Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

WASHINGTON STATE GRANGE *v.* WASHINGTON STATE REPUBLICAN PARTY ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 06–713. Argued October 1, 2007—Decided March 18, 2008*

After the Ninth Circuit invalidated Washington's blanket primary system on the ground that it was nearly identical to the California system struck down in *California Democratic Party* v. *Jones*, 530 U. S. 567, state voters passed an initiative (I–872), providing that candidates must be identified on the primary ballot by their self-designated party preference; that voters may vote for any candidate; and that the two top votegetters for each office, regardless of party preference, advance to the general election. Respondent political parties claim that the new law, on its face, violates a party's associational rights by usurping its right to nominate its own candidates and by forcing it to associate with candidates it does not endorse. The District Court granted respondents summary judgment, enjoining I–872's implementation. The Ninth Circuit affirmed.

Held: I–872 is facially constitutional. Pp. 6–16.

(a) Facial challenges, which require a showing that a law is unconstitutional in all of its applications, are disfavored: They often rest on speculation; they run contrary to the fundamental principle of judicial restraint that courts should neither "'anticipate a question of constitutional law in advance of the necessity of deciding it'" nor "'formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied,'" *Ashwander* v. *TVA*, 297 U. S. 288, 483; and they threaten to shortcircuit the democratic process by preventing laws embodying the will of the people from being

---

*Together with No. 06–730, *Washington et al.* v. *Washington State Republican Party et al.,* also on certiorari to the same court.

Syllabus

implemented consistent with the Constitution. Pp. 6–8.

(b) If I–872 severely burdens associational rights, it is subject to strict scrutiny and will be upheld only if it is "narrowly tailored to serve a compelling state interest," *Clingman* v. *Beaver*, 544 U. S. 581, 586. Contrary to petitioners' argument, this Court's presumption in *Jones*—that a nonpartisan blanket primary where the top two votegetters proceed to the general election regardless of party would be a less restrictive alternative to California's system because it would not nominate candidates—is not dispositive here. There, the Court had no occasion to determine whether a primary system that indicates each candidate's party preference on the ballot, in effect, chooses the parties' nominees. Respondents' arguments that I–872 imposes a severe burden are flawed. They claim that the law is unconstitutional under *Jones* because it allows primary voters unaffiliated with a party to choose the party's nominee, thus violating the party's right to choose its own standard bearer. Unlike California's primary, however, the I–872 primary does not, by its terms, choose the parties' nominees. The choice of a party representative does not occur under I–872. The two top primary candidates proceed to the general election regardless of their party preferences. Whether the parties nominate their own candidate outside the state-run primary is irrelevant. Respondents counter that voters will assume that candidates on the general election ballot are their preferred nominees; and that even if voters do not make that assumption, they will at least assume that the parties associate with, and approve of, the nominees. However, those claims depend not on any facial requirement of I–872, but on the possibility that voters will be confused as to the meaning of the party-preference designation. This is sheer speculation. Even if voters could possibly misinterpret the designations, I–872 cannot be struck down in a facial challenge based on the mere possibility of voter confusion. The State could implement I–872 in a variety of ways, *e.g.,* through ballot design, that would eliminate any real threat of confusion. And without the specter of widespread voter confusion, respondents' forced association and compelled speech arguments fall flat. Pp. 8–15.

(c) Because I–872 does not severely burden respondents, the State need not assert a compelling interest. Its interest in providing voters with relevant information about the candidates on the ballot is easily sufficient to sustain the provision. P. 15.

460 F. 3d 1108, reversed.

THOMAS, J., delivered the opinion of the Court, in which ROBERTS, C. J., and STEVENS, SOUTER, GINSBURG, BREYER, and ALITO, JJ., joined. ROBERTS, C. J., filed a concurring opinion, in which ALITO, J., joined. SCALIA, J., filed a dissenting opinion, in which KENNEDY, J., joined.