If people have a First Amendment right to associate with others to form a political party, then it follows that "[a] political party has a First Amendment right to limit its membership as it wishes, and to choose a candidate-selection process that will in its view produce the nominee who best represents its political platform. These rights are circumscribed, however, when the State gives a party a role in the election process—as . . . by giving certain parties the right to have their candidates appear on the general-election ballot. Then, for example, the party's racially discriminatory action may become state action that violates the Fifteenth Amendment. And then also the State acquires a legitimate governmental interest in assuring the fairness of the party's nominating process, enabling it to prescribe what that process must be." [644]

A political party's First Amendment right to limit its membership as it wishes does not render invalid a state statute that allows a candidate to designate his party preference on a ballot, even when the candidate "is unaffiliated with, or even repugnant to, the party" he designates.[645] This is because the statute in question "never

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voter education, treating all candidates equally (candidates participating in a party primary also had to declare candidacy in March), and preserving political stability, were deemed insufficient to justify the substantial impediment to independent candidates and their supporters. *See also* Tashjian v. Republican Party of Connecticut, 479 U.S. 208 (1986) (state interests are insubstantial in imposing "closed primary" under which a political party is prohibited from allowing independents to vote in its primaries); California Democratic Party v. Jones, 530 U.S. 567, 577 (2000) (requirement of a "blanket" primary, in which all registered voters, regardless of political affiliation, may participate, unconstitutionally "forces political parties to associate with—to have their nominees, and hence their positions, determined by—those who, at best, have refused to affiliate with the party, and, at worst, have expressly affiliated with a rival."); Clingman v. Beaver, 544 U.S. 581 (2005) (Oklahoma statute that allowed only registered members of a political party, and registered independents, to vote in the party's primary does not violate freedom of association; Oklahoma's "semiclosed primary system" distinguished from Connecticut's closed primary that the Court struck down in *Tashjian*).

[644] New York State Bd. of Elections v. Lopez Torres, 128 S. Ct. 791, 797–98 (2008) (citations omitted). In *Lopez Torres*, the Court upheld a state statute that required political parties to select judicial candidates at a convention of delegates chosen by party members in a primary election, rather than to select candidates in direct primary elections. The statute was challenged by party members who had not been selected and who claimed "that the convention process that follows the delegate election does not give them a realistic chance to secure the party's nomination." Id. at 799. The Court rejected their challenge, holding that, although a state may require "party-candidate selection through processes more favorable to insurgents, such as primaries," id. at 799, the Constitution does not demand that a state do so. "Party conventions, with their attendant 'smoke-filled rooms' and domination by party leaders, have long been an accepted manner of selecting party candidates." Id. at 799. The plaintiffs had an associational right to join the party but not to have a certain degree of influence in the party. Id. at 798.

[645] Washington State Grange v. Washington State Republican Party, 128 S. Ct. 1184, 1189 (2008). This was a 7-to-2 decision written by Justice Thomas, with Justices Scalia and Kennedy dissenting.