

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

REPUBLICAN NATIONAL COMMITTEE, et al.

Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, et al.

Defendants.

Civ. No. 02-874  
(CKK, KLH, RJL)

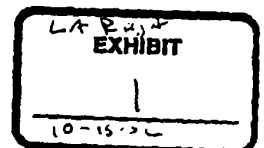
All consolidated cases.

**DECLARATION OF RAYMOND J. LA RAJA**

1. My name is Raymond J. La Raja. I submit this declaration to provide my expert opinion on the following:
  - (a) The activities and importance of political parties.
  - (b) The importance of nonfederal money for the effective operations of political parties.
  - (c) The effect of the BCRA on political parties.
  - (d) Whether less restrictive alternatives would have been less harmful than a unilateral ban on non-federal funds for national party committees.

**I. Background and Qualifications**

2. I am an assistant professor of political science at the University of Massachusetts, Amherst where my research and teaching focus on American political parties, elections and campaign finance.
3. I received my bachelor's degree from Harvard University in 1987, and a master's in public policy from the Kennedy School of Government in 1992. I was also a



Coro Fellow in Public Affairs in 1988 in California where I gained political experience through internships working for a labor union, the public affairs division of a Fortune 500 company, a not-for-profit organization, and a congressional campaign.

4. I began studying campaign finance and political parties as a graduate student at the University of California, Berkeley where I earned my Ph.D. in political science in 2001. My doctoral dissertation, "American Political Parties in the Era of Soft Money," examines how political parties spent non-federal funds during the 1990s.
5. I have written on campaign finance and political parties for chapters in edited books, reports for nonpartisan think tanks, and papers for academic conferences. In the past, I have also conducted research on the agencies that regulate elections and campaign finance. My current research focuses on campaign finance laws in the states.
6. I am on the academic advisory board of the Campaign Finance Institute, a non-partisan research organization in Washington, D.C. dedicated to developing ideas for improving the financing of politics. I am also the managing editor of the electronic journal, *The Forum*, which publishes the applied research of social scientists, historians and legal scholars on a wide range of topics related to contemporary American politics.
7. I have also had the benefit of working on Professor David Magleby's team of researchers that investigated how outside organizations, including political parties, spent money during the 2000 primary election in California. The findings

of this study emphasized the pervasiveness and variety of campaign activity by interest groups in federal elections.

8. My curriculum vitae, including my publications during the past ten years, is attached as Exhibit A hereto.
9. In reaching the opinions set forth below, I have focused my comments on the activities of party organizations rather than the broader aspects of the American party system that include partisans in the electorate, party members in government or the design of electoral institutions. My research gives particular attention to how the political parties spend money rather than contributions to the political parties. I have relied on data from the Federal Election Commission, the Center for Responsive Politics, the National Institute for Money in States and the Center for Public Integrity; surveys I conducted of the state political parties prior to the 2000 Election; my doctoral dissertation; interviews with party officials; declarations of non-party interest groups obtained by the RNC in this litigation; and the political science literature, including the various sources cited herein.
10. I am being compensated for my services in connection with this case at the rate of \$175 per hour.

## **II. Activities and Importance of American Political Parties**

11. Political parties are essential institutions in democracies. This is a widely accepted premise among political scientists. In the United States, political parties have played a critical role linking citizens to their government locally and nationally. Through efforts to build coalitions of candidates, officeholders and voters at every level of government, American political parties have been agents

of consensus in a society characterized by individualism and diversity of interests. But unlike parties in Europe, American party organizations have not been highly centralized. Instead, political parties at each level have enjoyed considerable autonomy while they work together toward common goals.

- (a) American political parties have focused primarily on winning elections rather than pursuing rigidly-defined ideological doctrines. While the major parties have articulated different principles and policies over the years, they choose to emphasize issues that allow them to build diverse and decentralized coalitions. Party leaders have continuously adapted the party organization over the years to help them build support among voters for the party and its candidates. In the early days of the republic, the party's electoral apparatus grew out of the need to mobilize electoral support among an increasingly diverse and large electorate. As the U.S. population expanded, party leaders and activists developed campaign technologies to attract and bring supporters to the polls. The earliest technologies included party-sponsored newspapers, the distribution of party ballots to voters, and "treating" voters to popular forms of entertainment. Technologies have changed through the decades, but the overriding goals remain the same: to attract support for the party and elect its candidates to office.
- (b) Strong organizations are important for political parties and American democracy. Party organizations provide an arena for a varied set of party activists and professionals to coalesce behind party candidates. Among

the varied set of political actors in American life, the party organization remains uniquely the ongoing operation that serves the interests of more than a single candidate or set of issues. It is the core "node" in a partisan network that extends from elected officials to candidate organizations, party-allied groups, campaign consultants, and ultimately, the voters. As such, these organizations serve an important function in coordinating party messages, supporting campaigns and building large coalitions.

- (c) Parties are an essential institution for promoting political competition, which is a *sine qua non* of democracy. In a healthy party system, when the party candidates experience defeat at the polls the party organization assumes responsibility for evaluating the loss, for developing new strategies and for marshalling resources to win future elections (see, Klinker 1994; p Herrnson 1994). As the most recognizable organization within an extended party network, an active party committee that coordinates political activities augments accountability in an American electoral system that is highly decentralized among numerous candidate committees and political action committees.
- (d) To maintain strong organizations the parties need to engage in general party building during election and non-election years. By party building I mean efforts to strengthen the capacity of the party organization to perform its traditional functions. These include year-round fundraising, recruiting and training candidates, researching and crafting campaign themes, identifying and mobilizing voters, and educating the public about

policy issues. Party building does not include acting as a financial conduit for individual candidates to funnel money into their campaigns.

12. Political parties at every level work together toward common goals. While American party committees have considerable autonomy they rely on each other for information and resources. They are also bound to each other by the success of party candidates at different levels of government office. Martin Van Buren, for example, helped elect Andrew Jackson in 1828 through this important insight. He understood that local candidates benefited from being associated with a popular candidate like Jackson at the top of the ticket. But Jackson needed to get voters to the polls, a task that was ideally suited to local party organizations. The mutual necessities of local and national party figures help establish a thriving party organizational network that generate partisan loyalties in the electorate, economies of scale in campaigns and the sinews that tie local parties to a national party apparatus.

(a) To participate across federal, state and local elections, political parties at each level may keep three separate financial accounts: (1) **federal account**, which includes funds that are raised and spent under the guidelines of the Federal Campaign Election Act and its amendments; (2) **non-federal account**, which includes funds that are raised and spent under state laws, and which can only be used for state and local elections; (3) **allocation account**, which is a hybrid account that includes both federal and non-federal funds to be used for "party-building" activities that affect party candidates across the ticket. It is my understanding that state parties

transfer funds from their non-federal accounts into the allocation accounts for party-building activities that may affect the entire party ticket, and not just state and local elections. In 1990, the Federal Election Commission (FEC) issued rules that established accounting guidelines to determine how much federal and non-federal funds could be allocated to particular activities.

- (b) Party scholars observe that relationships among local, state and national organizations have strengthened in the past three decades. They attribute this strengthening to the role of the national parties in providing resources and expertise to lower levels of party (see Herrnson 1988; Bibby 2003). The national committees have raised money to spend on building the state and local parties. They do this by transferring funds, particularly nonfederal funds, to the state organizations. National committees also help state and county organizations develop programs to improve party operations and staff professionalism. Both the RNC and DNC hire personnel in Washington who are chiefly responsible for supporting party affairs in the states, including help for fundraising, voter identification, mobilization, and campaign strategies.
- (c) This kind of party activity, coordinated by the national committees, is exactly what prominent political scientists hoped for when they issued their landmark report in 1950 to strengthen American political parties (see supplement to the *American Political Science Review*, vol. 44). By centralizing fundraising, merging party efforts at every level and working

closely with candidates, the party committees have tightened the party nucleus, which is a development that encourages greater accountability in the electoral process. National parties have emerged as strong actors during the past three decades because they have been able to raise sufficient funds to invest in party building programs at every level.

- (d) According to John Bibby, a preminent party scholar who is an especially strong analyst of state political parties:

*Fund transfers from the national organizations to state parties, joint national-state party campaign activities, and national party technical assistance to state affiliates have all resulted in a nationalizing of party campaign efforts and substantially heightened levels of integration between the two strata of party organization. Thanks to assistance provided by the national party committees, many state parties have been strengthened. (2003:114)*

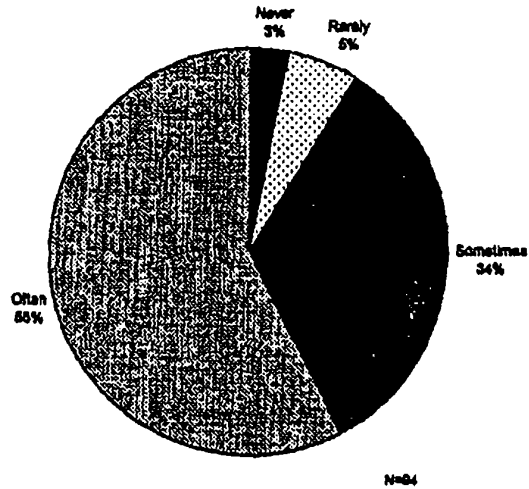
13. Political parties are important agents for recruiting and training candidates. The institution of the direct primary has all but eliminated the ability of political party leaders to handpick their nominees as they did at the turn of the century, but seeking out and encouraging candidates to run for office remains a vital party function. Professors Moncrief, Squire and Jewell (2001) provide examples from Vermont and Alabama where leaders from party organizations that were historically in the minority invested time and resources in local districts seeking candidates to run against the opposition. In V.O. Key Jr.'s classic account of Southern politics (1949), he attributes the transient and demagogic nature of



personal political factions in Alabama (as in other Southern states) to the lack of strong party organizations that could provide "a somewhat orderly and systematic means for the development and grooming of party candidates and a continuity of personnel that encourages at least a germinal sense of group responsibility for party action (1949:46)." In the absence of strong parties, Key argues, Alabama political leaders were "self-appointed and self-anointed and attract to themselves sub-leaders by favor, chance or demagogic skill (p.46)."

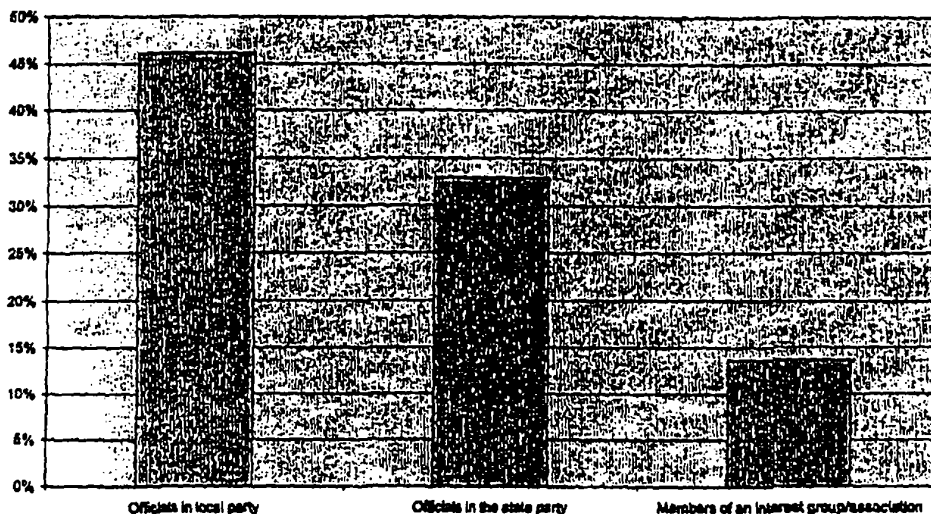
- (a) Parties have a strong incentive to invest in recruiting because they want to win majorities in the legislature. They are strategic in their efforts because they look for districts that are winnable and they seek good candidates. Good candidates usually have local name recognition and some experience in public affairs. They have the best shot at winning. In my survey of state party activity during the 2000 election cycle, 54 of 94 major state parties reported that they recruited candidates often and only 3 claimed they never performed this function. Figure 1 below illustrates that for most state parties, recruiting candidates is an important function.

Figure 1. Does State Party Staff Help Recruit Candidates?



- (b) Party officials are the most likely source of recruitment contacts for state legislative candidates. According to Moncrief, Squire and Jewell (2001:43), 46% of 535 state legislative candidates that were surveyed said officials in the local party approached and encouraged them to run for office before they announced their candidacy (see Figure 2). About one-third said officials in the state party organizations approached them. In contrast, only 14% were approached by interest groups to run for office. The political party is the most effective agent of recruitment among the many groups that engage in electoral politics.

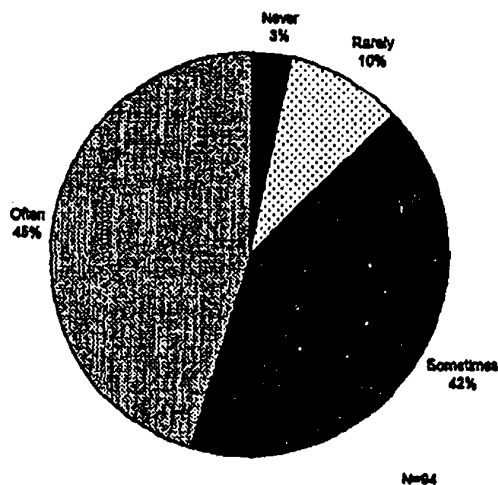
**Figure 2. RECRUITING STATE LEGISLATIVE CANDIDATES:  
 "Before You Announced Your Candidacy,  
 Were You Approached and Encouraged to Run for Office by Any of the Following?"  
 (Percent Answering "Yes")**



Source: Moncrief, Squire and Jewell (2001), *Legislative Candidate Survey* (N=535)

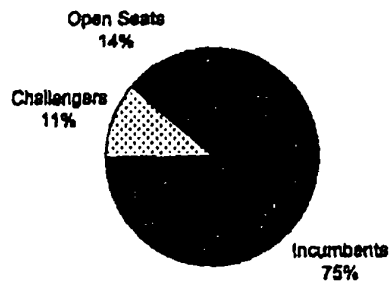
- (c) The parties help candidates by training them and their campaign staff. In my survey, almost half of the parties reported they frequently helped candidates this way; only 12 parties of 94 parties said they never or rarely performed this function (see Figure 3). Parties also steer donors to candidates, encourage well-known elected party officials to help the candidate with shared public appearances, and get voters to polls on Election Day (see Moncrief, Squire and Jewell 2001). The promise or refusal of support from the party organization can make an important difference in whether a candidate chooses to run for office, particularly in an era of cash-intensive campaigning that requires skillful application of advanced campaign technologies.

Figure 3. Does State Party train campaign staff who work for candidates?

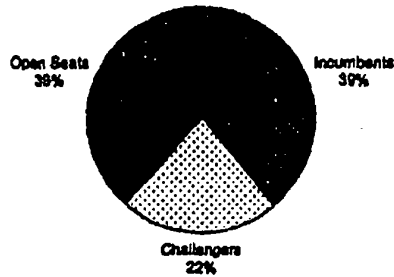


14. National and state political parties can be an important source of campaign contributions for state level candidates facing tough races. There is wide consensus in political science that parties support challengers more than interest groups, which prefer to contribute to incumbents. The reason for this is rooted in the different incentives of these two groups. Parties desire to win majorities in legislatures so they invest in boosting their control of offices whenever possible. Most interest groups, in contrast, seek to build relationships with officeholders as a way of improving access to the legislative process and lobbying their position. In political science, there is strong empirical support for the theory that interest groups allocate resources primarily to pursue the "access" strategy, meaning they give to candidates who are most likely to win office, which is usually the incumbents (see, for example, Herrnsen 2000). Political parties, however,

**Figure 4. PAC Contributions to Federal Candidates  
2000 Elections**



**Figure 5. Party Contributions and Coordinated Expenditures  
for  
Federal Candidates, 2000 Elections**

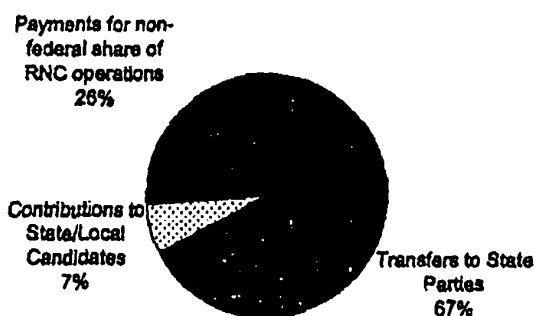


Source: Federal Election Commission

- (b) National parties make contributions to state level candidates, including during years when there are no federal races. For example, the RNC contributed roughly \$500,000 to the Republican gubernatorial candidate in Virginia in 1999 (Shaw, 2001) as well as substantial funds to the

Republican gubernatorial candidate in New Jersey. The national parties also contribute money to local legislative candidates. During the 2000 election cycle, the Republicans, for example, allocated 7 percent (\$9.5 million) of their non-federal funds for contributions to state and local candidates (see Figure 6 below). The national committees contributed a combined \$19 million to state and local candidates. By helping state and local candidates win office, the national parties advance their policy agenda and public support for this agenda below the federal level. The desire of the national party to associate with state and local party affairs is also part of a long-term strategy to strengthen the party. National party leaders recognize the importance of developing a "farm team" of experienced candidates and elected officials who will eventually run for higher office.

**Figure 6. RNC Disbursements from Non-Federal Accounts,  
2000 cycle**



Source: Federal Election Commission

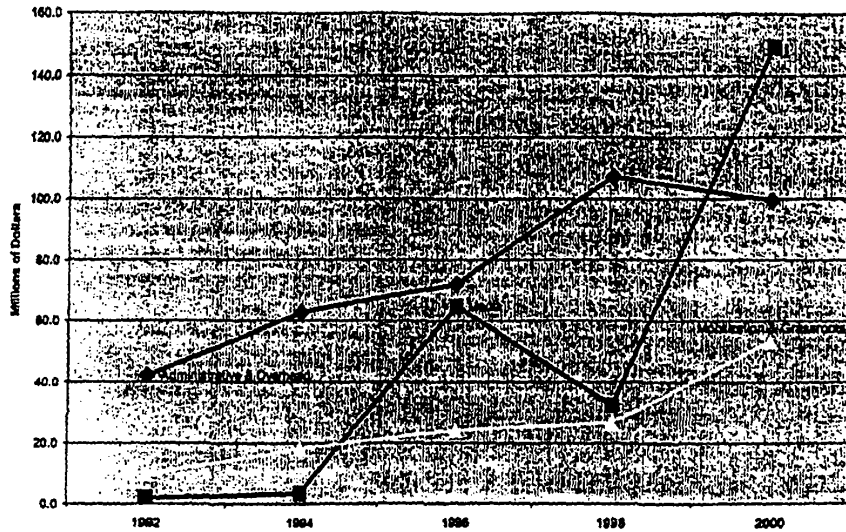
- (c) National parties allocate about one-quarter (\$136 million) of their non-federal money to party-based operations affiliated with the headquarters in Washington. Of this amount, \$57.8 million (43%) went for administration such as paying salaries, benefits, office equipment and supplies. Another \$52.6 million was invested in fundraising activities (39%). Only \$10.3 million was allocated for media (8%), and \$8.5 million for voter mobilization and grassroots activity (6%). A division of labor exists among the levels of parties, with the national organizations taking primary responsibility for administrative functions and fundraising, while state and local parties engage more directly in campaigns and voter mobilization activities.

15. National parties assist state parties in raising funds. A common perception is that the national parties transfer nonfederal money to state parties for the sole purpose of funding issue ads. But national party support of state parties goes deeper than this. For example, the national committees provide expertise to state staff in raising money. Both the RNC and DNC sponsor regional fundraising seminars for staff from state and local parties. The national party staff can be invaluable in showing state party workers how to organize operations for fundraising and telemarketing. These tasks require considerable experience, which is often lacking in smaller states where staff turnover is high and much of the work is done through volunteers.

(a) National party transfers to state organizations also help with party building. Transfers from national parties are allocated for administration (which includes salaries, benefits, office equipment and supplies), voter mobilization and media campaigns. As transfers to the state parties increased so did spending on state party work. Between 1992 and the 2000 election cycles, spending on voter mobilization increased steadily from \$9.6 to \$53.1 million (see figure 7 below).



Figure 7. Soft Money Spending by State Parties, 1992-2000



- (b) The most dramatic increase in state party spending was for media activities during presidential election years for issue ads. The emergence of significant amounts of issue advertising by state parties in 1996 is rooted in the deficiencies of a presidential public funding system that is severely out of step with important changes in the electoral season. Presidential primaries are "frontloaded," meaning that a party nominee emerges several months before the national conventions. Under this circumstance, the parties face what political scientists refer to as a "prisoner's dilemma" during the period leading up the party convention. Both parties can wait several months until their respective conventions when public funds are released to their presidential candidates for the general election. Alternatively, they can begin to set the issue agenda

before the convention. The dilemma is complicated by the number of issue groups that have a strong incentive to shape the political dialogue by broadcasting messages early in the electoral process.

- (c) The wide open period gives an advantage to any political party or interest group that chooses to broadcast issue ads before the conventions. If both parties and interest groups forego issue ads during this period, then the election will be fought during the few months beginning after the convention. If one party or major interest group decides to move earlier, it has a compelling advantage to set the policy agenda for the upcoming presidential campaigns. The fear of leaving an advantage to the opponent spurs the parties and interest groups to move first. Issue ads before the convention reflect an effort to capture this policy space rather than relinquish it to opponents and factional interests within either of the parties.
- (d) It is my understanding that the BCRA does not allow political parties to air issue ads that refer to a federal candidate at any time using non-federal funds. The BCRA also prohibits interest groups from airing issue ads with non-federal funds during a blackout period. This does not prevent interest groups from using non-federal funds early in the election by "frontloading" issue ads to set the policy agenda for presidential and other elections. If the last provision barring interest groups from using non-federal funds for issue ads during a blackout period does not withstand constitutional scrutiny, the political parties will be at even more of a

disadvantage relative to interest groups since the latter will have relatively more ability to communicate their messages up through Election Day.

Interest groups already dominate issue advertising (see section III. 1.b).

- (e) While it is apparent that national committees target party building in competitive states, it is also true that every state party receives money from them, even if there are no competitive federal elections in the state. According to Marianne Holt, who led the "Outside Money" project for the 1998 elections sponsored by the Pew Charitable Trusts, the transfer of national party funds for GOTV drives "has increased the state and local party role as they spend more and more soft money....Such campaign activity has not only strengthened the national party committees but has infused the state parties with a vitality and power not seen in the past two decades." (see Magleby 2000)

16. Political parties use nonfederal money to develop and disseminate political messages. The national parties possess research divisions that focus on message development through the use of polling data and focus groups. In conjunction with the party leadership in government, party operatives craft issue themes that will frame the party's policy and campaign agenda. The national party committees help to coordinate the daily flow of political messages by sending out faxes and e-mails to the parties' elected officials at every level. The state parties also send out similar political information related to state policy issues and campaigns.

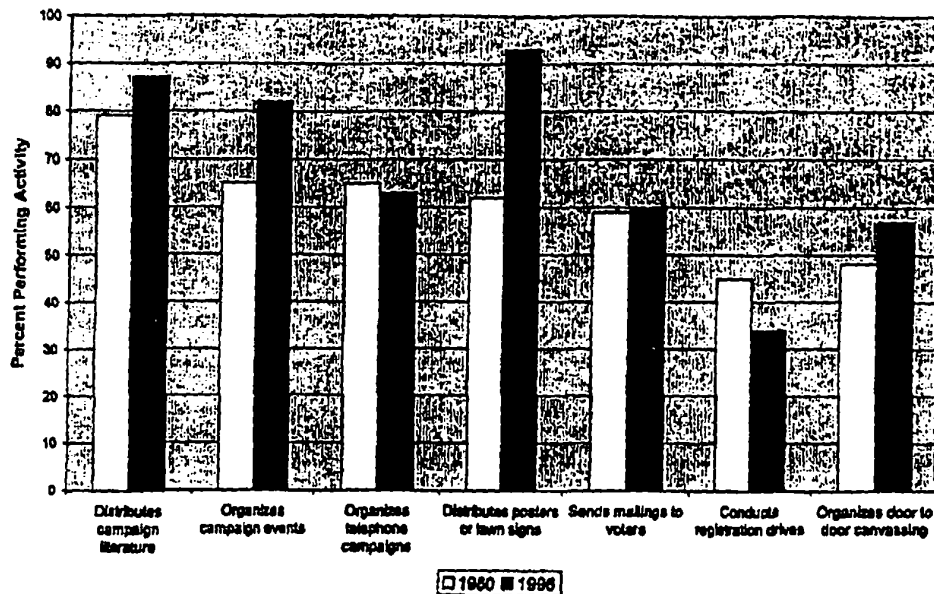
- (a) Nonfederal money is used to spread the party message. In place of the traditional party newsletter, political parties now commonly use e-mail to spread the word among adherents. Every major state party has a web site where voters can get information about candidates and opportunities to serve the party. One of the most important and expensive methods of reaching partisans is through direct mail. The state political parties devote as much as 22 percent of nonfederal funds from their nonfederal accounts for this activity according to data provided by the Center for Public Integrity. Direct mail is useful because the parties can pursue several goals simultaneously: raise money, explain the party position on issues, and contrast their position with the opposition. Direct mail tends to be targeted toward the party's loyal or likely voters.
- (b) Political parties also use broadcast media to spread their political messages. Broadcast media are particularly important in persuading "undecided" voters to side with the party and its candidates. Usually, party-based ads focus on selected issue themes developed before the start of the electoral season. The fact that these ads are sponsored by the national or state parties and used throughout the nation gives them a generic "cookie cutter" quality (see Krasno and Seltz, 2000: 198). Local candidates sometimes dislike this generic quality but the similarity of themes provides some policy coherence across party candidates. The theme-focused party ads encourage accountability in elections since voters will be able to know what the party candidates stand for collectively.

Even when voters do not recognize the link between party-based ads and party candidates, institutional intermediaries, such as the news media, help make these links for the voter.

17. At the grassroots level, political parties mobilize volunteers and develop local support for the party and its candidates. The state political parties provide the support infrastructure that allows local volunteers to reach out to voters. They do this by creating detailed voter lists, operating phone banks, developing precinct maps for canvassing, purchasing yard signs and bumper stickers, and handling all the administrative paperwork involved with purchases and filing with the election regulatory agencies in the state and with the Federal Election Commission.

(a) Grassroots efforts at the local level have increased or been maintained since the 1980s. According to a survey of 335 local Republican committees by Frensdreis and Gitelson (1997), a greater percentage of these organizations have been getting involved in a variety of grassroots efforts that Congress wanted to spur through its amendments to the FECA in 1979 (see Figure 8 below). For example, the percentage of committees distributing posters and lawn signs has increased from 62 to 92 percent between 1980 and 1996. The Democratic local committees show similar gains.

Figure 8. Grassroots Activity of Local Republican Party Organizations, 1980 and 1996



Source: John Frendreis and Alan R. Gitelson, "Continuity and Change in Electoral Roles of Local Parties," a paper prepared for delivery at the State of the Parties: 1996 conference, Ray C. Bliss Institute of Applied Politics, University of Akron, Oct. 9-10, 1997, as cited by Bibby (2003:136).

- (b) The modern party organization relies heavily on outside campaign consultants to do much of its work. By "outsourcing" particular tasks to professionals, the modern party organization has adopted some of the same administrative strategies as contemporary business firms, governmental agencies and not-for-profits. One important aspect of the relationship between the party organization and its consultants is that the latter tend to work for only one of the major parties. In fact, many consultants gain political experience working for the party organization early in their careers. While some casual observers of politics may lament that politics has been overrun by "hired guns" working for any candidate

with money, more acute observers have remarked how consultants constitute an extended network of party activists (see Kolodny and Logan 1998).

- (c) What may be striking to the historian of political parties is how much more professionalized these operations are than in the days when party precinct captains routinely walked the local streets, building face-to-face support for the party. Earlier party organizers, however, relied on the best available technology to suit their needs. The modern party exploits new technology to achieve the same goal of spreading the party message and electing its candidates to office. That is why party workers employ many strategies developed by commercial enterprises to identify and inform citizens: direct mail, surveys and telephone calls. Political organizations need to reach large and dispersed audiences with their political messages, while competing in a broadcast and print environment saturated with entertainment and commercial information. For this reason, it is hardly surprising that they avail themselves of the latest communication technology and strategies.
- (d) To perform the activities I have mentioned above, political parties need money. While party historians describe an era when the party organization relied on armies of volunteers to perform campaign activities, the modern party relies more on professionals to perform its work. In this they are no different from other modern organizations, including the many civic organizations throughout the nation. Increasingly, civic

organizations and interest groups rely on "checkbook" volunteerism to perform their work (see Putnam 2000; Verba, Schlozman and Brady 1995). Citizens make contributions to favored organizations where professional staff executes the work to advance the goals of members.

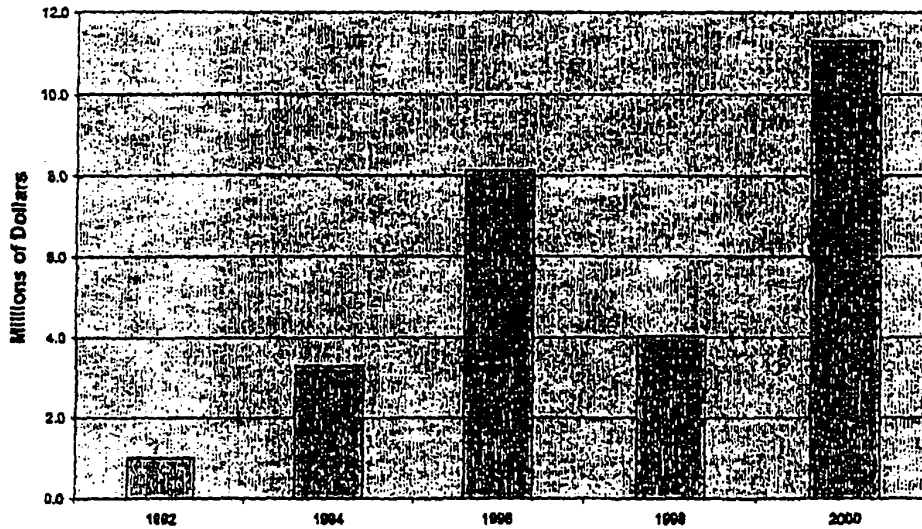
- (e) Political parties rely more on professionals because they seek to reach out to voters with sophisticated technologies that require special expertise. These technologies include public polling, direct mail, telemarketing and broadcast advertising. Similarly, non-party interest groups, such as EMILY's List and the National Rifle Association have come to rely on the same kind of professionals to reach out to their members.
- (f) While party activity at the national and state level has assumed a professional cast, party volunteers remain important at the local level. These volunteers usually participate in the weeks before Election Day. The ebb and flow of volunteers today appears no different than in the past. While conventional historical accounts of political parties suggest that citizens attended party meetings and rallies year-round, recent historical research suggests otherwise. The flow of partisan volunteers into politics was highly seasonal, and a rather small, core group of dedicated activists managed party affairs day-to-day (see Altshuler and Blumin 2000). Today, the modern party organization is also managed by a core of activists. The emerging strategies they adopt reflect the realities of changing technologies and demographics.



18. Political parties provide the campaign "hoopla" that has been a staple of American politics. I define campaign hoopla as the traditional public display of partisan symbols such as yard signs, banners and bumper stickers, along with the revelry among partisans in the form of rallies and speeches in public spaces. In the aftermath of the FECA and its amendments, much of this hoopla was depressed because candidates – particularly the presidential candidates – were afraid these displays of partisan ardor might be counted as political contributions that would violate the federal laws.
- (a) Some professional campaign practitioners are skeptical of spending money on these kinds of grassroots activity. They see it as "wasted money" that could be spent getting voters to the polls or for more advertising. But this hoopla is important for generating enthusiasm about political campaigns and building the morale of party activists. An enthusiastic group of party activists are likely to spread the word among friends and neighbors, getting others involved in campaigns. In this way grassroots hoopla may generate network effects that encourage greater awareness about the party message and participation in campaigns among party activists. Based on my analysis of the reports filed with the FEC, state political parties spent \$11.3 million in the 2000 cycle on party "hoopla," which I define as distributing yard signs, bumper stickers, banners, pins, holding rallies and fairs, and other volunteer work (see Figure 9 below). In contrast to the conventional wisdom, this sum reflects an increase over the decade. Between the midterm elections, 1994 and 1998, party spending on hoopla

increased from \$3.3 to \$4 million. The growth during presidential elections has been more prominent: \$1 million in 1992, \$8.1 million in 1996, and \$11.3 million in 2000.

**Figure 9. State Party Non-Federal Disbursements on Grassroots and "Hoopla"**



19. Parties mobilize voters by identifying likely supporters, registering them and getting them to the polls on Election Day. Since the early days of the Republic, political parties have been important agents of mobilization. In the so-called "heyday" of political parties, the organizations used a variety of techniques to get voters to the polls. They helped immigrants gain citizenship, registered voters, sponsored popular entertainments at the polling booth. The techniques have changed and parties face stiffer competition to get the attention of voters. Between the 1992 and 2000 election cycles, the combined nonfederal spending by 100 major state parties to mobilize voters increased from \$8.6 to \$41.8 million

(see Figure 7 earlier). It is difficult to evaluate how this spending affects turnout, and there is vigorous debate among political scientists about factors that affect turnout. According to two scholars from MIT, the reduction of party non-federal funds could decrease voter turnout by slightly more than two percentage points, which represents about two million voters (see Ansolabehere and Snyder, 2000:617).

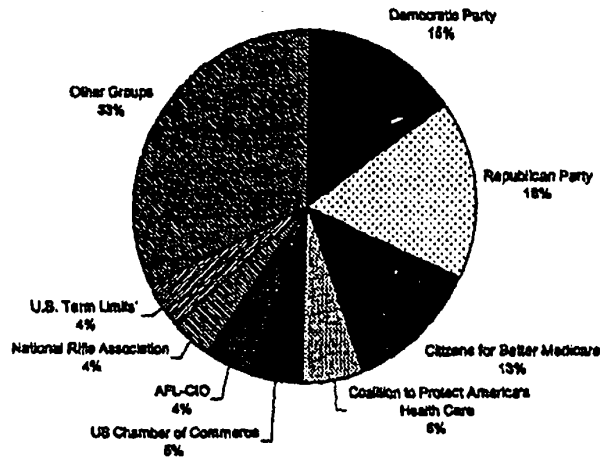
**III. Importance of nonfederal money for the effective operations of political parties**

20. Political parties use nonfederal money for issue advertising, including advertising that relates to state and local elections when a candidate is mentioned.

(a) Party spending on media activities reflects efforts to win support for the party and its candidates. Broadcast media efforts are targeted usually toward the undecided voters, in contrast to "ground" mobilization strategies, i.e., direct mail, telephone calls and canvassing, that urge partisan loyalists to go to the polls. While most ads occur during the final months of the campaign season, the parties will also spend money outside the campaign season to bolster support for particular party policies, or to challenge the policies of the opposition. The Democrats pursued this strategy in 1995, when the party sponsored ads attacking the Republicans in Congress on the issue of shutting down the government during the budget stand-off. The Republicans aired issue ads nationwide during discussions of the balanced budget amendment and welfare reform legislation.

(b) Political parties compete with interest groups when airing political ads. Political parties accounted for a little less than one-third of issue ads in the 2000 cycle, while interest groups accounted for two-thirds according to a report by the Annenberg Public Policy Center at the University of Pennsylvania. The Republican Party spent \$83.5 million (16% of total) and the Democratic Party spent \$78.4 million (15% of total). One non-party group, Citizens for Better Medicare, which is funded by the pharmaceutical industry, spent almost as much money on issue ads as either political party (see Figure 10 below). Overall, the top six non-party spenders accounted for almost one-fourth of issue ads for the cycle. The APPC reports notes that political party spending may be under-represented because researchers counted party spending only in the 75 largest media markets. These figures, however, closely match my own data on party-based issue ads collected by examining financial reports filed with the FEC. The APPC data on issue ads reveal the breadth of interest group spending that competes with parties to disseminate political messages. Under the BCRA, the percentage of ads sponsored by non-party groups is likely to rise because national parties, unlike interest groups, will be required to pay for all advertising with federal money, regardless of when they are broadcast. State and local parties will have fewer resources to broadcast ads because they can no longer receive nonfederal funds from the national committees.

**Figure 10. Issue Ad Spending for the 1999-2000 cycle**

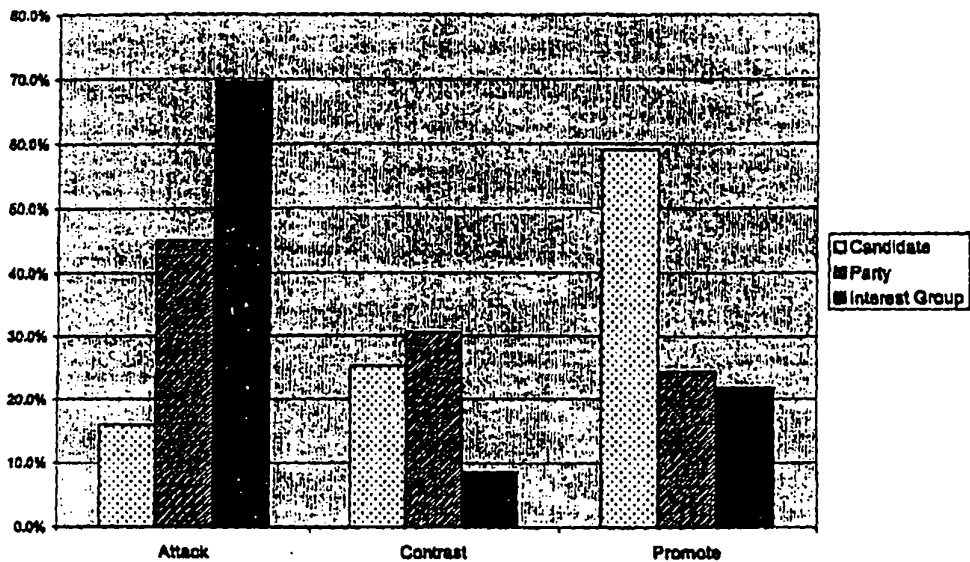


Source: Annenberg Public Policy Center

- (c) The rate of growth for interest group advertising is rising faster than for political parties and candidates. According to data compiled by the Brennan Center for the 1998 calendar year, interest groups spent 42 cents for every dollar that the parties spent on advertising (electioneering and issue ads combined). In 2000, interest groups closed this gap considerably by spending 60 cents for every dollar the parties spent. If the national political parties are not able to raise and spend soft money for issue advertising this gap will diminish even more.
- (d) According to the most recent data from the Brennan Center in 2000, interest group advertising that mentions federal candidates was more negative than similar party-based advertising (see Holman 2001). Figure

11 illustrates that almost 70 % of ads aired by interest groups were “attack” ads, while 45% of ads aired by parties were attack ads. Parties also aired more “contrast” ads, which tend to help viewers recognize key differences between the parties’ candidates. Under the BCRA, it is conceivable that additional spending by interest groups will result in more negative advertising.

Figure 11. Ads by Candidates, Parties and Groups that Attack, Contrast or Promote Candidates

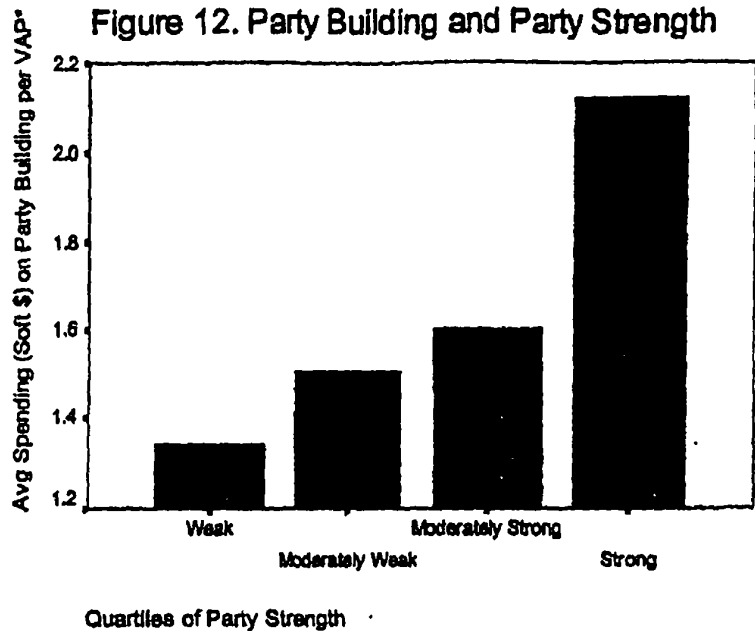


Source: Brennan Center

21. Nonfederal money helps parties perform important traditional party functions. My research shows that state political parties that spend more nonfederal money per voter tend to have stronger organizations. By stronger organizations I mean those that retain sizeable year-round headquarters and perform traditional party

functions frequently, such as recruiting and training candidates, and running party-wide mobilization programs.

- (a) To assess the relative strength of political parties, I sent out questionnaires to all 100 major state party organizations about the size and scope of operations and received responses from 94 organizations. I created a cumulative index of "party strength" based on how frequently the party said it performed several activities, as well as the size of party staff and off-season budgets.
- (b) Stronger organizations possess relatively more staff per voter, and engage in party-based activities more frequently such as recruiting, mobilizing voters, researching the opposition party, conducting polls and helping train activists and volunteers to help candidate campaigns. For ease of comparison I arranged the parties into quartiles of party strength: weak, moderately weak, moderately strong and strong (see Figure 12 below). I then observed whether the amount of nonfederal money that state parties spent between the 1992 and 2000 election cycles (adjusted for the size of the voting population) corresponded with the relative strength of the parties.



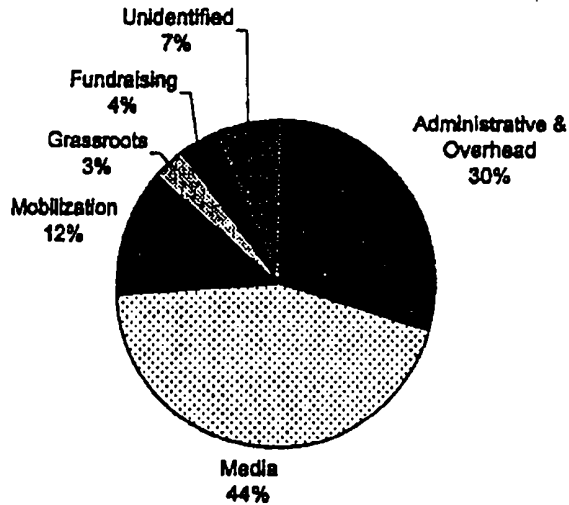
- (c) The weakest state organizations spend the least amount of nonfederal money, while the strongest parties spend the most. This linear relationship shows that parties invest nonfederal money in party building activities. The more they spend nonfederal money, the larger the organization and the more activities they perform. This finding implies that state parties have not been merely conduits to pay for issue ads with nonfederal money as depicted in the news media. Instead, party spending reflects genuine investments in party-based work. I would not go so far as to argue that nonfederal money, by itself, *creates* strong political parties because the causal mechanism linking spending and party strength is difficult to untangle. For example, strong party organizations tend to be better at raising money. It seems clear, however, that reducing party budgets



through a ban on soft money for national parties will likely weaken party organizations by reducing their activity and presence during both non-electoral and electoral seasons.

22. Transfers of nonfederal money from the national committees to the state committees have helped sustain or expand state party activity. The amount of transfers from national organizations to state organizations has increased from \$18 million in the 1992 cycle to \$279 million in the 2000 cycle. The national committees of the Republican Party provided more than half of nonfederal receipts for its state party affiliates during the 2000 Election Cycle (adjusted from "swaps" of federal money transferred to national committees). The national committees of the Democratic Party provided 63% of state party nonfederal receipts. The conventional wisdom is that all the money went into issue ads that benefited federal candidates. But this is not so. While 44% went for media-related disbursements, almost half of nonfederal money paid for party building activities such as administration and voter mobilization (see Figure 13).

**Figure 13. State Party Non-Federal Disbursements, 2000 Cycle**



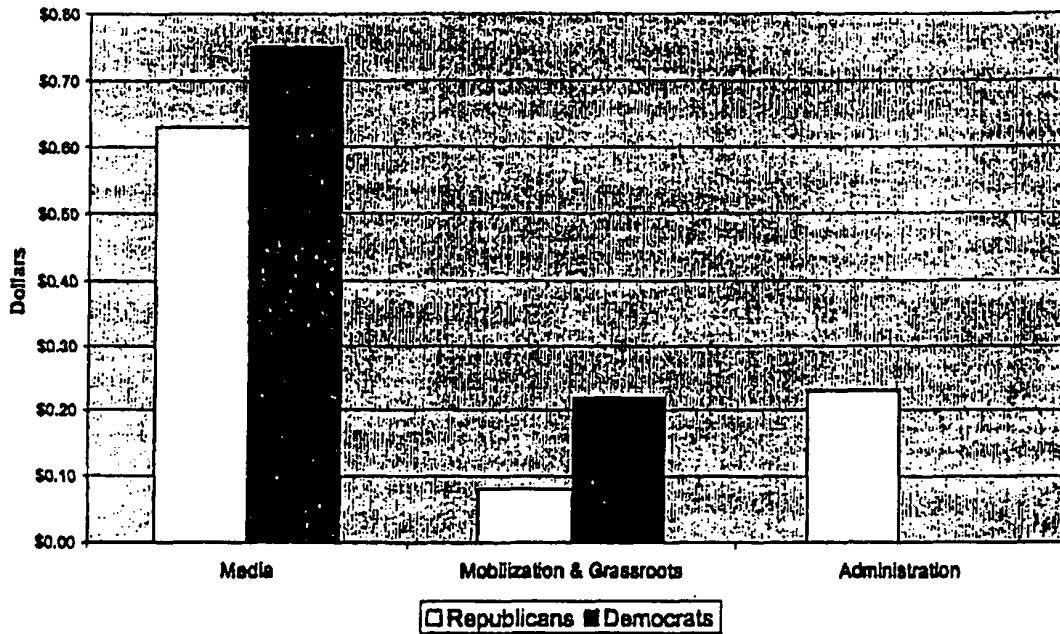
Source: Federal Elections Commission; data compiled by author.

- (a) My doctoral research suggests that these transfers have enabled the state parties to perform more activities. Supporters of the BCRA have tended to focus on how the transfers to state parties are associated with increased spending on media. While this is certainly true, it should not be forgotten that the state parties use nonfederal money for other kinds of efforts. For example, an increase of one dollar transferred between 1994 and 1998 from national committees of the Democratic party to a state party resulted in an additional 22 cents of spending on mobilization activities such as voter identification, phone banks, direct mail, canvassing, and various forms of grassroots activity (see Figure 14 below; these estimates have been controlled for changes in the competitiveness of U.S. Senate, U.S.

House, and gubernatorial contests in the states between 1994 and 1998).

Similarly, a dollar increase in transfers by Republican national parties was associated with an increase of 23 cents on administrative spending and 8 cents for mobilization activities. In 1979, Congress intended to encourage this kind of party-based mobilization and grassroots activity when it amended the Federal Election Campaign Act.

**Figure 14. The Effect of an Additional Non-federal Dollar Transfer between 1994 and 1998 Elections on State Party Activity**

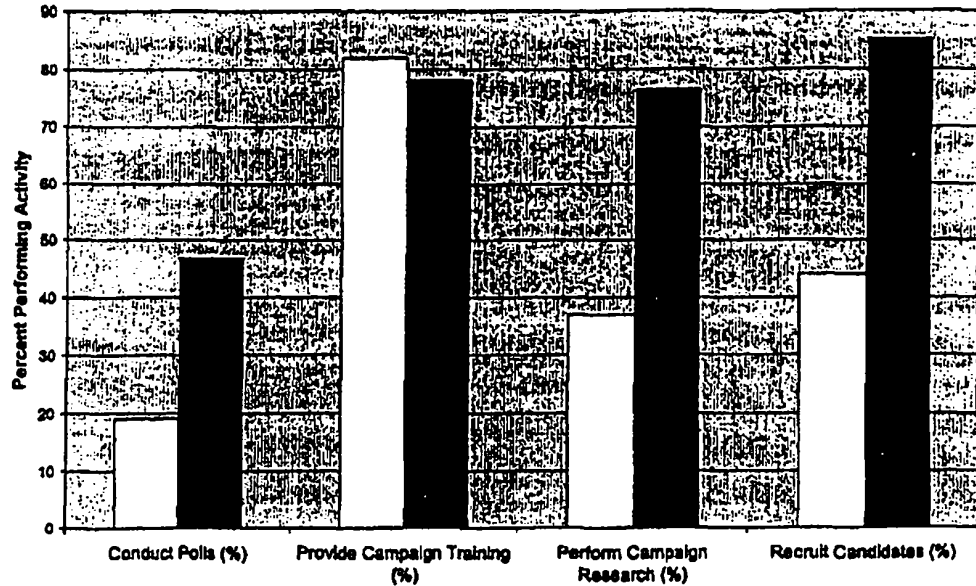


See Appendix A for OLS coefficient estimates.

- (b) Since 1979, when Congress passed these amendments to strengthen party organizations, parties appear to have gotten stronger. I compare data on political parties collected in 1980 (see Cotter et al., 1984) with the data I collected during the 2000 election cycle. On almost every measure for

which my survey questions match the 1980 questionnaire, political parties appear to be more active today than in 1980 (see Figure 15 below). For example, in 1980 only 44% of the Democratic state parties recruited candidates while in 2000 cycle, 85% performed this activity. Similarly, the size of the organization has increased as measured by the number of employees, the size of budgets during the off-election year, and the existence of permanent party headquarters. The Republicans made solid gains as well, although not as dramatic because they began their party building efforts in the 1960s under RNC chairman, Roy C. Bliss (see Herrnson 1988; 1994). While I would not argue that the Democratic Party began its party building efforts with the rise of non-federal funds, it seems apparent that non-federal funds helped them expand party-based operations.

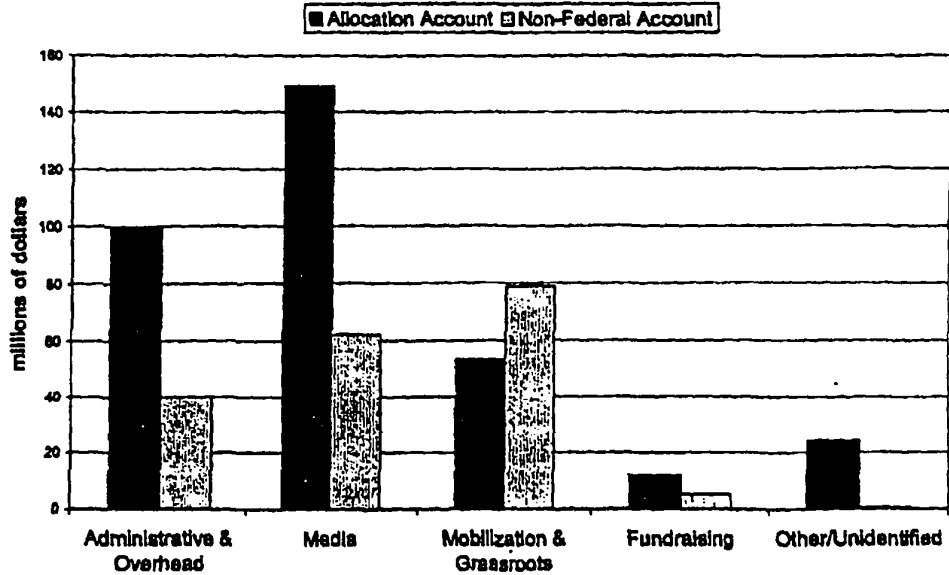
**Figure 15. Democratic State Party Activity, 1980 vs 2000**



(c) Political parties work closely together through the exchange of nonfederal funds. By transferring funds among party committees, the party organizations increase interdependence and create an efficient use of campaign funds. The parties trade nonfederal dollars for federal dollars to meet specific needs of the campaigns in each state. In states where campaign finance laws permit parties to raise funds in larger increments than allowed under federal laws, these parties may transfer money they raise under "hard" limits of federal laws to states that need federal funds. In return they receive nonfederal dollars. The necessity of trading funds among parties provides opportunities to strengthen the party network across state boundaries and encourage party solidarity.

23. National and state political parties use nonfederal dollars for nonfederal election activity. According the Center for Public Integrity, the state party organizations spent \$232 million exclusively from the nonfederal accounts. This money was spent on candidate contributions and party building activities that included voter registration, direct mail and various forms of get-out-the-vote strategies; it does not include transfers to other party committees. It should be emphasized that these disbursements are *in addition* to the sums of nonfederal money that the state parties reported to the Federal Election Commission in their *allocation accounts*. Figure 16 (see below) shows party nonfederal spending in the nonfederal account and the allocation account. Combined party disbursements on mobilization and grassroots in both accounts amounted to \$132 million. While media activities account for 40% of nonfederal disbursements, state organizations invested one-quarter of their funds in “ground” mobilization activities.

Figure 16. State Party Non-Federal Spending, 2000 Cycle



IV. What will be the effect of the BCRA on political parties?

24. The ban on non-federal funds to national political parties will likely divert nonfederal money toward interest groups. Political parties compete with interest groups for donations. They also rely on some interest groups to donate money to them. Under the BCRA, donors may not give nonfederal money to the national parties, but they may continue to donate to interest groups or state and local parties in some states. Interest groups will take advantage of the vacuum left by the national committees to raise the nonfederal funds that parties have raised in the past. According to recent articles in the *Washington Post*, interest groups are already positioning themselves to recoup the funds that parties will not receive once the BCRA takes effect. The *Washington Post* reports that lobbyists and

Wilcox, Rozell and Skinner 2002, it seems likely that groups that were the largest single non-federal funds donors to parties, such as labor unions and issue groups with large memberships, should benefit from the new laws because they have various options. These groups will substitute for non-federal funds donations to parties with direct membership mobilization and additional federal contributions to candidates. Large business organizations may do likewise, although they frequently lack the structural advantages to mobilize voters that membership groups possess. These groups gave to political parties in the past because of party fundraising requests, and because interest group leaders understood that the party was the most effective coordinator of campaign activity, i.e., the parties use resources efficiently across numerous elections. It is likely that membership groups, such as the AFL-CIO or NARAL will invest their nonfederal funds in their own campaign operations now that they cannot donate them to the national committees.

- (d) Even if the provision imposing a blackout period on interest group issue ads paid for with non-federal funds is upheld, the national parties remain at a disadvantage relative to interest groups since the latter may continue to defray non-media costs, such as administration and voter mobilization, with non-federal funds. Under the BCRA, the national committees must pay for everything with federal funds. State parties will also suffer since they have come to rely on national party non-federal funds for party building activities.



- (e) The organizations that gave both federal and non-federal funds will likely shift additional resources into federal funds contributions and lobbying. Those that are effective at electoral politics will invest additional amounts into campaigns that include member mobilization and issue ads. EMILY's List and the National Rifle Association will do particularly well under the provisions of the BCRA. They will be able to bundle contributions from members and channel them to favored candidates. They may also use their nonfederal funds to mobilize members and broadcast issue ads outside the blackout period prior to elections. Some activists are also forming 527 committees that may continue to raise and spend non-federal funds. For example, the founders of DaschleDemocrats.org claim they are completely independent from Senate Majority Leader Tom Daschle. The committee is headed by several former senators and Clinton administration officials. Even Senator McCain, a sponsor of the BCRA, acknowledges that groups may get around provisions that attempt to limit the use of nonfederal funds (see Edsall, 4/11/02).
- (f) The largest non-federal donors are already giving significant amounts of federal (hard) money. My research with Apollonio on interest group political contributions shows that the median amount of federal money contributed to candidates is greater than \$78,000 for groups that give both federal money to candidates and non-federal money to parties (data provided by the Center for Responsive Politics). The median non-federal

donation to political parties for this group of "dual" donors is only \$25,000. For groups that give *only* federal money to candidates the median federal contribution is slightly more than \$10,000. These figures indicate that non-federal donors already dominate the federal money system of political contributions; they will have little trouble adjusting to a system that prohibits non-federal donations to national party committees.

- (g) The number of groups that donate non-federal money is much larger than the number of groups that give federal contributions, and the vast majority of these non-federal donors are small donors. In the 1998 election cycle, there were 2,777 federal PACs that made federal funds contributions. In contrast, there were 11,383 entities (corporations, labor unions, tax exempt organizations, etc.) that donated non-federal money, not including individual donations. One obvious reason there have been more non-federal donors is that it is easier to make these donations because groups do not need to form a Political Action Committee. Most groups that made non-federal donations were small, local business organizations such as construction firms, hotels, funeral homes, towing services, dental offices, hardware stores, landscape services, legal offices, accounting firms, and retail food outlets. The donations of these groups that give non-federal money only are rather small: the median is just \$375 (Apollonio and La Raja 2002). While the intended target of the BCRA is the large, wealthy organizations, the new law also prevents smaller entities from

participating at the federal level through contributions that could hardly be called "corrupting."

- (h) As interest groups increase their spending in elections, political campaigns may lose thematic coherence. Political parties broadcast "cookie cutter" issue ads that employ selected themes that the parties want to associate with their candidates. If interest groups dominate the airwaves, we are likely to see a set of interests advertised before campaigns that reflect the concerns of a relatively small segment of the citizenry who feel intensely about a particular issue. Professor Jamieson's research team at the Amnenberg Public Policy Center (APPC) shows that interest groups already account for two-thirds of the more than \$500 million spent on issue ads during the 2000 election cycle. In the APPC report, Professor Jamieson wrote, "Over the last three election cycles, the number of groups sponsoring ads has exploded, and consumers often don't know who these groups are, who funds them, and whom they represent" (see APPC, p.1).
- (i) Interest group ads lack the accountability that is present when a party sponsors ads. An important difference between advertising by outside groups and political parties is that the former are not linked at the ballot box with the candidate. Therefore, outside groups can air ads without facing reprisals from voters, an arrangement that undermines accountability in the campaign process. Professor Magleby, for instance, cites numerous groups in his study with indistinct names such as Foundation for Responsible Government, American Family Voices,

Coalition to Make Our Voices Heard, and Committee for Good Common Sense (see Magleby 2002). More of these groups may emerge if non-federal funds are channeled away from the parties and toward interest groups.

- (j) When parties broadcast political ads their candidates are perceived as responsible for these ads, even when these ads are not express advocacy. Evidence for this perception comes from the willingness of candidates to restrain the activities of their parties. In at least two important Senate contests the candidates publicly declared they would request the political parties not to spend non-federal funds in their races. In the Wisconsin 1998 Senate contest, Senator Feingold requested that the Democratic Party refrain from running issue ads in Wisconsin. The party complied even though it risked losing a very important seat. In the 2000 New York Senate contest both candidates agreed not to use party non-federal funds. The candidates were careful to articulate that they could not be held responsible for the advertisements done by outside groups. For example, candidate Clinton declared: "if we make an agreement to do away with soft money, I assume it will include everything. Now obviously there are groups that we have no direct control over that we will have to ask to abide by whatever agreement you reach..." (NY Times, Sept 21, 2000). Candidates can credibly deny their association with interest groups, even if these interest groups have had close relationships with the candidate in the past.

- (k) The political parties keep each other accountable with their issue ads because they can easily identify the opposing party ads and link them to the party candidate. In his report on non-federal funds and issue advocacy in the 2000 elections, Professor Magleby provides some examples of how this works:

*"The Republicans successfully challenged DCCC ads in Kentucky Six and New Jersey Twelve. The ads were pulled from the air, and the Republican candidates achieved public relations victories against not only the DCCC but also the Democratic candidates. A spokesperson for the Kentucky Sixth Congressional District candidate Scotty Baesler stated that having the ad pulled 'hurt us in a significant way. It allowed Fletcher to raise a credibility issue.' Interestingly, as the race progressed, the Democratic campaigns were more careful and it was the Republicans who had more controversial ads pulled. Both parties tried to make the opposing candidates take the heat for soft-money ads that went too far."*

The example used by Professor Magleby demonstrates that parties and their candidates are jointly punished for becoming too controversial. The traditional head-to-head competition between the party candidates provides the natural mechanism for holding the party organizations accountable.

25. If party organizations lose their central role as coordinators of electoral activity, interest groups and individual candidates will pursue their campaign goals more independently. Instead of choosing the party as an arena to build and coordinate

campaign themes, interest groups, with narrower interests, will increasingly take up the functions that parties leave off. Already, groups like EMILY's List behave increasingly like political parties by using non-federal funds to identify and train candidates for office and to mobilize voters. See Affidavit of Joe Solmonese, Chief of Staff of EMILY's List, ¶¶ 4, 25). In the 2000 elections the Democratic Congressional Campaign Committee gave EMILY's List \$1.3 million in non-federal funds for help in mobilizing voters. (Edsall, April 21, 2002) It is likely that EMILY's List will raise these funds on its own in upcoming elections, and deploy them to further its organizational goals.

- (a) The last set of reforms in 1974 empowered Political Action Committees because parties were severely restricted (Sorauf 1992). The same consequences are likely with the BCRA. Membership PACs, such as EMILY's List, NARAL, NRA should have relatively greater influence in elections now that national committees will forego resources that are available to interest groups. Keeping track of the activities of outside organizations will be much more difficult than for parties. Professor Magebly's effort to assemble information about interest group activity in elections is notable for the very reason that it is so difficult to find out which groups engage in campaign activity. I was a part of a team in California that visited local broadcast stations, interviewed leaders of local interest groups and contacted candidates about political campaigns being waged against them.

- (b) As much as the research team attempted to extend its network of “informers” who knew about campaign activity by outside groups, we had no way of ascertaining the full range of efforts by groups. For example, while officials from the California AFL-CIO would provide the cost of sending direct mail to members during the presidential primary, they would not provide figures about the cost of telephone banks. Nor would they cite figures about administrative cost to support campaign activity. Regarding issue ads by outside groups, an organization called “Republicans for Clean Air” ran negative advertisements against John McCain. We could not determine the sponsors of this ad until reporters in Washington discovered that two brothers from Texas, who strongly supported George W. Bush, paid for these advertisements using a P.O. Box in Herndon, Virginia. When I tried to obtain figures from the local ABC affiliate about the cost of airtime they purchased, this office claimed they did not have to turn over these records. This direct personal experience trying to monitor outside electoral activity revealed to me the potential difficulties of identifying the source of interest group campaign activities, including issue ads. By reducing the amount of money that flows through political parties, the BCRA is likely to spark more outside activity that is difficult to track.
- (c) Experience in the states illustrates how outside spending may increase if party funds are restricted. Professor Michael Malbin, Executive Director of the Campaign Finance Institute, co-authored a study of campaign

finance in states with ambitious regulatory frameworks (see Malbin and Gais 1998). Malbin and Gais show that efforts to diminish the need for money in politics have not met with success. They point to Wisconsin as an example of a state that made a robust effort to reduce the role of money in politics by limiting contributions to and from the political parties. The result was the formation of "conduit" committees. Others have reported a rise in independent expenditures (see also, Ehrenhalt 2000). The most recent efforts to finance campaigns with "clean money" and reduce political spending in Maine have run aground because outside groups have augmented their spending to influence a few key seats that held the balance of power in the legislature (see *Associated Press*, March 21, 2002).

26. The ban on non-federal funds to national political parties encourages the formation and strengthening of shadow party organizations. Wisconsin's experience with tight restrictions on political parties saw the rise of "conduit" committees to channel money to candidates in competitive races because the parties could no longer perform this function (see Malbin and Gais).
  - (a) The reduction of party influence will spur factional groups within the parties to pursue their own brand of campaigning. For example, the New Democratic Network, which reflects the centrist wing of the Democratic Party, will compete more intensively for funds and political influence against the Progressive Donor Network, which reflects the liberal wing (see Foer, 2002). These two factions should attract the funds that formerly



went to the Democratic national committees. They will invest their resources to support candidates who espouse their particular visions of the Democratic Party. Thus, by weakening the national committees relative to quasi-party groups, the BCRA reduces the parties' capacity to build coalitions during the electoral process and moderate the potential divisiveness of factional group politics.

- (b) While the reformers hope that the enactment of the BCRA will diminish the importance of money in politics, research demonstrates that campaign finance laws have limited impact on the amount of money in elections. In a study of U.S. campaign spending between 1978-98, Ansolabehere, Gerber and Snyder (2001) conclude that growth in spending is associated with rises in the Gross Domestic Product (GDP). The authors provide two possible explanations. First, as GDP grows so does the size of government, which means more groups will seek to influence government activity. The second explanation is that, as personal income rises, giving rises (see Verba, Schlozman, and Brady 1995). Political spending, in this scenario, appears to rise like consumer spending for other goods and services when the economy expands. Notably, even in Great Britain, where the government imposes strict spending limits on candidates and television advertising, the amount of political spending corresponds to changes in the GDP. The researchers conclude that "regulation of spending through limits and TV restrictions may be elusive (see Lubenow, p. 43)."

27. The BCRA will make it tougher for political parties to work together on fundraising and reduce the level of interaction among levels of party committees. The ban on joint fundraising for Levin Amendment funds prevents state and local parties from working together to raise money for party-building activities.
- (a) The BCRA prohibits party members at the national level from helping state and local parties raise nonfederal money. This prohibition will have negative consequences for state parties, particularly the parties in the small states. According to Beverly Shea, Finance Director of the RNC, whom I interviewed on September 6, 2002, "fundraising in the states is the toughest job of all." She says most party donors are not familiar with the work of state parties. While state parties appear to be doing a better job of fundraising in recent elections, Shea states that the leaders of many state party organizations are not well-positioned to raise money.
- (b) State staff turnover is particularly high because state organizations cannot afford to pay salaries commensurate with that of the national organizations and consulting firms. The consequence is that fundraising can sometimes be a haphazard process. State organizations have not always invested in long-term strategies to develop donor networks, nor have they established professional routines for fundraising. According to Beverly Shea, who also has experience at the state level, the selection of party chairs "appears to drive a wedge between partisan factions within a state to a degree that it does not at the national level, leaving some prospective donors refusing to give to the state party." Fundraising at the national level draws from a

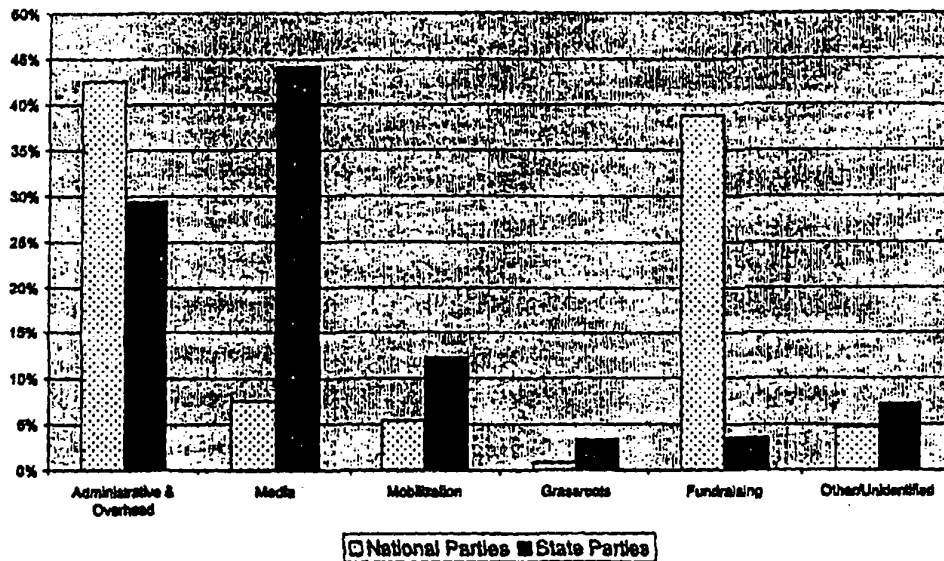
larger and more diverse pool of donors, and the selection of the party chair appears less relevant to prospective donors.

- (c) For these reasons, the RNC plays an important supportive role for state party fundraising by providing ongoing advice, continuity, technical assistance and transfers of nonfederal money. Now that national committees may no longer raise and transfer nonfederal money, state parties must invest additional resources in fundraising operations. Raising money costs money.
- (d) State organizations will not make up this loss of party building money through their own fundraising in the near future. Based on the amount that state organizations currently invest in fundraising tasks, it seems unlikely. National committees spent about 40% of their nonfederal funds to raise approximately \$500 million nonfederal dollars. In rough terms, about \$300 million of national committee nonfederal funds were transferred to state organizations. For state committees to keep pace in the 2004 cycle, without national committee transfers, they may need to spend an additional \$120 million on fundraising operations collectively (40% of \$300 million = \$120 million). According to reports from the Center for Public Integrity and the Federal Election Commission, state parties spend only 4% of their party building budget on fundraising (see Figure 17 below), which is less than \$20 million dollars (\$12.1 million in the allocation account and \$5.4 million in the nonfederal account). This estimate suggests that state parties would need to invest almost six times

as much in fundraising operations to bring them to the same level of resources that they received through national committee transfers. Instead of spending only \$20 million, state parties would need to spend \$140 million to get the same financial returns -- assuming it were even possible for them to raise that much money.

- (e) The parties have evolved a division of labor and it would be difficult for the state parties to simply fill the vacuum of fundraising left by the national parties. This division appears efficient: resources are accumulated centrally and then allocated locally where party operatives know the political terrain.

Figure 17. Division of Labor:  
Spending Percentages by Level of Party, 2000 Elections



- (f) The BCRA also hampers state party fundraising by severely limiting federal candidates' ability to help the party raise nonfederal funds.

Federal candidates have been a key source of help to state organizations, particularly in the smaller states. U.S. Senators sign fundraising letters for the state party or make phone calls to help fill the tables at the Jefferson-Jackson dinners (for Democrats) or Lincoln Day dinners (for Republicans). As I understand it, these candidates may only be featured guest speakers at such functions.

28. The BCRA will reduce support for challengers from political parties. Research demonstrates consistently that parties tend to support challengers in contrast to other kinds of political actors that support incumbents. Parties do not contribute to challengers for sympathetic or altruistic reasons to help the underdog or encourage democratic competition. Rather, parties invest in challengers because they want to win elections and control government. The "by product" of their incentive to win is that challengers in potentially winnable races (meaning districts where partisan voters are distributed fairly evenly) receive party funds. In a 17-state study of campaign finance in state legislative elections during 1991-1992 (see Gierzynski and Breaux 1998), researchers found that parties gave as much of their funds to non-incumbents as to incumbents, even though the pool of incumbents is much larger. The Democrats and Republican parties each contributed about half of their funds to non-incumbents.

(a) Party contributions to challengers help provide an important threshold of financial support so they compete more effectively with incumbents. Although incumbents may raise more dollars than challengers, an additional dollar spent by challengers has a greater marginal impact on

vote share than for incumbents. Professor Gary Jacobson of UC San Diego, who has done similar research for congressional races, explains that “incumbents are already familiar to voters at the outset of the campaign, whereas nonincumbents probably are not....Nonincumbents normally have much more to gain in the way of voter awareness during the campaign, implying that the more extensive – and therefore expensive – the campaign, the better known they will become” (Jacobson 1978).

- (b) Campaign finance laws that curtail party finances adversely affect the amount of money that challengers raise. In research I conducted with Thad Kousser, Assistant Professor at UC San Diego, we collected campaign finance data from 15 states during the 1996 elections through the National Institute on Money in State Politics. We then observed the pattern of candidate fundraising, finding that political parties were the most generous to candidates in potentially winnable races (those where prior elections were won or lost by 10 points or less), regardless of whether they were incumbents or challengers. Challengers fared slightly better with parties, providing an additional \$66 per 1000 residents, but the more important point is that the parties did not favor incumbents. In contrast, PACs, interest groups and individual donors favor incumbents, providing an additional \$295 per 1000 residents, a pattern that explains why these candidates possess fundraising advantages in elections. These findings confirm earlier studies of party and PAC contribution patterns.

- (c) Campaign finance laws that restrict political parties may hurt the success of challengers in elections, precisely because parties are important sources of campaign contributions for challengers. Kousser and I examined whether variations in state laws affecting fundraising and contributions by parties altered patterns of fundraising among candidates. We found that state laws that restricted party financing adversely affected challengers. For example, a candidate running in a fairly competitive seat where past margins of victory averaged ten percentage points could expect to lose almost \$500 per thousand residents when laws limit how much a party may contribute to a candidate.
- (d) This loss of party money can affect how the candidate does on Election Day. A challenger who raises \$500 more per thousand residents than the average challenger will capture an additional 1.8% of the vote. In contrast, an incumbent who raises \$500 more than the average incumbent gains an estimated .7% of the vote (Kousser and La Raja 2002). These figures may not seem large but incumbents start out with more money than challengers. Additional funds that challengers receive from the party puts them on more equal footing with incumbents. The more money that a challenger raises above the average amount for challengers, the better she fares, even if the incumbent exceeds the average for incumbents by the same amount.
- (e) Parties that are restricted from making contributions to candidates will try to help their candidates through generic party activities that include voter

mobilization, issue ads and other party-based services. In other words, they should intensify party-building activities to attenuate the difficulties challengers face in elections. The BCRA, which eliminates non-federal funds at the national level and reduces party-building activity, will further hamper the ability of parties to help challengers through such broad-based party activities. Since the parties tend to concentrate mobilization efforts in winnable contests, it is likely that challengers will suffer the most.

V. **Would less restrictive alternatives have been less harmful than a unilateral ban on non-federal funds for national committees?**

29. There were many alternatives Congress could have adopted which would have been far less harmful to parties than the ban on national party non-federal funds, while addressing the major concerns of those who supported the BCRA. For example, a cap on non-federal donations would have done less harm to the political parties than a unilateral ban. The typical non-federal donation is actually quite low. In a study I did after the 1998 election cycle for the Institute of Governmental Studies and the Citizens' Research Foundation, I found that there were 24,546 non-federal funds donations to the political parties from individuals and entities. The average donation was only \$8,750, and this does not include the many donors who gave in increments less than \$200. More than 90% donated less than \$25,000. The sum of donations under \$25,000 amounted to almost 40% of party non-federal funds. The vast majority of donations come in under \$100,000. The sum of donations under \$100,000 amounted to just below 80% of party non-federal funds. Based on these numbers, it appears that a cap on non-federal donations at \$100,000 would have addressed any perceived problems with



mega-donors, without severely limiting party resources. Parties would have retained a good portion of nonfederal funds from donors under the \$100,000 level, while the mega-donors that give more than this amount would have been eliminated. The BCRA, with its unilateral ban on non-federal funds to the national parties, uses a meat cleaver approach, which makes no distinction between small and large donors, and forces the party to lose an important source of funds for party building activity.

30. Another less restrictive alternative Congress could have adopted was to restrict issue ads paid for with non-federal funds. The focus of reformers has been to eliminate the issue ads that they believe have generated a huge demand for non-federal funds. Why could Congress not have simply restricted issue ads paid for with non-federal funds or imposed a blackout period as the law does for interest groups? I am not an expert on constitutional law so in noting this possibility, I am assuming here that there would be no serious constitutional problems with preventing the parties from spending non-federal funds on issue ads.

(a) A ban on non-federal funds for national political parties may weaken the incentive for parties to invest in long-term party building. With fewer resources, the national committees will be compelled to lay off staff that was assigned to help state parties. State parties benefit from the advice and technical support of the national committee staff when they fundraise, recruit and train candidates and develop voter programs. According to RNC Finance Director, Beverly Shea, the RNC staff frequently analyze fundraising operations and offer advice when state leaders ask for

consultations. The national party has absorbed the cost of hiring experts to monitor and advise state level committees. These personnel have been paid for, in part, through nonfederal money.

(b) National committees will save precious federal funds for political contributions and independent spending rather than invest it in building up the state organizations. Drafters of the BCRA have assumed that the parties would simply shift their federal funds resources into voter mobilization and forego broadcast advertising. The national parties, however, may choose to use their hard dollars for independent expenditures and coordinated expenditures rather than invest more money in party-based mobilization campaigns in the states. Party operatives in Washington who are concerned chiefly about candidates at the top of the ticket may prefer to use federal funds on television ads, leaving the mobilization campaigns to outside groups. It would be risky for them not to save federal funds for broadcasting ads at the close of the campaign, especially when interest groups are increasingly active in campaigns. By cutting off non-federal funds to the national parties, the party's joint mobilization campaigns are jeopardized, particularly in states that lack the resources and expertise to mount these efforts on their own.

31. Provisions in the BCRA presuppose that state and local committees will be able to raise funds independently to compensate for the non-federal funds that will no longer come from national committee transfers. The national committees have been an important source of revenue for the state parties for both non-federal and

federal funds. The Democratic committees at the national level transferred almost \$170 million in non-federal funds to the state organizations for the 2000 elections, which comprised 63% of state party nonfederal receipts (when the figures are adjusted for swaps of federal and nonfederal funds between committees). In aggregate, the Republican state organizations were somewhat less reliant overall on their national committees for nonfederal money, receiving 53% of their non-federal funds through national committee transfers.

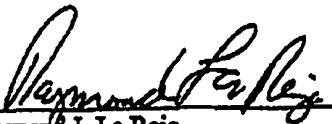
(a) I am skeptical of the claim by some advocates of the BCRA that parties will move additional resources into voter mobilization and grassroots programs now that they cannot use nonfederal money for issue ads. This claim depends on whether state and local organizations can conduct comprehensive GOTV programs under the new federal requirement that parties use federal funds or a mix of federal funds and Levin Amendment money. Contrary to the intent of the drafters of the BCRA, federal law may actually reduce the amount of resources dedicated to voter mobilization, by taking the central coordinating organizations out of the picture – the national committees – and imposing greater administrative burdens on the local committees. The requirement that local committees raise and spend all their GOTV funds independently and file with the FEC once they surpass a relatively low threshold of federal funds spending is particularly onerous for committees that are run almost entirely by volunteers. In 2000, only 158 local party committees filed reports with the FEC from the many hundreds of active local organizations nationwide. It

is not inconceivable that local committees will give up GOTV activity because the administrative burdens are too heavy.

- (b) State and local organizations that rely primarily on large donors may find it difficult to meet the requirements of the BCRA and run GOTV and voter registration programs. According to the new federal law, state parties must pay for GOTV with federal funds or a mix of federal funds and Levin Amendment money, *if* there is a federal candidate on the ballot, which is a likely occurrence. That means that state organizations may not use money regulated under state laws that exceeds the source and limit restrictions of the BCRA. There are 30 states that allow unlimited contributions from one or more sources (such as individuals, PACs, unions, corporations); 11 states allow unlimited contributions from any source. As far as I know, there are no empirical studies to assess the reliance of state organizations on contributions that exceed the federal constraints. State organizations also invest more than \$14 million in GOTV for state and local races, *in addition* to the \$24 million that state parties spend on GOTV for all candidates, including federal, that is reported to the Federal Election Commission. The fact that state organizations spend so much on GOTV should encourage careful scrutiny of the BCRA provisions regulating this important activity.
- (c) In short, I think two basic adjustments – a cap on national party non-federal funds and restrictions on paying for issue ads with non-federal funds – would have addressed the chief concerns of reformers, without

causing undue harm to the political parties. The BCRA's outright ban on national party non-federal funds will, however, significantly and unnecessarily weaken political parties at all levels.

I hereby declare under penalty of perjury that the foregoing is true and correct.

  
Raymond J. La Raja

Executed on September 23, 2002