interest groups 60–61
firm-dominance models 476
First Amendment 147, 182, 188, 404
first mover advantage 222
first-passage time policy 407
first-past-the-post 157, 181, 197, 247
fiscal equivalence dilemma 208–9
fiscal policies 142–3
Fischel, W. 220–21
Fish and Wildlife Service 465, 467
fixed (non-transferable) performance standards 366
Food and Drug Administration 336, 399–404, 466
pharmaceutical regulation 405–6, 408, 410, 411, 412, 413, 414
tobacco regulation 480
Food and Drug Administration Amendments Act (2007) 405
Food and Drug Administration Modernization Act (1997) 404
Food and Drug Administration v Brown & Williamson Tobacco Corp. (2000) 336
footnote 4 paradigm 274
Ford, G. 464
Forest Service ‘roadless rule’ (2001) 480
formal rulemaking see notice-and-comment
formalism 241
forum shopping 440
forward thinking 236
Framework Convention on Climate Change (1992) 386
framing effects 382–3
France: Constitution 275–6
franchise service area 420
free riding 2–3, 22–3
Freedom of Information Act 354
Frickey, P. 104, 109–10, 113–14
Friedman, M. 455
fundamental rights 274
fusion candidates 187
gatekeeping 314, 399
general election 196
general interest legislation 374–5
general oversight authority 295
Germany 157, 227, 402
gerrymandering 191–3
Gonzales v Oregon (2006) 356
Gorsuch Burford, A. 467
government
choices and environmental policy 454–7
failure 436–8, 454–7, 468–72
ownership 368
takings of private property 274
see also Congress; House of Representatives;
Presidential influence; Senate; White
House
grandfathering scheme 476, 480
grassroots lobbying 61–2
Gray, B. 381
greenhouse gases (GHGs) 384–7
gridlock 271
Grimmer, J. 407–8
guidance 403

Hammer v Dagenhart (1918) 123
Hardin, R. 53–5
Hare voting (single transferable vote) 103, 105, 175
Health Care Financing Administration 341
Health Review Commission 355
Heinz, J. 381
hierarchical control 252
historical observations 410–11
Hoctor v US Department of Agriculture (1996) 342
Hodel v Virginia Surface Mining & Reclamation
Ass’n (1981) 209
Holmes, Justice 425
Homevoter Hypothesis 220–21
homogeneity of subnational populations’
interests 214–15
homogenous groups 50–51
Hope case 426
House of Representatives 304, 314–15, 464
Housing and Urban Development rules 76
Humphrey’s Executor v United States (1935) 349
hybrid appointments scheme 348
hybrid democracy, political interactions in
138–9, 141–2, 146–7, 158–67
democratic institutions, design of 161–4
initiative spillover effects in candidate
elections 158–61
initiatives, effective implementation of
164–7
identity groups 65
ideological consistency and agency statutory
interpretation 293
ideological framing and energy regulation/
deregulation 430–31
ideological groups 152–4, 268
ideological position 35, 39, 464
agency statutory interpretation 307–8, 310, 311–12
ideology, judicial 253–5
Immigration and Naturalization Serv. v Chadha
(1983) 99
Impact Assessment Board (European Union) 364
incentive-based instruments 375, 383, 475–7, 480–81
market-based 370, 382–3
see also in particular taxes; tradable
allowances
incompetent unitary states 211–13
incremental voting rule 94
incumbent-protecting redistricting 192–3
independence
agencies 298
designing agencies 346–8
independence of irrelevant considerations 90, 92, 118, 123–5, 128, 176, 247
see also Arrow’s Impossibility Theorem
Independent Citizens Oversight Committee 166
Independent Counsel Act 349
Independent Power Producers 434
Independent Prosecutor 349
indeterminacy, collective 117
India 385, 386
Constitution 268, 276–7
individual choice models 2, 7
Indonesia 386
industry alliances 65
industry groups 217
inequity 364
informal political norms 225–6
information
acquisition about policy outcomes, costs of
221–2
asymmetry 337, 341, 363–4, 441
cascades 154–5
disclosure rules 368
initiative 137–8, 139, 140–42, 143–5
direct 137, 138
effective implementation 164–7
implementation problems 165–6
indirect 137
process and influence of money 147–50
process success 145–7
spillover effects in candidate elections 158–61
voters 151
inside strategy 217
institutional alignment 252
institutional choices 220
institutional detail 7
institutional reform, implications for 104–6
institutional structures 3–4, 179
instrument choice see mechanism choice
insulation and designing agencies 346–8
Insull, S. 420
insurance and health-plan formularies 413
intelligible principle 345–6
intensities of preference 92, 116
interest groups 30–36, 49–82
administrative agency structure and decisionmaking procedures 340
background and definition 49–50
business-oriented groups 54–5, 63
capture theory 56
constitutional design 262, 264, 267, 269, 270, 271, 275, 277
consumer 65, 76, 423, 429, 435
democracy and electoral processes 190
economies of scale 59–60, 62–3
ergy regulation and deregulation 421–2, 430, 432, 434, 440
environmental policy 457, 466
financial contributions 60–61
grassroots lobbying 61–2
group good 58–9, 61, 64
homogenous groups 49–52
identification 65–8
influence, measures of 74–8
influence, points of 72–4
intermediate groups 51
intra-group bargaining 52
large groups 51–2, 61
mobilization 79
moral considerations 54
organizational populations 68–72
pluralism 56–7
political participation 59–60
political R&D 62–4
positive mechanism choice 373–4, 375, 376, 381
privileged groups 51
rewards and sanctions 52–3
selective inducements 52–3
small groups 52, 61
solidarity 54
subgroups 52
see also environmental interest groups; interest groups and role of money
interest groups and role of money 139–50
initiative process and influence of money 147–50
initiative process success 145–7
majority empowerment 140–45
Interior Department 465
intermediate groups 51
internalities 364
international environmental regulation: CFCs and GHGs 384–6
international law 273
International Panel on Climate Change (IPCC) 387
interpretive rules 342–3
Interstate Commerce Act 292
Interstate Commerce Commission 455, 456–7
intra-group bargaining 52
intransitivity or voting cycle 90–91
Ireland 103
iron triangles 24, 36–7
irrationality, collective 117
isolation fallacy 119
Japan 271
joint decision-trap 227
judges and agency statutory interpretation 307–10
judicial appointments 252
judicial coalitions 252
Judicial Committee of the British Privy Council 226
judicial decision-making 252
judicial deference doctrine 309
judicial ideology 236–9, 243
judicial influence 253
judicial influence on agency statutory interpretation 306–22
defereence and non-deference 318–20
expertise 320–22
judicial policy preferences and deference 306–12
procedural formality and deference 317–18
strategic interaction 312–22
defereence 315–17
non-deferential review 312–15
judicial panel composition 6
judicial powers 252, 253
judicial review 242, 364
non-deferential 312–15, 320
judicial signaling effects 244–5
judicial strategy 251
judiciary 234–58
Congressional overrides 252–3
empirical testing 253–6
ideology 253–5
rational choice 252–3, 256
separation of powers 252–3
social choice 252–3, 256
see also rational choice; social choice ‘jumps’ 405–6
jurisdiction rules 179
jurisprudential mode 243
Justices of the Peace (United Kingdom) 226

Kahn, A. 378
Kassel v Consolidated Freightways (1981) 249
Kelman, S. 43
Kelsey, F.O. 402–3
Keohane, R.O. 379–80
Kessler, D. 404
Keynesian fiscal policy 96
Kimberley Process 386
Kornhauser, L. 248–9
Kyoto Protocol (1997) 386, 387, 461

labour organizations 65
Latin America 274
Lavelle, R. 467
Lear hypothetical 107–11, 116
least preferred candidate options 102
legislative committees 242
legislative drafting costs 286–7
legislative history 294, 296
Legislative Rule doctrine 342–4
legislative views and designing agencies 336–8
legislators and interest groups 72–6
legislatures 7, 122, 466
and administrative agencies, interaction between 36–8
and appellate courts, comparison between 114–16
Leviathan model of government 212–13, 215
Levy evidence process 405, 407
liberalism 28–9
limited voting 175
line-item veto 271
litigation 78
avoidance 316–17, 319–20
provoking 316, 320
Lobbying Disclosure Act (1995) 70
local public goods
misallocation resulting from predatory majorities 212–13
misallocation resulting from universalistic coalitions 211–12
preferences for 208–11
localism 213
Lochner v New York (1905) 123, 425
logical order to voting 94
logrolling
Arrow’s Impossibility Theorem 111–13, 123, 125
constitutional impossibility 269
energy regulation and deregulation 430–32
legislatures and appellate courts, comparison between 116
social choice 113–14
voters 155, 156
Long Island Power Authority 444
lower courts, control over 245–6
Lupia, A. 151–2

McCarty, N.M. 141
McNelligast thesis 24–5, 38, 40, 245
Madison, J. 214–15
maintenance costs 267–8
majority effect 307–8
majority empowerment 140–45
majority, plurality rule (with and without runoff) 99–101
majority preferences and environmental policy 470–71
majority rule 27–8
Arrow’s Impossibility Theorem 121
constitutional design 262, 272
legislatures and appellate courts, comparison between 116
mechanism choice 388
simple 90
social choice 91–2
unlimited 88
majority voting 106, 175, 176, 179
marginal costs 420
equal marginal benefits 453, 474
marginal returns 189
market failure 420–23, 436–8, 452–4
Market Street Railway v Railroad Commission (1945) 425–6
market-based incentive instruments 370, 382–3
markets and environmental policy 454–7
Marks v United States (1977) 101
mass numbing 383
Massachusetts v EPA (2007) 320–21, 336
Matsusaka, J.G. 141–3
mechanism choice 363–90
behavioral sciences 389–90
benefit-cost analysis 369–70
constitutions 388–9
environmental policy 474–8
normative 363–71
conduct rules 365–6
government ownership 368
information disclosure rules 368
price/liability rules 367–8
private ordering 368–9
quantity/property rules 366–7
political institutions and instruments 390
positive 371–87
European Union environmental regulation: GHGs 386–7
international environmental regulation: CFCs and GHGs 384–6
optimal choice 372–3
public attitudes 381–4
see also suboptimal choice
scale 388
taxes and tradable allowance (cap and trade) systems 370–71
topical domains 389
voting rules 388
median outcome 100–101
median voter 44
agency statutory interpretation 302–3, 319
democracy and electoral processes 196
environmental policy 469–71
hybrid democracy 162
interest groups and role of money 140–42, 143
Presidential control over agency statutory interpretation 302–6
rational choice 239
rescue by 177–9
Median Voter Theorem 93–4, 178, 197
medication, access to 411–12
Merrill, R. 406
Metropolitan Stevedore Co v Rambo (1997) 354
Meyer v Grant (1988) 147
microeconomics 2, 451, 452
minimal threshold allocation 96
minimum winning coalition strategy 255
minority voting rights 174–5, 198
misallocation of local public goods resulting from predatory majorities 212–13
misallocation of local public goods resulting from universalistic coalitions 211–12
Mississippi Power & Light Co v Mississippi (1988) 335
Mitchell, G. 380
mixed member proportional system 157
mobility as device for revealing subjects’ preferences for local public goods 208–11
mobility as device to constrain incompetent or predatory unitary states 211–13
modeling agencies 6
modeling and its limits 6–7
monopolistic bargaining 24
Montreal Protocol Fund 385
moral considerations 54
moral hazard 337
moral motivations 67
Morrison v Olsen (1988) 349
motion and amendment voting 122
motivation 79
motives and environmental policy 461–7
Motor Vehicle Manufacturers Association v State Farm 311
Motor Vehicle Safety Act 31
multidimensional issue spectrum with asymmetrical preferences 97
multidimensional judicial utility 250–51
multidimensional policy 179
multidimensional and symmetrical preferences 98
multipeakedness 94–6
Myers v United States (1926) 349
narrowest grounds rule 99–101, 105, 119–20, 121, 128
Nash equilibrium 443
National Cable & Telecommunications Association v Brand X Internet Service (2005) 357
National Cotton Council of America 460–61
National Electric Light Association 420
National Environmental Policy Act 354
National Highway Traffic Safety Administration 76, 467
National Labor Relations Board 300
National Science Foundation 8
national subgroups with distinct political identities, cooperation among 222–4
Natural Gas Act 428
Natural Gas Policy Act 428
natural resources 77
neoclassical economics 2
neutral enforcer model 38
New Deal 300, 339, 383, 428
New England Power Company 439
New State Ice v Liebmann (1932) 221
New York v United States (1992) 111
New Zealand 157, 164, 387
next-period drug project abandonments 411
Ninth Schedule to the Constitution 268
nirvana fallacy 105, 118
Niskanen, W. 23–4, 36–7
Nixon, R. 475
nominations 252
non-compete agreement 191
non-Condorcet rules 91, 121
non-deference 318–20, 336
non-deferential judicial review 312–15, 320
non-delegation 291–2, 344–6
non-dictatorship 93, 118, 126–7, 128, 176, 247

Daniel A. Farber and Anne Joseph O'Connell - 9781847206749
Downloaded from Elgar Online at 12/02/2018 03:29:10PM
via free access
Index

non-governmental organizations 463
normative implications 8–9
normative questions and pharmaceutical regulation 411–13
Northeast Utilities 444
Not In My Back Yard (NIMBY) 112, 470
notice-and-comment requirements 340, 341, 342–3, 480
Nuclear Regulatory Commission 347, 354, 466
nutritional and dietary supplements 403–4
Obama, B. 299, 304, 364
objective function 23
occupational licensing 34–5
Occupational Safety and Health Act 355, 375–6
cotton dust standards 460
Hazard Communication Standard 368
off-the-rack rules 111, 112–13
Office of Information and Regulatory Affairs 77, 299–300, 364, 368
Office of Management and Budget 299, 364, 369, 466
Office of Surface Mining 467
Oliver, E. 216–17
Olson, M. 22–3
Olson, M./Model/theory 22–3, 50–58, 61–2, 373–6, 451, 456, 458
one person, one vote doctrine 173–4, 191
opinion assignment process 251
opinion writing 126, 236
optimal choice 372–3
optimal stopping problem 405, 407
Order No. 888 434
ordinal sequencing 94
Organization for Petroleum Exporting Countries: Oil Embargo 428
organizational reputation 401–5
organizational slack 33
outcome model 243
outcome voting 101, 119–20, 121, 128
outcomes 247
outside strategy 217
overlapping authority 351–7
pairwise voting 261
panel effects 307–8
Paperwork Reduction Act (1980) 364
parental consent for abortion laws 143
Pareto improvement 301
Pareto optimization, weak 247
Pareto principle 19, 124
Pareto superiority 123, 128
parliamentarism 270–72
partisan balance requirements 298–9, 300
partisan competition 198
partisan redistricting 194
party
activists 180–81, 197
autonomy 195–7
bias 192
cues 180
primary 196
patent law 292
path dependence 91–2, 248
path independence 249
peaks 94–7, 179
performance standards, fixed (non-transferable) 366
Permian Basin Rate Cases (1968) 425–6
petition drives 137, 148–9
pharmaceutical regulation 399–416
agendas for future research 413–15
approval regulation game 408–10
consistency with empirical and historical observations 410–11
drug review as stochastic optimal control problem 405–8
modern research 400–401
normative questions 411–13
organizational reputation 401–5
philosophical motivations 67
Pierce, R. 426
Pigou, A.C./Pigouvian taxes 454, 480
pluralism 56–7, 104–5
plurality rule 105
plurality voting 28, 121, 181–2, 198
policy
conflict see ally principle
design see mechanism choice
domains 65
entrepreneurs (political entrepreneurs) 377–8, 381
insulation hypothesis 289, 293, 296–7
outcome 303
preferences, judicial 306–12
uncertainty 337–8
political activism 62
political alignment hypothesis 253, 311–12
political competition approach 195
political control hypothesis 41
political economy of unitary states, necessity for 210–11
political entrepreneurs 54, 377–8, 381
political identity 223
political institutions and instruments 390
political insulation hypothesis 286, 293
political lock-outs 186
political lock-ups 186
political mobilization 22–3
political parties and Duverger’s Law 179–82
political process theories 224–8
political R&D 62–3, 79
Political Reform Act (1974) 164, 166
politics as markets approach 182–7, 196
populism 28–9
power
appropriations 295
distributions, unequal 126–7
judicial 252, 253
separation of 239–42, 252–3, 388
predatory majorities 212–13
predatory unitary states 211–13
preference(s)
aggregation 251
asymmetrical 97
divergence 337, 338
environmental policy 452, 461–7
for local public goods 208–11
multidimensional and symmetrical 98
outlier 304
single-peaked 28
symmetrical 98
well-tamed, group with 93–4
see also revealed preferences
preferential system 247
Prescription Drug User Fee Act (1992) 404
Presidential Administration school of agency
348
Presidential influence
administrative agencies design 336–7
agency insulation and centralization 347, 348, 349–50
on agency statutory interpretation 293,
extent of influence 298–300
optimal influence 300–306
environmental policy 466, 467
nomination power 237–9
rational choice 241
veto provisions 314–15
Presidentialism 270–72
presumptive validity 99
price mechanisms 453
see also in particular taxes
price/liability rules 367–8
primary nominating system 181
principal-agent theory 337, 479
principled voting 125
Prisoners’ Dilemma 2
private governance 386
private law rules and cycling amelioration 127
private markets 123–4
exchange 116
private ordering 368–9
privileged groups 51
problematic group decisions 2
procedural formality and deference 317–18
process visibility 264
professional organizations 65
Professional Reactor Operator Society v NRC
(1991) 354
‘Project 88’ 381
property rights 366, 376
see also equal division rule
proportional voting 28, 181
Proposition 71 166
Proposition 187 159, 161
protectionism 213
Proxmire, W./Proxmire Amendment (1976)
403–4
public attitudes 381–4
public interest groups 67
public trust 414
Public Utility Regulatory Polices Act (1978)
428, 431, 434
punishments 294
purposeful districting 192
quantity instruments see in particular tradable
allowances
quantity use limits 366
quantity/property rules 366–7
race to the bottom thesis 209–10, 468–70,
472–3
racial bloc voting 174
racial-redistricting cases 191
radical malapportionment 187
range (Arrow’s Impossibility Theorem) 118,
120–24, 128
Rapaport v US Department of Treasury (1995)
356
ratemaking 424–6
rational apathy 33
rational choice 247, 251, 252–3, 256
applications 237–46
judicial appointments 237–9
judicial decision-making 239–45
lower courts, control over 245–6
assumptions 235–7
judiciary 234
rational (transitive) preference orderings 89
rational voter apathy 21
rationality 2, 3, 4, 5, 6, 19, 41–2
collective choice 107
individual 89
institutional reform 106

see also Arrow’s Impossibility Theorem
re-election 23
Reagan, R. 299, 364, 380, 452, 466, 467, 473
realism 235
reapportionment cases 173–4
reapportionment revolution 191, 194
recall 137
redistricting 191–4
bipartisan agreements on 198
incumbent-protecting 192–3
partisan 194
racial 191
redundancy 351–7
referendum 137
campaigns 147
legislative 137–8
popular 137–8
two-stage 157
regime theory 219, 221
regulation
direct 474–7, 480
efficacy 402
environmental 384–7
of parties 195–8
see also energy regulation and deregulation
regulatory agenda 411
regulatory error 411
regulatory familiarity, advantage of 408
Regulatory Impact Assessments 368
regulatory surprises 411
removal of agency officials 298–9
rent seeking 4
constitutional design 262, 267, 268, 271, 272, 273, 277
energy regulation and deregulation 420–23, 444
interest groups 65
normative mechanism choice 364
positive mechanism choice 376, 384–6
representative democracy 174–82
Arrow’s Impossibility Theorem 175–7
median voter, rescue by 177–9
political parties and Duverger’s Law 179–82
’republican moments’ 338, 381–2
Republicans 307–8
restraining rules 187
revealed preferences 125, 247, 248–9, 462
rewards 52–3, 294
Reynolds v Sims (1964) 173–4
rights and constitutional design 273–4
rights-based approach 183
Riker, W. 28–9
risk-risk tradeoffs 364
Roe v Wade (1973) 101, 249, 264
Roosevelt Administration 300
Rule of Four 127, 251
rulemaking 403
rules and rational choice 246
run-off elections 27
safety information 414
safety-versus-access tradeoff 400
Sager, L. 248–9
sanctions 52–3
Sarbanes-Oxley legislation 383
scale of polities 388
scarcity of quick approval 408
Schlozman, K. 68–9
Schwarzenegger, A. 160
secession 272–3
second-generation claims (voting claims) 173
Secretary of Health and Human Services 356
Secretary of Interior 354
Secretary of Labor 355
Securities and Exchange Commission 300
securities laws 383
selective inducements 52–3
self-interest 2, 4, 5, 33, 41–2
administrative agencies design 335–6
constitutional design 275, 276
energy regulation and deregulation 430–31
see also rational choice
Senate 464
agency statutory interpretation 298, 299, 304, 314–15
rational choice 238, 239
Senate v Jones (1999) 163
separation of powers 239–42, 252–3, 388
sequential elimination agendas 156, 160–61
service continuation obligations 424
Sherman Act 292, 445
single citizens commission 166–7
single dimension judicial utility 248–50
single dimensional scale 101
cycle issue balloting 160
single member first-past-the-post system 197
single member plurality voting rules 186, 196
single peakedness 96, 179
single slate requirements 174
single subject rule 155–6, 157, 163–4, 269, 277
single transferrable voting see Hare voting
Skidmore v Swift and Co. (1944) 317
social choice 19, 88–132, 234, 252–3, 256
assumptions 246–8
baselines 116–17
collective choice, implications for 107
composition fallacy 106–7
cyclical preferences, Condorcet criterion and
agenda setting 89–92
empty core among private actors 107–11
institutional reform, implications for 104–6
legislatures and appellate courts, comparison between 114–16
logrolling and structure-induced equilibria 113–14
multiple-dimension judicial utility 250–51
preferences, well-tamed, group with 93–4
single-dimension judicial utility 248–50
symmetry and asymmetry 97–9
toxic waste disposal facility location (hypothetical) 111–13
see also Arrow’s Impossibility Theorem; votes/voting protocols, formal
social rights 274
solidarity 54
South Africa 274
Spanish Constitution 275
spatial voting 181
specific causes 65
stable resolution with multidimensional and symmetrical preferences 98
staggered terms 174
standards and rational choice 246
standing rules 122, 128
stare decisis doctrine 122, 128
state action immunity 444–5
state courts 234
statutory interpretation by agencies 285–325
see also Congressional influence; judicial influence; Presidential influence
statutory override 294
Stavins, R. 381
Stearns, M.L. 249–50
Stephenson, M. 44–5
Stevens, J.P. 442
Stigler, G. 55–8, 61, 62–3, 64, 72, 451, 455–7
stochastic optimal control problem 405–8
stochastic process 405
stock price movements 410–11
strategic action 41
strategic behavior and rational choice 235–6
strategic, credible commitment to defect strategy 255
strategic instruments hypothesis 310
strategic model 38–9
strategic substitution effect 5, 318
strategic voting 102, 125–6, 128
structural approach 183–4, 187–8, 190
structure and process hypothesis 294, 296–7, 339–42
administrative agency structure and decisionmaking procedures 343–4, 346
structure-induced equilibria 113–14, 122, 179, 182–3
subnational electoral districts, accessibility of politics in 216–18
subnational government, salience of politics in 218–21
subnational populations’ interests, homogeneity of 214–15
suboptimal choice 373–81
complex models 376–81
Olson Model 373–4
theory meets evidence 374–6
Subpart E regulations (1988) 404
subsidiarity principle 472
subsidies 368
substantive legally binding effects test 344
substitution effect 338
succession voting 94
sulfanilamide tragedy 402–3
sunset requirement 161
Superfund amendments (1985) 477
Superfund legislation and environmental policy 464–5, 479
supervisory and directive authority over administration 299
supervisory oversight 364–5
Supreme Court 7, 252
administrative agencies design 335
administrative agency structure and decisionmaking procedures 345
agency insulation and centralization 346, 349
agency redundancy and overlapping authority 354, 355
agency statutory interpretation 291, 293, 307, 309, 317, 320–21
Arrow’s Impossibility Theorem 119–20, 121–2, 124–5, 126, 128
Canada 226
collective choice 107
deference doctrine 310–12
democracy and electoral processes 173, 192, 195, 197
democratic and electoral processes 173, 192, 195, 197
democratic and electoral processes 173, 192, 195, 197
democratic and electoral processes 173, 192, 195, 197
energy regulation and deregulation 425, 427, 442, 443, 444
environmental policy 460–61
exit-based theories of federalism 209
formal voting protocols 99, 100–101
hybrid democracy 163, 164
institutional reform 105
interest groups and role of money 147
judiciary 234, 252, 253, 255
legislatures and appellate courts, comparison between 115
logrolling and structure-induced equilibria 114
pharmaceutical regulation 404, 412–13
positive mechanism choice 378
rational choice 236, 238, 239–40, 241, 244, 245–6
social choice 251
Surface Mining Control and Reclamation Act 431, 464
Sutton v United Airlines Inc (1999) 354
Sweden 217
symmetrical preferences 101
symmetry 97–9
take-it-or-leave-it offers 140, 142, 156
Takings Clause 426
tariffs (energy) 439–41
taxes 370–71
environmental policy 474–6
normative mechanism choice 367–8
policies 142–3
positive mechanism choice 375, 382
technology 220
Tenth Amendment 112
Texas Railroad Commission 422
textual plausibility 318
thalidomide tragedy 402–3
third parties 197–8
Thompson Medical Co v FTC (1986) 353
three-strikes law 159, 161
Tierney, J.T. 68–9
Ting, M.M. 409–11
tobacco products 404
topical domains 389
tort system 412–13
Toxic Release Inventory (1986) 368, 383
toxic waste disposal facility location (hypothetical) 111–13
tradable allowances/permits (cap-and-trade) 366, 370–71, 477
environmental policy 474–6
normative mechanism choice 367–8
positive mechanism choice 375, 380–81, 382, 383–4, 386, 387
trade associations 65, 76
tradeflofs 156–7
traditional rights approach 183, 188
trajectory of public choice theory 4–6
transactional model 23
transitivity 90, 117, 176, 249
transportation 374
treaty accession 273
Troy, D. 412
trust 152, 414
two-party system 178
two-stage referendum process 157
Type I errors 400, 411
Type II errors 400, 411
unanimity 92, 118, 123, 125–6, 128, 176, 262, 388
see also Pareto optimality
uncertainty principle 288, 399, 400–401
'unholy alliances' see bootlegger and Baptist coalitions
unidimensional issue continuum 95
unidimensional policy 178–9
uniformity, legal value of 350
unitary executive 349–51
unitary states, incompetent or predatory 211–13
United Kingdom 226
United Nations: Global Environmental System 463
United States v Carolene Prods. Co. (1938) 99
United States v Mead Corporation (2001) 311, 317
United States v Rutherford (1979) 412
unitization 421
universal admissibility see unrestricted domain
universal service 423
universalistic coalitions 211–12
unrestricted domain 176
use or extraction licenses 366
user-fee program 404–5
vetoes
concurrent 228
executive 271
line-item 271
points 315
threats 36
vetogates 144, 227
voice-based justifications for federalism 196, 207, 213, 214–24, 228
costs of information acquisition about policy outcomes 221–2
homogeneity of subnational populations’ interests 214–15
national subgroups with distinct political identities, cooperation among 222–4
subnational electoral districts, accessibility of politics in 216–18
subnational government, salience of politics in 218–21
votes/voting
claims 173
competence 151–5
<table>
<thead>
<tr>
<th>Term</th>
<th>Page(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>confusion</td>
<td>155</td>
</tr>
<tr>
<td>cues</td>
<td>151–5, 156, 160</td>
</tr>
<tr>
<td>cumulative</td>
<td>175</td>
</tr>
<tr>
<td>cycle</td>
<td>90–91</td>
</tr>
<tr>
<td>dilution</td>
<td>173, 174, 175, 191</td>
</tr>
<tr>
<td>incremental</td>
<td>94</td>
</tr>
<tr>
<td>limited</td>
<td>175</td>
</tr>
<tr>
<td>logical order</td>
<td>94</td>
</tr>
<tr>
<td>majority</td>
<td>106, 175, 176, 179</td>
</tr>
<tr>
<td>minority</td>
<td>174–5, 198</td>
</tr>
<tr>
<td>motion and amendment</td>
<td>122</td>
</tr>
<tr>
<td>one person, one vote doctrine</td>
<td>173–4, 191</td>
</tr>
<tr>
<td>outcome</td>
<td>101, 119–20, 121, 128</td>
</tr>
<tr>
<td>pairwise</td>
<td>261</td>
</tr>
<tr>
<td>paradox</td>
<td>22, 89, 93, 175, 176–7 see also Arrow’s Impossibility Theorem</td>
</tr>
<tr>
<td>plurality</td>
<td>28, 121, 181–2, 198</td>
</tr>
<tr>
<td>principled</td>
<td>125</td>
</tr>
<tr>
<td>proportional</td>
<td>28</td>
</tr>
<tr>
<td>protocols, voting</td>
<td>99–104</td>
</tr>
<tr>
<td>approval voting</td>
<td>101–2</td>
</tr>
<tr>
<td>Borda counting</td>
<td>102</td>
</tr>
<tr>
<td>Coombs voting</td>
<td>102</td>
</tr>
<tr>
<td>Copeland voting (round robin)</td>
<td>103–4</td>
</tr>
<tr>
<td>Hare voting (single transferable voting)</td>
<td>103, 105, 175</td>
</tr>
<tr>
<td>majority, plurality rule</td>
<td>99–101</td>
</tr>
<tr>
<td>narrowest grounds rule</td>
<td>99–101</td>
</tr>
<tr>
<td>racial bloc</td>
<td>174</td>
</tr>
<tr>
<td>rules</td>
<td>388</td>
</tr>
<tr>
<td>share</td>
<td>189</td>
</tr>
<tr>
<td>single-member plurality</td>
<td>196</td>
</tr>
<tr>
<td>spatial</td>
<td>181</td>
</tr>
<tr>
<td>strategic</td>
<td>102, 125–6, 128</td>
</tr>
<tr>
<td>succession</td>
<td>94</td>
</tr>
<tr>
<td>theory</td>
<td>26–30</td>
</tr>
<tr>
<td>trading</td>
<td>115, 125–6, 128, 431</td>
</tr>
<tr>
<td>see also median voter</td>
<td></td>
</tr>
<tr>
<td>Voting Rights Act</td>
<td>173–4</td>
</tr>
<tr>
<td>Washington Legal Foundation case</td>
<td>404</td>
</tr>
<tr>
<td>welfare-maximization</td>
<td>471–2</td>
</tr>
<tr>
<td>West Coast Hotel v Parrish</td>
<td>1937</td>
</tr>
<tr>
<td>West Lynn Creamery, Inc. v Healy</td>
<td>1994</td>
</tr>
<tr>
<td>whistleblower effect</td>
<td>308</td>
</tr>
<tr>
<td>White House</td>
<td>364, 379</td>
</tr>
<tr>
<td>White, M.W.</td>
<td>435</td>
</tr>
<tr>
<td>White Primary Cases</td>
<td>186</td>
</tr>
<tr>
<td>Whitman v American Trucking Association</td>
<td>2001</td>
</tr>
<tr>
<td>(1937) 123–4</td>
<td></td>
</tr>
<tr>
<td>(1994) 442</td>
<td></td>
</tr>
<tr>
<td>(2001) 345–6</td>
<td></td>
</tr>
<tr>
<td>Wiener process</td>
<td>405</td>
</tr>
<tr>
<td>willingness to pay</td>
<td>453, 470–71</td>
</tr>
<tr>
<td>winner-take-all system</td>
<td>27, 181, 186</td>
</tr>
<tr>
<td>Wirth, T.</td>
<td>381</td>
</tr>
<tr>
<td>World Trade Organization</td>
<td>365, 463</td>
</tr>
<tr>
<td>wrongful districting</td>
<td>192</td>
</tr>
<tr>
<td>Wyeth v Levine</td>
<td>412–13</td>
</tr>
<tr>
<td>yardstick competition</td>
<td>222</td>
</tr>
<tr>
<td>Zapfel, P.</td>
<td>387</td>
</tr>
<tr>
<td>zone of discretion</td>
<td>306, 313</td>
</tr>
</tbody>
</table>