

```
Abu El-Haj, Tabatha, 15, 114-15
Achen, Christopher H., 9-10
Alabama, 90, 124-5, 207-9
Alaska, 69, 130-2
Aldrich, John, 33, 52, 127-8
  on party in government, 58, 79
  on responsible party model, 123
  on two-party system, 88-9, 162-3
Alito, Samuel, 226-7
American Party of Texas v. White (Supreme Court,
     U. S.), 188-9
American Political Science Association report, on
     two-party system (1950), 14-16, 53-4, 71-2, 75,
Anderson-Burdick test, 194–5, 212, 221
Anderson, John, 203-4
Anderson v. Celebrezze (Supreme Court, U. S.),
    193, 205-6
  associational rights in, 193-7, 203-4
  ballot access in, 193-8, 200-4
  equal protection and, 193-7
  independent candidates, voters and,
    196, 201
  Nader and, 205
  party in the electorate and, 203-4
  party in government and, 194
  party organization and, 194-5, 203
  on sore losers, 193-9, 203
  Tashjian and, 205
Ansolabehere, Stephen, 160
Article I, U. S. Constitution
  public forum doctrine and, 240-1
  Section 2, 201, 238
  Section 4, 17-31, 63-4, 112-13, 115-16,
     174, 181, 194, 201–2, 212–13, 221, 236, 238,
    240-1, 244-5
```

```
Article II, Section 1, U. S. Constitution, 30, 187,
     194, 201-2
association, 39
  collective action and, 35-6
  exit, freedom of, and, 46-50
  rigged-rules-of-the-game problem in, 45-6
  rules of, 45-6
  U. S. as, 35-9, 43
association, political party as, 87-8, 108, 162-3
  party organization and, 39, 57-8, 77-8, 84, 171
  party organization as coalition, 57-8
  Supreme Court inconsistency on, 52, 121-2, 171
  voluntary, 39-40, 42-5, 48-50, 52, 82, 88-9, 92,
     98, 100–2, 118–19, 145–6, 171, 223, 225, 228,
     246-8
  voluntary, third party as, 108
associational rights, 26, 245-6
  in Anderson, 193-7, 203-4
  campaign finance law and, 135-6, 153, 162-3,
     170-1, 249-50
  case-by-case approach to, 34, 52
  in Clingman, 108-9, 111-13, 240
  collective, 205-6
  in Cousins, 27-9
  in Democratic Party v. Wisconsin, 29-31, 34,
     101-2
  in Elrod, 218-20
  equal protection approach and, 182, 186, 204-5,
     223, 237
  in Eu, 219, 241-2
  exclusion, inclusion, and, 39-40, 90-1, 120,
  fair and effective participation balanced with, 34
  under First Amendment, 25-9, 32, 41, 51-2, 81-3,
     91, 101-4, 108-9, 117, 120, 125-6, 153, 162-3,
     171, 212–13, 217, 240–1
```



associational rights (cont.)	Bipartisan Campaign Reform Act (2002) (BCRA),
gerrymandering and, 221	143–4, 160, 164–5, 169, 175–6
government speech and, 228–9	bipartisanship, mid-twentieth century, 14
in Jones, 112–13, 120–2, 124–7	Black, Hugo, 187
limited public forum and, 178–9, 223–4, 232–5,	blanket primaries, 70
251	California, 72, 120–7, 130–1, 192, 248
Martinez and, 232–5	in <i>Jones</i> , 120–7, 130–1, 248
nonpartisan redistricting commissions and, 221	nonpartisan, 69, 72, 126–7, 130–1, 235
party in the electorate and, 92, 186–8, 205–6,	partisan and nonpartisan, differences between,
236, 240	130-1
party in government and, 236	Washington State, nonpartisan, 72, 127, 130, 235
party membership and, 39–43, 86–7, 90–1, 96–7,	board games, 3-5
171, 240	Brady, David, 9–11
party organization and, 28, 39, 186, 190, 203, 236,	Brennan, William, 39–40
247-8	Brewer, Mark, 128–9
for political parties, problem of, 45–50, 60, 92,	Breyer, Stephen, 214, 239-40
101, 182, 212, 224, 228–9	in Colorado Republican I, 167, 171–2
primaries and, 64, 68-9, 73-4, 81-3, 216-17,	inconsistency of, 171–3
240–1, 247	McCutcheon dissent of, 165-7, 169-75
public forum doctrine and,	Briffault, Richard, 177
158, 178–9, 223–5, 230, 232–5, 237, 240–1, 245,	Buckley v. Valeo (Supreme Court, U. S.), 138-9,
251	156
speech, freedom of, and, 32–4, 36, 91, 144–7	Colorado Republican I and, 142
state action, party action as, and, 27–8, 228–9,	Colorado Republican II and, 151–2
237–9	on contributions, expenditures and, 137–8,
in <i>Tashjian</i> , 101–6, 108, 115–19, 239	141–3, 145, 151–2, 157, 169
third parties and, 108–11	on corruption, 141–2, 158–61, 163–4
in Timmons, 109–11	
· ·	FECA and, 137–8, 142–3, 151–2
two-party system and, 46, 52, 88–9, 108, 162–3,	First Amendment in, 138, 141–2, 248–9
246–7 in Williams 18–	McConnell and, 163–4
in Williams, 187	McCutcheon and, 169
Austin v. Michigan Chamber of Commerce	Burger Court, 177, 186, 250
(Supreme Court, U. S.), 159	Burke, Edmund, 42
Australian ballot, 155, 186	buying, of elections, 139
autonomy, party, 19–20, 25, 33	1
Azari, Julia, 84	cadre parties, 56
\mathbf{p} : \mathbf{p} . 0	Cain, Bruce, 9–11, 73, 84–5, 140–1, 176
Baier, Bret, 198	California, 219
Baker v. Carr (Supreme Court, U. S.), 207–8,	blanket primaries in, 72, 120–7, 130–1, 192, 248
211–12	Elections Code, 190–3, 235–6
ballot access	endorsement ban in, 219, 235-7, 241-3
in American Party of Texas, 188–9	nonpartisan blanket primaries in, 72, 126–7,
in Anderson, 193–8, 200–4	130-1
equal protection and, 186–90, 250	Proposition 14, 127
party organization and, 187	California Democratic Party v. Jones (Jones)
third party, 186–9	(Supreme Court, U. S.), 114, 120–1
in two-party system, 186–8	associational rights in, 112–13, 120–2, 124–7
Balsam v. Sec'y of N. J. (Third Circuit Court of	blanket primaries in, 120–7, 130–1, 248
Appeals, U. S.), 81, 86–7, 93	dissent in, 123, 125–6
Bartels, Larry M., 9-10	First Amendment and, 125–7
Bauer, Robert F., 84-5, 180	nonpartisan blanket primaries and, 126–7, 130–1
BCRA. See Bipartisan Campaign Reform Act	party in the electorate and, 120-2, 124-6, 248
Berry, Jeffrey M., 12-13	party in government and, 121, 124–6
Bickel, Alexander, 181	party organization and, 120–1, 124–5, 248



privacy in, 124–5	Carolene Products. See United States v. Carolene Products
Stevens in, 40–1, 90, 92–3, 123, 125–6, 235	
Tashjian and, 120–2	Christian Legal Society v. Martinez (Martinez)
campaign finance, 135, 140–1, 155, 175–7	(Supreme Court, U. S.), 231–5
campaign finance law, 180–2, 249	Citizens United v. FEC (Supreme Court, U. S.),
arguments for, 139–40, 158–9	142, 146–7, 160–1
associational rights and, 135–6, 153, 162–3, 170–1,	on corruption, 159
249–50 POPA	criticisms of, 146
BCRA, 143–4, 160, 164–5, 169, 175–6	dissent in, 146
Buckley on, 137–9, 141–3, 145, 151–2, 156–61, 163–4, 169, 248–9	First Amendment in, 24–5, 32, 145, 224 Super PACs after, 175–6
buying, of elections, and, 139	citizenship, 36–8, 43–4
Citizens United on, 24–5, 32, 142, 145–7, 159–61,	civil rights movement, 14–15, 26–7,
175–6, 224	124-5
Colorado Republican I on, 142–3, 149–52, 155–7,	Clark, Tom C., 25-6, 92-3
159, 167, 171–2, 180, 249	Classic. See United States v. Classic
Colorado Republican II on, 150–3, 155–6, 167,	Clingman v. Beaver (Supreme Court, U. S.),
180, 249	112, 239
contributions, expenditures in,	associational rights in, 108-9,
135–8, 141–3, 145, 148–52, 155–9, 169, 171–2,	111–13, 240
180, 249	O'Connor in, 55, 85, 108-9, 112-13, 117,
corruption in, 136-7, 140-2, 158-67, 170-5,	239–40
178-9	party organization in, 106-7
FECA, 137-8, 142-4, 148-52, 175-6	party registration in, 106-8, 111-12, 240
financial thresholds, high, and, 139	Stevens in, 41, 111
First Amendment and, 24-5, 32, 138, 141-7,	Tashjian and, 105-6, 108, 112-14
152–3, 155–9, 162–3, 165–6, 170, 178–9, 224,	third parties in, 105–9, 111
248–9	closed primaries, 75-6, 86, 95. See also semi-closed
527 organizations under, 175–6	primaries
fundraising, time spent on, and, 139–40	Balsam on, 81, 86-7, 93
history of, 136-44	Connecticut, 100-4, 117, 238
McConnell on, 156-7, 160-4, 166-7, 170, 175-7	inclusive major parties and, 99-104
McCutcheon on, 165–7, 169–77, 249–50	Nader on, 81-3, 87-8, 90-3, 96, 100-3, 170-1,
networks theory and, 178-9, 250	205, 220
Newberry on, 17–19	open and, 70–3, 91
party in the electorate and, 135-6, 146-7, 218	party raiding and, 89–90
party in government and, 135-6, 141, 146-58, 161	semi-closed, 34, 70–2, 76, 85–6, 93, 98–100,
party organization and, 135-6, 142-3, 146-57,	112–13, 239–40
161–2, 170, 173	Tashjian on, 100-6, 108, 110-17, 121-2, 205,
permanent campaign and, 139-40	238–9
public debate and, 140	voting rights and, 93–8
responsiveness and, 164-6	coalition, party organization as,
Roberts Court on, 159-61, 163-4, 167, 170, 176-7,	57-8
249–50	Cohen, Marty, 57–8, 67–8
shadow parties under, 176–9, 181, 250	collective, 205-6. See also association
soft money under, 143–4, 159–67, 169–72, 175–7,	Constitution as product of, 35-6
249	rigged-rules-of-the-game problem in,
speech, freedom of, and, 138, 141-2,	45-6
144-7, 158-9	rules of, 45–6
as state action, party action and, 157–8	self-interest feedback loop in, 46-8
Super PACs under, 175–6, 249–50	speech of, 36, 144-5
three-tier critique of constitutionalized, 144-7	Supreme Court privileging, 218
tripartite model, of political parties, and, 147–57	U. S. as, 35–9
Cardozo, Benjamin, 25	collective action, 35-6, 117-18



```
Colorado Republican Federal Campaign
                                                       networks theory on, 178-9
    Committee v. FEC (Supreme Court, U. S.)
                                                        quid pro quo, 136-7, 140-2, 159, 163-7, 170-4,
    (Colorado Republican I), 142, 152
                                                          178-9
                                                        Roberts Court on, 159-61, 163-4, 167
  Breyer in, 167, 171-2
  contributions, expenditures in, 149-51, 155-7,
                                                       soft money and, 159-67, 171-2
                                                     Cousins v. Wigoda (Supreme Court, U. S.), 27-9
    159, 171–2, 180, 249
  on corruption, 159, 167, 171-2
                                                     cracking, in gerrymandering, 208-9, 216-17
  FECA and, 143, 149-51
                                                     crisis, in party system, 8-9, 12
  soft money and, 143
                                                        intraparty democracy in, 11-12
Colorado Republican II (FEC v. Colorado
                                                       polarization in, 9-11
    Republican Federal Campaign Committee),
                                                       weak parties in, 11
    150-3, 155-6, 167, 180, 249
Commerce Clause, 18
                                                     Davis v. Bandemer (Supreme Court, U. S.),
compulsory speech laws, 104
Connecticut, 100-4, 110-11, 113
                                                     DCCC. See Democratic Congressional Campaign
  closed primaries in, 100-4, 117, 238
                                                          Committee
  Republican Party, 100-4, 116-17, 238
                                                     democracy, direct and representative, 197
conservative, identification as, 9-10
                                                     Democratic Congressional Campaign Committee
Constitution, U. S., 47, 197-8. See also
                                                          (DCCC), 162
    associational rights; First Amendment;
                                                     Democratic Party
    speech, freedom of
                                                       superdelegates of, 73
  Article I, public forum doctrine and, 240-1
                                                        Texas, 21-2
  Article I, Section 2, 201, 238
                                                     Democratic Party of the United States v. Wisconsin
                                                          ex rel. La Follette (Democratic Party
  Article I, Section 4, 17-31, 63-4, 112-13, 115-16,
                                                          v. Wisconsin) (Supreme Court, U. S.), 29-31,
    174, 181, 194, 201-2, 212-13, 221, 236, 238,
                                                          34, 101-2
    240-1, 244-5
  Article II, Section 1, 30, 187, 194, 201-2
                                                     discrimination
  as collective product, 35-6
                                                       against women, 39-40
  Commerce Clause, 18
                                                        Fifteenth Amendment on, 21, 77, 80, 92-3,
  democracy and, 197
                                                          208-9, 247
  Fifteenth Amendment, 21, 25–6, 36, 77, 80,
                                                       invidious, 188-90, 195-6, 204-5
    92-3, 208-9, 247
                                                        LGBT, 125
                                                        racial, 21–4, 41, 50, 63, 77, 79–80, 92–3, 96–7,
  Fifth Amendment, 113–14
  Fourteenth Amendment, 21, 23, 37–8, 43–4, 77,
                                                          104, 129–30, 156, 185–6, 204–5, 208–9, 218, 247
                                                       voting rights and, 22-3, 80, 96-7
    80-1, 92-3, 96, 102-3, 113-14, 185-90, 193,
                                                     doctrinal threshold, questions of, 201
    204-5, 207-10, 244-5, 247, 250
  parties and, 7-8, 180-1, 197-8
                                                     Douglas, William O., 23
  parties constrained by, 16, 19-20
                                                     Drutman, Lee, 10-11, 214
  regulation by, parties shielded from, 16, 24-9
                                                     Duke, David, 40-1
                                                     Duke v. Massey (Eleventh Circuit Court of
  responsiveness and, 164-6
                                                          Appeals, U. S.), 40-1
  state action doctrine, 20-1
                                                     duopoly, 4
  on state power, over elections, 201-2
                                                     Duverger's law, 46, 105
  Thirteenth Amendment, 22-3
  tripartite model, of political parties, and, 52-3,
                                                     Eisler, Jacob, 155-6
  Twenty-Fourth Amendment, 22-3, 80-1
                                                     election procedures, U. S. Constitution and,
corruption, 150
                                                          197-8, 244-5
  Buckley on, 141-2, 158-61, 163-4
                                                     Electoral College, 198-202
  Citizens United on, 159
                                                     electoral policy, judicial takeover of, 113-19
  Colorado Republican I on, 159, 167, 171-2
                                                     Elrod v. Burns (Supreme Court, U. S.), 218-20
  Colorado Republican II on, 167
                                                     endorsements
  Federal Corrupt Practices Act, 136-7
                                                       endorsement ban, in California, 219, 235-7,
  McConnell on, 160-4, 166-7
  McCutcheon and, 170-5
                                                       party organization and, 219-20
```



equal protection. See also Fourteenth Amendment	associational rights under, 25–9, 32, 41, 51–2,
Anderson and, 193–7	81–3, 91, 101–4, 108–9, 117, 120, 125–6, 153,
associational rights and, 182, 186, 204-5, 223, 237	162–3, 171, 212–13, 217, 240–1
ballot access and, 186-90, 250	autonomy, party, under, 26-7
Carolene Products and, 96-7	in <i>Buckley</i> , 138, 141–2, 248–9
First Amendment approach and,	campaign finance law and, 24-5, 32, 138, 141-7
182, 186, 189–90, 192–7, 204–5, 223, 244–5, 250	152–3, 155–9, 162–3, 165–6, 170, 178–9, 224,
in Fourteenth Amendment, 80–1, 92–3, 96,	248-9
102–3, 185–90, 193, 204–5, 207–10, 244–5, 247,	categories under, 222–3
250	in Citizens United, 24–5, 32, 145, 224
gerrymandering and, 208–10, 250–1	equal protection approach and, 182, 186, 189–90
in <i>Nader</i> , 81–2, 101–2	192-7, 204-5, 223, 244-5, 250
Nixon v. Herndon and, 185–6	government speech and, 27–8, 59, 157–8, 224–
party in the electorate and, 185, 192-3, 247, 250	238
party in government and, 185	Jones and, 125–7
party organization and, 185	limited public forum and, 223–4, 232–4, 241–2,
race and, 185–6, 204–5, 208–9	251
Storer and, 190–4, 205	Martinez and, 232–5
	party in government and, 59
voting rights and, 93–7, 102–3, 185–6, 205 White Primary Cases and, 96–7, 185–6, 237	
	party membership and, 33–4, 41, 91
Eu v. San Francisco County Democratic Central	party organization and, 192–3, 203, 250
Committee (Supreme Court, U. S.), 219,	public forum doctrine and, 158, 223–5, 230,
235–7, 241–3	232–4, 237, 240–3, 245, 251
exclusion	in Tashjian, 101–6, 120, 238
associational rights and, 39–40, 90–1, 120, 129–30	tripartite model, of political parties, and,
inclusion and, 39–40, 120, 129–30	144, 251
from party membership, 40–3, 90–1	unconstitutional conditions and, 234
by party organization, 41, 74	in Washington State Grange, 127
exit, freedom of, 46–50	in Williams, 187
	Fishkin, Joseph, 181
fair and effective participation, 34	on Burke, 42
FEC. See Federal Election Commission	on campaign finance law, 135, 177
FEC v. Colorado Republican Federal Campaign	on exit, freedom of, 50
Committee. See Colorado Republican II	on polarization, 10, 50
FECA. See Federal Election Campaign Act	on shadow parties, 177, 181
Federal Corrupt Practices Act (1910),	527 organizations, 175–6
136–7	formalism, 17–19, 24, 87–8
Federal Election Campaign Act (1974) (FECA),	founding fathers, 6–8, 47, 191
137, 143–4, 148, 175–6	Fourteenth Amendment, 37–8, 43–4, 113–14
Buckley and, 137–8, 142–3, 151–2	Anderson and, 193
Colorado Republican I and, 143, 149–51	ballot access under, 186–90, 250
Colorado Republican II and, 151–2	equal protection in, 80-1, 92-3, 96, 102-3,
Federal Election Commission (FEC), 137, 143,	185–90, 193, 204–5, 207–10, 244–5, 247, 250
148–57, 175	primaries and, 21, 23, 92–3
Federalist No. 10, 191	voting rights and, 77, 80, 92-3, 96, 204-5
Fifteenth Amendment, 25–6, 36	franchise, expansion of. See voting rights
primaries and, 21, 92–3	free speech. See speech, freedom of
on racial discrimination, 21, 77, 80, 92-3, 208-9,	fundraising, time spent on, 139–40
24 7	fusion candidacies, 109-11, 128
Fifth Amendment, 113–14	· / /
financial thresholds, high, 139	games, 3–5
First Amendment, 24–5, 36, 106, 115, 215, 222, 244	Gardbaum, Stephen, 66–8, 75
ad hoc approach to parties and, 222–4	Garrett, Elizabeth, 33–4, 235
Anderson and, 193–7, 203–4	Gerber, Elizabeth R., 71–2
/ // // I	, , , , , , , , , , , , , , , , , , ,



258

Index

Gerken, Heather, 8, 181 on Burke, 42 on campaign finance law, 135, 177 on exit, freedom of, 50 on polarization, 10, 50 on shadow parties, 177-9, 181 Gerry, Elbridge, 208 gerrymandering, 208, 210 associational rights and, 221 contemporary examples of, 209 equal protection and partisan, 210, 250-1 equal protection and racial, 208-9 House of Representatives, U.S., and, 210, 214-17 as nonjusticiable, partisan, 210-12, 250-1 nonpartisan redistricting commissions and, 220-1 packing and cracking in, 208-9, 216-17 party in government and, 209-13, 216-19, 221 party in the electorate and, 211, 217-18 party organization and, 211-13, 217-18 privatization, of elections, and, 216-18 Republican Party favored by, 210-11 Rucho on, 211-18, 220, 250-1 as state action, 211-12, 216 Texas, 200, 211 Vieth on, 210-11 winner-takes-all system and, 214 Gimpel, James G., 71-2 Gingrich, Newt, 14-15 Ginsburg, Ruth Bader, 92, 111 Gomillion v. Lightfoot (Supreme Court, U. S.), 208-9 government, protection from, 27-8, 246 government electoral safeguards, party in government and, 50-1 government speech. See speech, government Gray, Cody, 73, 84-5, 140-1, 176 Gray v. Sanders (Supreme Court, U. S.), Green, Donald, 157 Grovey v. Townsend (Supreme Court, U. S.), 21-2 Hagen, Michael, 68 Hague v. CIO (Supreme Court, U. S.), 229-30, 251 Hair (musical), 242-3 Harlan, John M., II, 26-7, 187-8 Hirano, Shigeo, 68, 95-6, 130 Hoffman, Adam H., 71–2 House of Representatives, U. S., gerrymandering and, 210, 214-17 Humphrey, Hubert, 66

inclusion, exclusion and. See exclusion inclusive major parties, closed primaries and, 99-104 inclusive third party, semi-closed primaries and, Independent Voter Project, 84 independents, 73, 93, 107, 197 Anderson and, 196, 201 identification as, 10, 54-5, 71, 73-5, 87 leaning, 83, 95 party in the electorate and, 83 polarization and, 73-5 as spoilers, candidates of, 198-200 Tashjian on, 100-4, 106 intraparty democracy, 11-12, 53-4 Invernizzi Accetti, Carlo, 8-9 invidious discrimination, 188-90, 195-6, 204-5 invisible primary, 67 Issacharoff, Samuel, 131, 180 Jaybird Association, 23-6 Johnson, Lyndon, 14-15 Jones. See California Democratic Party v. Jones judicial takeover, of electoral policy, 113-19 Kagan, Elena, 209, 213 Kang, Michael, 28-9, 135, 155, 179 Karol, David, 57-8, 67-8 Kaufmann, Karen M., 71-2 Kennedy, Anthony, 124, 163-4, 166-7 Klar, Samantha, 73-4, 83, 87, 95 Kramer v. Union Free School District (Supreme Court, U. S.), 94-5 Krupnikov, Yanna, 73-4, 83, 87, 95 laboratories, states as, 200 League of United Latin American Citizens v. Perry (Supreme Court, U. S.), 211 Levitsky, Steven, 3-4, 11-12 LGBT, discrimination against, 125 liberal, identification as, 9-10 Libertarian Party, 105-8, 111-12, 162 Libertarian Party of Oklahoma, 105-7, 112-13 limited public forum, 225, 231-7, 241-3 associational rights and, 178-9, 223-4, 232-5, 251 in Martinez, 231-5 tripartite model, of political parties, and, 223-4 Lowenstein, Daniel, 8, 28, 59, 118-21, 228-9 low-information voter, 49-50 Lowry, Rich, 48–9 machine politics, 13, 154, 218-19 Madison, James, 6-7, 47, 191, 197 Maisel, L. Sandy, 12-13

Hurley v. Irish-American Gay-Lesbian and Bisexual

Group of Boston (Supreme Court, U. S.), 125



major parties	Morton, Rebecca B., 71–2
closed primaries and inclusive, 99–104	multiple parties, membership in, 108–9
exit, freedom of, and, 48–50	NAACD ALL LD (C
party membership in, 41–5	NAACP v. Alabama ex rel. Patterson (Supreme
party organization and, 15–16	Court, U. S.), 26–7
malapportionment, 207–8	Nader v. Schaffer (District Court, U. S.)
Marshall, Thurgood, 102–3, 116	on closed primaries, 81–3, 87–8, 90–3, 96, 100–3,
Martinez. See Christian Legal Society v. Martinez	170–1, 205, 220
Maryland, 209	equal protection in, 81–2, 101–2
Masket, Seth E., 10–11, 64, 67	Tashjian and, 100–4
mass-membership parties, 56	on two-party system, 88
Mayer, William, 68	networks theory, 178–9, 250
Mayhew, David, 13	New Jersey, 81, 86–7
McCain-Feingold Act. See Bipartisan Campaign	Newberry v. United States (Supreme Court, U. S.),
Reform Act	17–19
McConnell v. FEC (Supreme Court, U. S.), 156–7	Nixon v. Condon (Supreme Court, U. S.), 21, 96-7
Buckley and, 163–4	Nixon v. Herndon (Supreme Court, U. S.), 21,
reversal for, possibility of, 176–7	96–7, 185–6
on soft money, 160–4, 166–7, 170, 175–7	Noel, Hans, 13, 57–8, 67–8, 178
McCutcheon v. FEC (Supreme Court, U. S.),	nonjusticiable, partisan gerrymandering as, 210-12,
160–1, 170, 176–7, 249–50	250-1
Breyer dissent in, 165-7, 169-75	nonpartisan blanket primaries, 69
Buckley and, 169	California, 72, 126–7, 130–1
corruption and, 170–5	Jones and, 126-7, 130-1
Roberts, J., in, 165-6, 170, 173-4	partisan and, differences between, 130-1
McGovern-Fraser Commission,	Washington State, 72, 127, 130, 235
66, 142–3	nonpartisan primaries, 84
McReynolds, James, 17–18	nonpartisan redistricting commissions, 220-1
membership, party, 43-4	North Carolina, 209
associational rights and, 39-43, 86-7, 90-1,	Norton, Helen, 226
96–7, 171, 240	
citizenship compared with, 43-4	O'Connor, Sandra Day
exclusion from, 40-3, 90-1	on associational rights, 108-9, 112-13, 116-17,
First Amendment and, 33-4, 41, 91	239–40
formal definition of, 53-4, 86	in <i>Clingman</i> , 55, 85, 108–9, 112–13, 117, 239–40
in major parties, 41–5	in Davis, 210
in multiple parties, 108–9	Ohio, 193-4, 196-8, 201-4
party in the electorate and, 33-56, 71, 84-6, 96,	Oklahoma, 105–7, 112–13, 239–40
102, 118	one-party dominance, 95-6
party organization and, 42, 71, 76, 84	one-person-one-vote principle, 23, 207–8, 210
party registration and, 70, 86–90, 97, 118, 240	open primaries, 71, 85–6
primary form and, 69–77, 99	closed and, 70-3, 91
state laws determining, 40–1	party raiding in, 30–1, 70, 89–91
in <i>Tashjian</i> , 103–4, 118	originalism, 17–19
Meyer, William G., 43	
Michigan, Citizens Redistricting Commission in,	packing, in gerrymandering, 208–9, 216–17
219–21	participation, fair and effective, 34
Michigan Model, 54	partisan balance, on state courts, 221
Minnesota, 40–1, 109–11	partisan blanket primaries. See blanket primaries
minor parties, 39	partisan gerrymandering. See gerrymandering
Minor v. Happersett (Supreme Court, U. S.), 36–8	The Party Decides (Cohen et al.), 57–8, 67–8
Minton, Sherman, 23–4	party in government, 12, 50–1, 59, 63–4, 106
mixed system, 65–6, 75	Aldrich on, 58, 79
Monopoly (board game), 3–5	Anderson and, 194
ivionopory (board game), 3-5	1 macroon and, 194



```
party in government (cont.)
                                                         voting rights of, 96, 98, 205
                                                         White Primary Cases and, 77, 129
  associational rights and, 236
  campaign finance law and, 135-6, 141, 146-58,
                                                         in Williams, 187-8
                                                      party in the electorate, party organization and, 56,
  Elrod and, 218-20
                                                           77, 154
  equal protection and, 185
                                                         in mixed system, 65-6, 75
  gerrymandering and, 209-13, 216-19, 221
                                                         party organization, favoring of, 8-9, 51-2, 98,
  government speech and, 36, 227-8
                                                           187-8, 190, 192-3, 205, 211, 216, 220, 224, 248,
  Jones and, 121, 124-6
  in McConnell, party organization and, 163
                                                         in primaries, 65-9, 75, 84-5, 96, 99-100, 102-4,
                                                           236, 247-8
  party in the electorate and, 56, 59-60, 110,
    118–19, 121, 125, 153–4
                                                         tension between, 26, 67-9, 74, 99, 102-4, 106,
  party organization and, 26-8, 58-60, 68-9, 76,
                                                           110, 118-19, 121, 124-5, 129-30, 146-7, 153-4,
    100-1, 110, 118-19, 121, 124-5, 146-7, 153-4, 157,
                                                           186-8, 247
    161, 163, 211, 217–20
                                                         in Trump era, 154
                                                      party machines, 13, 154, 218-19
  patronage and, 218-20
  primary form and, 76, 78-9, 101, 247
                                                      party membership. See membership, party
  rigging and, 51, 114-15
                                                      party organization, 13-16, 56, 77, 127-8, 185
  Rucho and, 217-18
                                                         Anderson and, 194-5, 203
  self-dealing by, 111, 194
                                                         Anderson-Burdick test favoring, 194-5
                                                         association, political party as, and, 39, 57-8,
  state action and, 59-60, 78-9, 100-1, 107-8,
    125-6, 156-8, 211-12, 216, 227, 247
                                                           77–8, 84, 171
  Supreme Court neglecting, 52-3
                                                         associational rights and, 28, 39, 186, 190, 203,
  Tashjian and, 100-1, 110-11, 118-20
                                                           236, 247-8
                                                         cadre parties, U. S., 56
  in tripartite model, 6, 8, 153-4, 245-7
  two-party system and, 107-8, 111, 245-6
                                                         campaign finance law and, 135-6, 142-3, 146-57,
  White Primary Cases and, 156
                                                           161-2, 170, 173
party in the electorate, 176
                                                         in Clingman, 106-7
  Anderson and, 203-4
                                                         as coalition, 57-8
  associational rights and, 92, 186-8, 205-6, 236,
                                                         constitutionalizing, 26
                                                         endorsements and, 219-20
                                                         exclusion by, 41, 74
  campaign finance law and, 135-6, 146-7, 218
                                                         favoring of, 8-9, 51-3, 98, 132, 155-6, 187-8, 190,
  equal protection and, 185, 192-3, 247, 250
  exit, freedom of, and, 49-50
                                                           192-5, 205, 211, 216, 224, 248, 250-1
  gerrymandering and, 211, 217-18
                                                         First Amendment approach and, 192–3, 203, 250
                                                         gerrymandering and, 211-13, 217-18
  government speech and, 227-8
                                                         government speech and, 227-8
  Jones and, 120-2, 124-6, 248
  low-information voter and, 49-50
                                                         image constructed by, 128-9
  party in government and, 56, 59-60, 110, 118-19,
                                                         in Jones, 120–1, 124–5, 248
                                                         in McConnell, party in government and, 163
    125, 153-4
                                                         in mixed system, 65-6, 75
  party leaders, weakening, and, 13-14
  party membership and, 33-56, 71, 84-6, 96, 102,
                                                         party in government and, 26–8, 58–60, 68–9, 76,
                                                           100-1, 110, 118-19, 121, 124-5, 146-7, 153-4, 157,
    118
  party registration and, 54-5, 83, 85
                                                            161, 163, 211, 217–20
  primaries and, 64-9, 75-6, 83-5, 89, 96, 99-100,
                                                         party membership and, 42, 71, 76, 84
    102-4, 129, 155, 218, 236, 248
                                                         polarization and, 10
  primary form and, 76-7, 247
                                                         primaries, openness of, and, 71
  under public forum rubric, 235, 243
                                                         primaries and, 63-9, 75-6, 78, 84-5, 96, 99-100,
  self-identification of, 54-5, 240
                                                           102-6, 129-30, 155, 236, 248
  semi-closed primaries and, 99
                                                         primary form and, 75–8, 99, 247
                                                         under public forum rubric, 235
  Supreme Court neglecting, 52-3
  Tashjian and, 102-4, 118-19
                                                         Rucho and, 217-18
  in tripartite model, 6, 8, 153-4, 245-7
                                                         rules established by, 12, 51
  two-party system and, 245-6
                                                         semi-closed primaries and, 99
```



soft money and, 161–2
Super PACs and, 176
in <i>Tashjian</i> , 100–4, 116–19, 205
in tripartite model, 6, 8, 153–4, 245–7
in Trump era, 154
in Washington State Grange, 128–30
White Primary Cases and, 104
Williams and, 187
party organization, party in the electorate and. See
party in the electorate, party organization and
party raiding, 30-1, 70, 89-91
party registration. See registration, party
party regulation. See regulation, party
party system, advantages of, 7
patronage, 136–7, 154, 218–20
peer review selection system, in primaries,
66, 75
Pendleton Civil Service Act (1883), 136–7
Pennsylvania, 73, 76
permanent campaign, 139–40
Pildes, Richard, 46, 66–8, 75, 89, 200, 203
Pitney, Mahlon, 18
polarization, 9–11, 15, 131–2, 248
exit, freedom of, and, 49–50
independent, identification as, and, 73-5
networks theory and, 178
primaries and, 64, 73-5, 192
race and, 14–15
Powell, Lewis, 42, 90
presidential election, 2016, 67-8, 84-5, 198
primaries
associational rights and, 64, 68-9, 73-4, 81-3,
216–17, 247
categories of, 69-70
Classic on, 18-20, 63-4, 238
Clingman and, 105–6, 112, 114, 239–40
Constitution and regulation of, 17-18, 236, 238,
240-1
in Democratic Party v. Wisconsin, 29–31, 34,
101–2
in <i>Eu</i> , 219, 235–7, 241
Fourteenth, Fifteenth Amendments and, 21, 23,
92–3
gerrymandering and, 216–17
history of, 65–9, 247
independent voters and, 73–5, 100–4, 106
invisible primary, 67
in Jones, 114, 120–7, 130–1, 248
in mixed system, 65–6, 75
Newberry on, 17–19
party in government and, 63-4, 68-9, 76, 101,
247
party in the electorate, party organization in,
65-9, 75, 84-5, 96, 99-100, 102-4, 236, 247-8

```
party in the electorate and, 64-9, 75-6, 83-5, 89,
     96, 99-100, 102-4, 129, 155, 218, 236, 247-8
  party membership, registration and, in, 70,
  party organization and, 63-9, 71, 75-6, 78, 84-5,
     96, 99–100, 102–6, 129–30, 155, 236, 247–8
  party raiding in, 30-1, 70, 89-91
  peer review selection system in, 66, 75
  polarization and, 64, 73-5, 192
  private, public, and, 63
  state action, party action as, and, 20-4, 40, 63,
     78-81, 92-3, 125-6, 156, 216-17, 247
  Storer on, 190-5, 199
  Tashjian on, 100-6, 108, 110-17, 121-2, 205,
    238-9
  Terry on, 23-6, 92-3
  tripartite model, of political parties, and, 68-9,
  Twenty-Fourth Amendment and, 22-3, 80-1
  in two-party system, 65, 74-5, 247
  2016 presidential, 67-8, 84-5
  voting rights and, 80-2, 93-8
primaries, blanket. See blanket primaries
primaries, closed. See closed primaries
primaries, nonpartisan. See nonpartisan primaries
primaries, nonpartisan blanket. See nonpartisan
     blanket primaries
primaries, open. See open primaries
primary form, 78
  party in government and, 76, 78-9, 101, 247
  party in the electorate and, 76-7, 247
  party membership and, 69-77, 99
  party organization and, 75-8, 99, 247
privacy, 124-5
private, political parties as, 16-18, 22, 246
private, public and, 5-6, 28, 63, 246-7
privatization, of elections, 216-18
progressive era, reforms in, 13, 63-4, 155, 186,
     218-19
Proposition 14 (California), 127
public, private and. See private, public and
public debate, campaign finance law and, 140
public forum doctrine, 230, 241
  associational rights and, 158, 178-9, 223-5, 230,
     232-5, 237, 240-1, 245, 251
  Eu and, 235-7, 241-3
  First Amendment and, 158, 223-5, 230, 232-4,
     237, 240-3, 245, 251
  government speech and, 229-30, 236-7, 243
  Hague and, 229-30, 251
  limited public forum in, 178-9, 223-5, 231-7,
     241-3, 251
  Martinez and, 231-5
  mechanics of public fora, 231-7
```



```
public forum doctrine (cont.)
                                                      rigging, party in government and, 51, 114-15
  party in the electorate under, 235, 243
                                                      Roberts, John, 165-6, 170, 173-4, 214, 218
                                                      Roberts, Owen, 229-30, 251
  party organization under, 235
  RSO and, 232-4
                                                      Roberts Court
                                                         on campaign finance law, 159-61, 163-4, 167,
  tripartite model, of political parties, and, 223-4,
                                                           170, 176-7, 249-50
  two-party system and, 230-2, 237
                                                        on corruption, 159-61, 163-4, 167
  types of public fora, 231
                                                      Roberts v. U. S. Jaycees (Supreme Court, U. S.),
public park, 229-30, 251
                                                           39-40
                                                      Rosenblum, Nancy, 43, 58
public theater, 242-3
                                                      Rosenbluth, Frances McCall, 11, 67
quid pro quo corruption. See corruption
                                                      RSO. See registered student organization
                                                      Rucho v. Common Cause (Supreme Court, U. S.)
race
                                                        on gerrymandering, 211-18, 220, 250-1
  discrimination, 21-4, 41, 50, 63, 77, 79-80, 92-3,
                                                         party in government, party organization, and,
    96-7, 104, 129-30, 156, 185-6, 204-5, 208-9,
                                                          217-18
    218, 247
                                                      rules, 3-5
  equal protection and, 185-6, 204-5, 208-9
                                                        of association, 45-6
  Fifteenth Amendment and discrimination, 21,
                                                        party in government establishing, 12
    77, 80, 92-3, 208-9, 247
                                                         party organization establishing, 12, 51
  gerrymandering by, 208-9
                                                        rigged-rules-of-the-game problem, 45-6
  polarization and, 14-15
                                                         rigging, party in government and, 51, 114-15
  redistricting and, 218
                                                         voting, 47–8
  voting rights and discrimination, 22-3, 80, 96-7
  in White Primary Cases, 21-2, 41, 50, 63, 77, 79,
                                                      Sanders, Bernie, 73, 84
    96–7, 104, 129, 156, 185–6, 224
                                                      Scalia, Antonin, 109, 171
ranked-choice voting, 199-200
                                                         in Citizens United, 32, 145
Ranney, Austin, 44, 53-4
                                                        on First Amendment, 32, 41, 212-13
Rappaport, Ronald B., 128
                                                        on gerrymandering, 210-11
realism, 17-18, 24, 87-8
                                                        in Jones, 120-1
                                                        in Tashjian, 116–18, 122
redistricting, 218, 220-1
registered student organization (RSO), 232-4
                                                         in Vieth, 210-11
                                                         in Washington State Grange, 127-8, 235
registration, party, 95
  in Clingman, 106-8, 111-12, 240
                                                      Schattschneider, E. E., 7
  Libertarian Party of Oklahoma, 105, 107
                                                      self-identification, of partisanship, 54-6, 73-5, 85,
  party in the electorate and, 54-5, 83, 85
  party membership and, 70, 86-90, 97, 118, 240
                                                      self-interest feedback loop, 46-8
                                                      semi-closed primaries, 34, 70-2, 85-6, 93, 98
  semi-closed primaries and, 99
regulation, party
                                                         inclusive third party and, 104-13
  importance of, 6-9
                                                        Oklahoma, 112-13, 239-40
  party in government and, 12
                                                        party in the electorate, party organization, and,
  party organization and, 12, 51
                                                           99
Rehnquist, William, 39-40, 160-3
                                                        party registration and, 99
Rendon, Marjorie, 56
                                                         Pennsylvania, 76
Republican Party
                                                      shadow parties, 176-9, 181, 250
  Connecticut, 100-4, 116-17, 238
                                                      Shapiro, Ian, 11-12, 67
  Duke and, 40-1
                                                      Smith v. Allwright (Supreme Court, U. S.), 21-2,
  gerrymandering favoring, 210-11
                                                           25, 92-3, 227, 238
  2016 presidential debate in, 198
                                                      Snyder, James M., Jr., 68, 95-6, 130, 160
  Weld in, 108-9
                                                      soft money
responsible party model, 14-15, 71, 123
                                                         BCRA on, 143-4, 160, 164, 169, 175
responsiveness, 164-6
                                                         Colorado Republican I and, 143
Reynolds v. Sims (Supreme Court, U. S.), 207-8
                                                         corruption and, 159-67, 171-2
rigged-rules-of-the-game problem, 45-6
                                                         loophole closed, 160-1, 169, 176, 249
```



McConnell on, 160-4, 166-7, 170, 175-7	Tashjian v. Republican Party of Connecticut
in two-party system, 162	(Supreme Court, U. S.), 116, 239
sore losers	Anderson and, 205
Anderson on, 193–9, 203	associational rights in, 101-6, 108, 115-19, 239
Storer on, 190-4, 199	Clingman and, 105–6, 108, 112–14
speech, collective, 36, 144-5	dissent in, 105–6, 114, 116–18, 122
speech, freedom of, 26, 36, 219, 222, 244	First Amendment in, 101–6, 120, 238
associational, 32–4, 36, 91, 144–7	on independent voters, 100-4, 106
in <i>Buckley</i> , 138, 141–2	Jones and, 120–2
campaign finance law and, 138, 141–2, 144–7,	Nader and, 100–4
158–9	party in the electorate and, 102–4, 118–19
in <i>Citizens United</i> , 24–5, 32, 145	party in government and, 100–1, 110–11, 118–20
compulsory speech laws and, 104	party membership and, 103–4, 118
Martinez and, 232–4	party organization and, 100–4, 116–19, 205
party membership and, 33–4, 91	tripartite model, of political parties, and, 118–19
public forum doctrine and, 158, 241–2, 251	Terry v. Adams (Supreme Court, U. S.), 23–6,
speech, government, 36	92–3, 227 Texas
associational rights and, 228–9	
doctrine, 27–8, 157–8, 224–7	American Party of Texas, 188–9
First Amendment and, 27–8, 59, 157–8, 224–7,	gerrymandering in, 209, 211
238	Texas Democratic Party, 21–2
party in government and, 36, 227–8	Texas State Constitution, 25
public forum doctrine and, 229–30, 236–7, 243	third parties
state action, party action as, and, 36, 227–9, 238,	in American Party of Texas, 188–9
241–2	associational rights and, 108–11
tripartite model, of political parties, and, 227–8	ballot access for, 186–9
spoiler candidates, 198–200	in <i>Clingman</i> , 105–9, 111
state action, party action as, 20, 22, 147, 226	fusion candidacies and, 109–11, 128
associational rights and, 27–8, 228–9, 237–9	Libertarian Party, 105–8, 111–12, 162
campaign finance law and, 157–8	registration in, 105
Democratic Party v. Wisconsin and, 30	semi-closed primaries and inclusive, 104–13
gerrymandering and, 211–12, 216	Timmons on, 109–11
government, protection from, and, 27–8, 246	in two-party system, 105, 107–9, 111, 128, 162, 248
government speech and, 36, 227-9, 238, 241-2	in Williams, 186–9
party in government and, 59–60, 78–9, 100–1,	Thirteenth Amendment, 22–3
107–8, 125–6, 156–8, 211–12, 216, 227, 247	Thomas, Clarence, 106–7, 109, 111–12, 150, 167,
primaries and, 20–4, 40, 63, 78–81, 92–3, 125–6,	210–11
156, 216–17, 247	Tillman Act (1907), 136–7
state action doctrine, 20–1	Timmons v. Twin Cities Area New Party (Supreme
in Tashjian, 238–9	Court, U. S.), 109–11, 200
Twenty-Fourth Amendment on, 22–3	top-two primaries. See nonpartisan blanket
in White Primary Cases, 21–2, 26, 50, 63, 79, 156,	primaries
217, 228, 237, 241–2	tripartite model, of political parties, 6, 8, 68-9, 89,
state courts, partisan balance on, 221	153–4, 181, 247
Stevens, John Paul	campaign finance law and, 147–57
in <i>Clingman</i> , 41, 111	Constitution and, 52–3, 57
in <i>Jones</i> , 40–1, 90, 92–3, 123, 125–6, 235	First Amendment protection and, 144, 251
Stone, Harlan, 18–31, 96	government speech and, 227–8
Storer v. Brown (Supreme Court, U. S.), 190-5,	networks theory and, 178–9
199, 205	progressive era reforms and, 13
Super PACs, 175-6, 249-50. See also shadow	public forum doctrine and, 223-4, 251
parties	in Tashjian, 118–19
superdelegates, 73	two-party system and, 5-6, 245-6
Supreme Court, U. S. See specific topics	Trump, Donald, 48-9, 67-8, 84-5, 154, 198



264 Index

Twenty-Fourth Amendment, 22-3, 80-1 Fourteenth Amendment and, 77, 80, 92-3, 96, two-party system, 7-8, 51-2, 98, 128-9, 146-7, 225. See also major parties as fundamental, 93-4, 192, 205 Kramer on, 94-5 Aldrich on, 88-9, 162-3 American Political Science Association report of party in the electorate, 96, 98, 205 primaries and, 80-2, 93-8 on, 1950, 14–16, 53–4, 71–2, 75, 123 associational rights and, 46, 52, 88-9, 108, 162-3, racial discrimination and, 22-3, 80, 96-7 of women, 37-9 ballot access in, 186-8 Voting Rights Act (1965), 205, 208-9 bipartisanship, mid-twentieth century, in, 14 voting, rules of, 47-8 critiques of, 14 Duverger's law on, 46, 105 Warren, Earl, 207–8 exit, freedom of, and, 46, 48-50 Warren Court, 186, 207-8, 250 Nader on, 88 Washington, George, 6-7 Washington State, 72, 127, 130, 235 party in the electorate and, 245-6 Washington State Grange v. Washington State party in government and, 107-8, 111, 245-6 polarization and, 11, 248 Republican Party (Supreme Court, U. S.), primaries and, 65, 74-5, 247 127-30, 235 public forum doctrine and, 230-2, 237 Watergate scandal, 227 soft money in, 162 weak parties, 11, 153-4 Weld, William, 108-9 third parties in, 105, 107-9, 111, 128, 162, 248 Timmons on, 200 White, Byron, 157, 189–92 White Primary Cases, 174, 241 tripartite model, of political parties, and, 5-6, 245-6 equal protection and, 96-7, 185-6, 237 Williams on, 186-8 Nixon v. Condon, 21, 96–7 2016 presidential election, 67-8, 84-5, 198 Nixon v. Herndon, 21, 96-7, 185-6 party in the electorate and, 77, 129 unconstitutional conditions rubric, 234 party organization and, 104 United States (U. S.), as association, 35-9, 43 race in, 21–2, 41, 50, 63, 77, 79, 96–7, 104, 129, United States v. Carolene Products (Carolene 156, 185-6, 224 Products) (Supreme Court, U. S.), 96-8 as state action, party action in, 21-2, 26, 50, 63, United States v. Classic (Classic) (Supreme Court, 79, 156, 217, 228, 237, 241–2 U. S.), 18-20, 63-4, 238 Whitney v. California (Supreme Court, U. S.), 26 Williams v. Rhodes (Supreme Court, U. S.), 186-9 Vieth v. Jubelirer (Supreme Court, U. S.), 210-11 winner-takes-all system, 214 Wisconsin. See Democratic Party of the United voluntary association, political party as. See association, political party as States v. Wisconsin ex rel. La Follette voluntary, party membership as, 39-40, 44-5 Wolkenstein, Fabio, 8-9 voter education, 196-7 women voting rights, 47-8, 205-6, 248 discrimination against, 39-40 closed primaries and, 93-8 voting rights of, 37-9 discrimination and, 22-3, 80, 96-7

Zaller, John, 57-8, 67-8

Ziblatt, Daniel, 3-4, 11-12

equal protection and, 93-7, 102-3, 185-6, 205

expansion of, 36-41