

BCRA in Color:
Incorporating Race into the Campaign Finance Debate
by

Alan Dockeray, Jr.
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Introduction

The Bipartisan Campaign Reform Act (BCRA) was passed by the 107th Congress on March 27, 2002 (P.L. 105-107) and most provisions took effect on November 6, 2002, the day following the November elections in 2002. The initial proponents of the 2002 campaign finance reform bills ostensibly advanced the legislation to eliminate the perceived threat of the corruption of money. Critics of the legislation noted that those who generally supported the bill were wealthy politicians who could afford to bankroll their own campaigns and wanted to prevent less affluent candidates who were generally carrying the message of those of least financial advantage, like union workers, from bundling funds to have a tremendous impact on outcomes in federal elections. As passed, the BCRA primarily does two things: (1) limits the use of so-called “soft money” or funds not raised and expended as part of the federal election regulatory scheme, but which nonetheless have an impact on federal elections, e.g., funds often used by unions, corporations and others to impact the outcome of federal elections; and (2) limits “electioneering communications” or political advertisement within thirty (30) days of a primary or sixty (60) days of a general election that clearly identifies a federal candidate. Senator John McCain (R-AZ), the current Republican presidential candidate, and Russ Feingold (D-WI) advanced the bill in the United States Senate. The bill finally accepted by the Senate was authored by Christopher Shays (R-4th-CT) and Marty Meehan (D-5th-MA). Tremendous controversy surrounding federal campaign expenditures precipitated the

enactment of the legislation and controversy has continued and in some regards escalated in the aftermath of passage of BCRA. The battle has continued in legislative and executive suites and in the Supreme Court (See, for example, subsequent discussion about *McConnell v. FEC*, 540 U.S. 93 (2003))¹.

Proponents of the BCRA suggest that one of the immediate impacts on passage of the BCRA is a resurgence grassroots politics. These people indicate that prior to passage of the BCRA, when wealthy individuals ran for federal election and bankrolled their entire campaign, and when less affluent candidates sought to level the playing field by getting those they represented, such as unions, to support them, that was somehow undemocratic and that it created a hotbed of corruption. They believed that permitting wealthy candidates to win an election by bankrolling their campaign was less “corrupt” than allowing candidates with less personal wealth to seek bundles of funds from unions and corporations whose interests they represented. They felt that this latter approach prevented candidates from courting small donations, while the former approach—in which very wealthy candidates bankrolled their own campaigns—and the candidates sought little or no grassroots involvement, was less corrupt

Proponents of BCRA contrast this with what they see as a positive invigoration of grassroots politics following the passing of the Act. They point out that political parties and candidates are now raising more money than ever dismissing the claim that the BCRA would deprive candidates of the necessary money to wage successful campaigns. They claim that this increase is due to the shift to strong

¹ *McConnell v. FEC*, 540 U.S. 93 (2003) was a case that upheld the constitutionality of the BCRA by ruling that money was property not speech and that not all speech is protected under the 1st amendment from the government.

recruitment of small donors which have become a primary source of money.² To proponents of the BCRA, the Act created a more democratic scenario because it engaged more individuals in the political process as financial contributors. Supporters also argue that a supplementary effect of this shift in fundraising tactics is that it has reduced the aggressive and intrusive “you scratch my back, I’ll scratch yours” fundraising methods utilized by politicians prior to the enactment of the BCRA to solicit large sums of soft money.³ Proponents of the Bipartisan Campaign Reform Act also favor the Act because they believe that it created a shift in the use of campaign money to what they claim are more politically constructive uses. They claim that prior to the BCRA nearly all “soft money” raised was used for political television and radio ads, many of which were negative attack ads that many see as unconstructive within the democratic process. Supporters point out that now, a larger percentage of money raised goes toward what they view as constructive activities such as party building initiatives, get-out-the-vote efforts, and grass-roots efforts.⁴

The positive sentiment toward the BCRA that many have is also matched with harsh negative commentary. Most of these comments focus on the provision limiting “electioneering communications” prior to an election. Critics of this provision see it as a blatant overreach of Congressional power, violating the First Amendment to the United States Constitution that states, “Congress shall make no law...abridging the freedom of speech, or of the press.”⁵ Newt Gingrich, one of the most outspoken voices in opposition to the Act, seems to encapsulate the position of many on this side of the debate. He called the Bipartisan Campaign Reform Act the “most systematic

² Norman Ornstein and Anthony Corrado Jr, "Reform That Has Really Paid Off," *The Washington Post*, 1 April 2007, B03.

³ Norman Ornstein and Anthony Corrado Jr, "Reform That Has Really Paid Off," *The Washington Post*, 1 April 2007, B03.

⁴ Norman Ornstein and Anthony Corrado Jr, "Reform That Has Really Paid Off," *The Washington Post*, 1 April 2007, B03.

⁵ Robert J. Samuelson, "Unfree Speech," *The Washington Post*, 4 July 2007, A15.

effort to censor and repress political free speech by those in power since the Federalist overreach of the 18th century.”⁶ ⁷ People whose primary qualm with the Bipartisan Campaign Finance Reform spurs from their sentiment that it infringes on the First Amendment of the Constitution see the BCRA as prioritizing the perceived ills of money in campaign finance over Constitutional rights. They view this prioritization as absurd.

Another one of the predominant claims of individuals who opposed the BCRA was that it was an “incumbency protection bill.” This was the primary position advanced by Newt Gingrich.⁸ Many criticized the BCRA as an incumbent protection bill because it takes away the primary permissible use of issues as non-quantifiable enhancers of other campaign activities.⁹ This leads to higher incurred costs for both incumbents and challengers because they now need to fund their own issue ads (if they so choose) but because incumbents have a larger array at resources at their disposal it has a disproportionately negative effect on challengers.

Although the BCRA was a bipartisan act, it seemed to invoke particularly negative feelings among conservative Republicans. They had particular reservations about the ban on soft money, almost certainly due to the ties between the conservative Republicans and wealthy donors who could readily provide large soft money contributions.¹⁰

⁶ Norman Ornstein and Anthony Corrado Jr, "Reform That Has Really Paid Off," *The Washington Post*, 1 April 2007, B03.

⁷ Although it cannot be verified I believe this was a reference to the Alien and Sedition Acts passed by the Federalists in 1798. These were four acts that extended the amount of time it would take for an individual to become a citizen, gave the President the authority to deport any alien deemed a threat to the United States, gave the President the right to deport any alien whose home country was at war with the United States, and made it a punishable act to write malicious commentary against the government or governmental officials.

⁸ Norman Ornstein and Anthony Corrado Jr, "Reform That Has Really Paid Off," *The Washington Post*, 1 April 2007, B03.

⁹ The Washington Times, "Upholding Free Speech," *The Washington Times*, 1 July 2007, B02.

¹⁰ Matthew Mosk and Robert Barnes, "Some Who Fight For McCain are Fighting Against McCain-Feingold," *The Washington Post* March 2008, A10.

While there were many strong supporters and ardent opponents of the BCRA, there were a good number of people with a progressive opinion in the middle of the debate. They took the position that although the BCRA was a productive beginning, it needed to go further. They would like to see the BCRA limit earmarks, provide greater transparency, and create an ethics commission to preside over the election process.¹¹

The US Supreme Court has been called on to weigh in on at least one aspect of the BCRA. In the 2007 Supreme Court case Federal Election Commission v. Wisconsin Right to Life, Inc. the Court ruled by a vote of 5-4, that the Federal Election Commission violated a Wisconsin advocacy group's First Amendment right when they censored an ad the group ran on the eve of an election. Writing for the majority, Chief Justice Roberts said "issues cannot be suppressed simply because the issues may also be pertinent in an election."¹² This decision set a standard that in the future may allow corporations and unions to create last minute issue advocacy ads that Congress intended to end with the inclusion of the electioneering provision of the BCRA. The court may soon also be addressing the Millionaire's Provision, a provision that loosens fundraising restrictions for a candidate running against a wealthy candidate with significant self-financing. They may also rule on a provision that calls for a list of donors from groups that fund campaign-related advertising.¹³ Future cases and judicial, administrative and legislative review of these and other provisions may provide resolution in the debate between the two sides on the constitutionality of the BCRA.

¹¹ Trevor Potter, "McCain-Feingold: A Good Start," *The Washington Post*, 23 June 2006, A25.

¹² Warren Richey, "Court Clips Campaign-Finance Law," *The Christian Science Monitor*, 26 June 2007, 1.

¹³ Matthew Mosk and Robert Barnes, "Some Who Fight For McCain are Fighting Against McCain-Feingold," *The Washington Post*, 5 March 2008, A10.

In the debate surrounding the Bipartisan Campaign Reform Act, as with other Congressional debates, Congress was treated as a unit with only two positions: that of the Republicans and that of the Democrats. The assessments of the debates surrounding the BCRA never explored different fundraising dependencies based on sex, location, race, district demographics, and how these important factors might affect fundraising methods under the BCRA.

This paper explores how Black politicians will be affected by the proposed changes under the BCRA as compared to Republicans and White Democrats if the BCRA works as intended. I begin with a discussion of the merit to having black politicians in Congress. This is important because in the absence of this showing, any discussion on the adverse affects that campaign finance reform has on Black politicians becomes less significant, or an inconsequential point. After addressing Black representatives in relation to descriptive and substantive representation I ultimately come to the conclusion that there is a necessity for Black representatives. In chapter three I will turn to a discussion of the literature regarding the BCRA to establish the scope of the discussion of the BCRA but also to establish criteria to assess how the Act affects Black politicians. Out of this, the main areas of political action committee contributions; donations from individual contributors and the personal wealth of politicians become my main area of focus. Chapter four will serve as a discussion of the methodologies that will be used to make this determination. Chapter five will look at the data from a descriptive analysis perspective and will contain the initial discussion of my findings. The overall conclusion reached is that Black politicians are disadvantaged under the planned impact of the BCRA. Chapter

six will try to buttress the findings of chapter five through regression analysis that will establish the relationships between different contribution areas and the variables that affect them. Chapter seven will be the conclusion, which will summarize my findings, discuss areas of expansion in this field of study and discuss the real life implications of my findings.

The Necessity for Black Representation

I begin this discussion about the impact of BCRA on Black representatives or Blacks seeking federal office, by establishing the necessity for Black representatives. I do that in this chapter by providing both the physical and symbolic benefits to having Black politicians in office. This is very necessary in order to fully illustrate the danger of an Act that can have detrimental implications for Black politicians. If it is deemed that Black politicians will be disproportionately harmed if the BCRA has its intended ramifications then it gives context to what that could mean for our political institutions and society as a whole. To begin this exploration, I ask and answer the question, “what is representation?”

What is Representation?

The tripartite system of representation in the United States with an elected President or Chief Executive, and bicameral chambers of Congress: the United States Senate comprised of 100 elected Members who serve 6-year terms, and a House of Representatives comprised of 435 representatives elected by voters in roughly equally apportioned congressional districts whose boundaries are “drawn” every ten years based on the decennial Census, is based on the Athenian system. A true Athenian-style government is a representative democracy that reflects the population being represented. It was a government “for the people by the people” where the people could argue for their own interests in town hall-like meetings. Today because of the size and complexity of our society it has become impossible to have political ideas

expressed in the same manner.¹⁴ It is for that reason that it is now necessary to determine what it means for constituent interests to be represented by their elected official. After looking through the various descriptions of representation, three predominant forms of representation emerged; descriptive, substantive, and ascriptive representation.

Marie Collins Swabey in the book, *Representation*, called representation a condition that exists between the representative and the individual in which the characteristics and acts of the representative are inline with the expressed and unexpressed desires of the constituent.¹⁵ This is a good place to begin to try to understand the relationship between race and representation.

The acts of an elected official discussed above are the legislative initiatives put forth by the official on behalf of the constituents. The most intriguing part of Swabey's base definition of representation, in regards to the relationship between race and representation, is her claim that the characteristics of the politician also have to be inline with the expressed and unexpressed interests of the constituents.

Swabey goes on to discuss that it is imperative to include characteristics as part of the previous definition because constituents may be completely ignorant and are often not fully aware of the legislative action of their representatives, but may find some comfort in a shared or appreciated trait between themselves and their representatives. This feeling can potentially be strong enough that the constituents will feel a mirroring between themselves and the representatives allowing the

¹⁴ As summarized in; Hanna Fenichel Pitkin, *Representation* (New York: Atherton Press, 1969), 75.

¹⁵ As summarized in; Hanna Fenichel Pitkin, *Representation* (New York: Atherton Press, 1969), 104.

constituents to feel more empowered.¹⁶ This has significant implications on race and representation because it raises the question of whether members of the Black population that have been subjugated by the dominant white mainstream since the inception of the United States, can really share a strong mirrored image between themselves and a White representative. The strongly antagonistic relationship between Black Americans even today and that of the White American power structure may prevent or reduce the likelihood of this mirroring effect.

This discussion of race and representation becomes even more fascinating when the issue of “unconscious representation” is included in the discussion. This is another idea put forth by Swabey that adds an additional layer to her initial definition. This is the idea that the characteristics or acts of representatives tie subconsciously with the constituent’s desires.¹⁷ So, even if on a conscious level, race has no impact on a constituencies’ approval of their representative, it could be having an effect on a subliminal level.

Swabey ends her definition of representation by including that the quality of representation will increase if the representative and electorate share similar intellectual, economic, societal and moral forces that shape common opinion or consensus between the two.¹⁸ This seems problematic because members of Congress, especially in the United States Senate, are not characteristically similar in most regards to their constituents. The differences are even more significant in Black majority districts where there are generally lower levels of educational achievement and lower levels of wealth. The median net worth of individuals in 2003 within the

¹⁶ As summarized in; Hanna Fenichel Pitkin, *Representation* (New York: Atherton Press, 1969), 105.

¹⁷ *Representation*, 111

¹⁸ *Representation*, 112

United States was \$80,700 dollars¹⁹ compared to a median net worth of \$397,026 dollars (at the low end of the net worth range)²⁰ for Congressional representatives. In terms of education every congressional member has at least a college degree, while the highest concentration of college graduates within a district is 42 percent. On average only 12.38 percent of a congressional district is composed of college graduates. The fact that Swabey included in her definition, consideration of the factor of society shaping opinion, has profound impact on race and representation because societal development is based partly on race. These factors imply that there would be a greater quality of representation between constituents and representatives coming from similar ethnic backgrounds, in addition to the other similarities mentioned.

Overall, it appears that Swabey is engaging in the discussion of substantive versus descriptive representation. Substantive representation is the actual ability of representatives to advocate for their group. On the other hand descriptive representation is the notion that in democratic societies, the makeup of the governing body should mirror the demographics of the voters. Swabey seems to conclude that from a substantive perspective, the race of the particular representative has no implications on the legislative outcome but then goes on to make an argument for the numerous benefits descriptive representation.

Phillips Griffiths takes the idea of representation outside of the theoretical democracies. Griffiths says that currently in democratic societies we have a form of “ascriptive representation.” This is a form of representation where the representative does not have to share any commonalities with the constituents, but represents them

¹⁹ The Federal Reserve Board, "Recent Changes in U.S. Family Finances: Evidence from the 1998 and 2001 Survey of Consumer Finances," The Federal Reserve Board (January 2003): 7.

²⁰ The data source used to compile information on congressional representatives only provided net worth figures in the form of a range

due to a pseudo-contractual agreement. In the text he likens this relation to that of a lawyer and his client. The lawyer does not have to be like the client from a characteristic perspective. The lawyer only needs to advocate on behalf of the client in order to do his job. He ultimately argues that by committing the constituents to various things through legislation, representatives create a relationship between the constituent and themselves where conclusions can be drawn about the constituent by knowing what the representative has done, but this relationship cannot speak to any shared commonalities outside of what can be seen through the legislation.²¹ He concludes that in a government based on discussion and mediation this is the most practical form of government.²²

Simone Sterne disagrees with Griffiths “ascriptive representation” and even finds this type of government problematic. He views ascriptive democracy as a force that disenfranchises the minorities in the population by silencing them.²³ If this is in fact the case, this is challenging for the African American population as a whole because the African American population only accounts for approximately 12 percent of the US population and other minority groups are surpassing them as percentages of the total. If ascriptive democracy silences the minority then the African American population will apparently be subjected to only finding representation through majority Black districts. This is not a problem as of right now but it will become a problem as the geographical concentration of the Black population continues to decline making the creation of the Black majority district more difficult as we progress into the future.

²¹ *Representation*, 135

²² *Representation*, 154

²³ *Representation*, 80

There are differences in the discussion of what representation is. Aspects of the three above references can be merged to form a cross-cutting definition. It appears that from a practical stance Griffiths assessment that we are represented through “ascriptive representation” holds some merit. Who is to say that politicians are doing anything more than their job calls for, like a lawyer would do for a client? At the same time there is merit to Sterne’s position that our current form of government is problematic because it silences the minority. Aspects of Swabey’s definition are also worth including in our definition because the quality of this “contractual based relationship” and therefore the quality of overall representation might increase if there are shared or appreciated characteristics between the constituent and the representative either on a conscious or subconscious level. On balance, it seems that it might be agreed that basic legislative initiatives or substantive representation can be accomplished by any representative, but the overall satisfaction of the constituents with their degree of representation is likely impacted by non-legislative or descriptive factors.

Black Representation

Having established a criterion for representation, I look at the specific necessity for Black politicians to represent the interests of Black constituents. Anytime there is a discussion about Black politicians one of the things that needs to be established is that there are “Black interests” or legislative or symbolic initiatives that generally benefit the Black population more than their white counterparts. It is important because often the merit of having a Black politician verses a White political

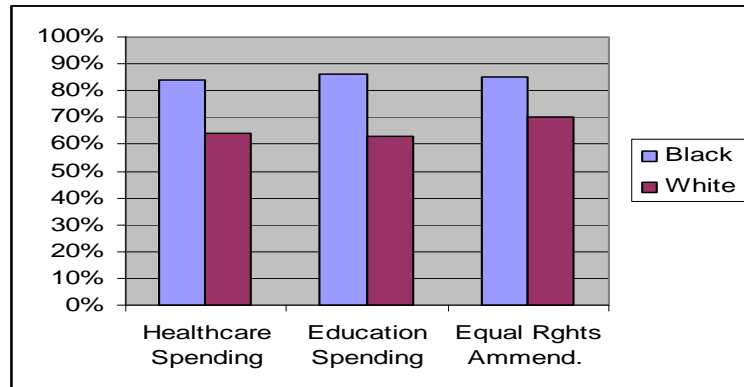
representative is discussed in terms of the ability of the representative to help achieve Black interests. In *Black Faces Black Interests*, Carol Swain identifies Black interests by looking at issues that disproportionately affect the Black community. She identifies four interests that she ultimately calls Black interests: unemployment, education, healthcare, and the criminal justice system. She defined unemployment as a “Black interest” because the African American unemployment rate is generally double or triple the White unemployment rate. She calls education a “Black interest” because of the educational disparity between Black students generally caused to a large extent by the inequality of school systems in predominantly black, low-income communities, which result in Black students having lower scores on standardized tests. Swain views healthcare as primarily a Black interest because there are many health related factors that have contributed to an overall decline in the average life expectancy of the Black male since the mid-eighties. Swain finally includes both criminal activity and criminal victimization as “Black issues,” due to the fact that homicide was the leading cause of death for Black males for multiple decades, and because Blacks are disproportionately both perpetrators and victims of crimes. Blacks are also disproportionately victims of “criminalization” during arrest and sentencing and they are more likely to be unable to afford adequate legal counsel.²⁴ Public opinion data suggest that many Black people agree that these four issues, unemployment, education, healthcare, and the criminal justice system are primary “Black issues.” Data presented by Swain suggest that Black people are significantly more interested in government spending on healthcare, education, and the promotion

²⁴Carol M. Swain, *Black Faces, Black Interests; The Representation of African Americans In Congress* (Cambridge: Harvard University Press, 1995), 9.

of equal rights amendments than their White counterparts. Figure 2.1 illustrates this point:

(Figure 2.1)

Percentage of Respondents Concerned with a Particular Issue by Race



Source: Carol M. Swain, *Black Faces, Black Interests* (Cambridge: Harvard University Press, 1995), 10

Looking at the initiatives of the groups who have tended to set the Black political agenda can also be a way of establishing the nature of “Black interests.” There are multiple groups that play leading roles in establishing the Black political agenda. The group that appears to have the largest impact at the federal legislative level is the Congressional Black Caucus. It can be inferred that they are in agreement with the main “Black issues” because in their mission they state that their goal is to create equality for Black people in the areas of education, economics and healthcare.²⁵ Having established that the Congressional Black Caucus is the vehicle through which Black members of Congress establish the federal Black political agenda, a question worth considering is who is best suited to address these issues.

Before the implications of the BCRA on Black politicians and inherently their Black constituents is explored, it is important to establish that there is in fact some

²⁵ <http://www.cbcfinc.org/About/mission.html> - Congressional Black Caucus website.

benefit for Black constituents having a Black representative. Swain makes the argument that a White politician is equally qualified to represent Black interests as their Black counterparts. If Black constituents can be equally benefited regardless of the race of their representative, then the value of a discussion on the effects the BCRA has on Black politicians is significantly diminished. This would render the discussion not in the realm of the general equality of our electoral system, but in the individual political ambitions of members of the Black community. Although that might deserve discussion, it would significantly decrease the overall merit in addressing the implications of the BCRA for Black politicians.

In assessing the value of Black constituents being represented by Black representatives, it is sometimes suggested that Black legislators have a lower success rate than White legislators of getting legislation passed. Research analyzing the 104th Congress compiled by Katherine Tate for her book *Black Faces in the Mirror* indicates that Black Democrats were, in fact, slightly more successful in getting legislative measures passed than their White Democrat counterparts.²⁶

In analyzing whether White politicians can adequately represent Black interests, examples are cited of White politicians from majority Black districts who proposed legislation that strongly benefited their Black constituents. Among those Carol M. Swain referenced are former Congresswoman Lindy Boggs, a Democrat from the Second Congressional district of Louisiana (a majority Black District), and former Congressman Peter Rodino, Jr. a representative from of the Tenth Congressional District of New Jersey. The Tenth District was and is now primarily

²⁶ *Only Democrats are looked at because the Republican control of Congress would skew the success rate of Republicans Katherine Tate, *Black Faces in the Mirror: African-American and Their Representatives in the U.S Congress*; (Princeton: Princeton University Press, 2003), 79

comprised of Newark, New Jersey, which is predominantly Black.²⁷ Among the things Swain discussed as making Congresswoman Boggs successful at representing her majority-Black District, were her opening constituent service sites in “crime-ridden housing projects”²⁸ and her active participation in the Congressional Black Caucus.²⁹ Congresswoman Boggs became immersed in the environment and well versed in the issues and interests of her majority-Black constituents. In light of the use of these individuals as evidence of a White politician’s capacity to represent Black constituents it is important to note that these representatives no longer serve these districts and have now been replaced by Black representatives.

In more recent years, when a White candidate attempted to unseat a Black Member of Congress, he drew the ire of many Blacks in the community. Brooklyn, N.Y. City Councilman David Yassky attempted to replace Congressman Major Owens, who represented New York’s 11th Congressional District for twenty-four consecutive years. In 2006, Congressman Owens opted not to seek re-election. Throughout his Congressional campaign, Councilmember David Yassky was badgered by both members of the community and some of the most notable figures in the Black community. Reverend Al Sharpton said Yassky running in the Congressional contest was a “calculated undermining of the Voting Rights Act which sought to assure that minorities wouldn’t be disenfranchised.”³⁰ Congressman Owens, no longer a candidate himself, added his voice to the verbal challenges of a White candidate seeking to become elected to represent a predominantly Black

²⁷ This district is currently 60 percent Black. Carol M. Swain, *Black Faces, Black Interests; The Representation of African Americans In Congress* (Cambridge: Harvard University Press, 1995), 170, 179

²⁸ *Black Faces Black Interests*, 176

²⁹ *Black Faces Black Interests*, 179

³⁰ Jonathan P. Hicks, "Sharpton Enters Fray Over House Seat," *The New York Times*, 17 June 2006.

Congressional district, calling Yassky a “colonizer.” The Black politicians fighting for the seat echoed the sentiments of Sharpton and Owens and tried to force Yassky to withdraw from the election.³¹

Not only did members of the Black Congressional leadership challenge Yassky’s bid for the seat formerly held by Congressman Owens, but so, too, did many from the rank-and-file constituencies in the Congressional district. Some race-based verbal assaults were leveled as Yassky campaigned throughout the District. Incidents were recounted of angry outbursts as he campaigned in the District. For example, it was reported that as he walked pass a public housing unit in the Boerum Hill section of Brooklyn, residents jeered him with chants of “we don’t need him,” and heckled him about policy decisions that they felt were out of touch with the needs of the Black community. Some even threw things at him.³² It is hard to determine from examples of this nature how much of the heckling was based on constituent knowledge about Yassky’s political positions, how much was based on things he did or did not do as a City Councilor, what percentage was routine campaign discourse in a contested race, and how much may have been based on the notion that a White politician could not well represent a majority-Black constituency. To be sure, there are those among the most vocal opponents who believed that a White Representative would be more disconnected from the Black electorate and possibly not understand or aggressively advance legislative measures that would likely be most beneficial to the Black electorate. While this is still an opinion held by many, the examples cited by Swain of the unquestionably effective representation of former congresspersons

³¹ Shailagh Murray, "Candidacy Fosters a Debate On Race; White Democrat Finds Resistance from Black Voters" *The Washington Post* , 6 July 2006, A01

³² Patrick Healy and Jonathan P. Hicks, "Politicians Go on Parade In Brooklyn, and Some Come Under Fire," *The New York Times*, 5 September 2006

Boggs and Rodino help debunk the myth that White representatives cannot effectively represent Black constituencies from a substantive standpoint.

To make her point, Swain discusses how Boggs pushed through legislation on civil rights, credit access, and pay equity, all of which directly and in some instances disproportionately assisted her Black constituents. Former Congressman Rodino was cited as having played a central role in the drafting of the 1964 Civil Rights Act, the 1968 Fair Housing Act, and the Civil Rights Restoration Act of 1988.³³ These measures unquestionably benefited Blacks disproportionately and they continue to do so. These examples of tremendous legislative successes undercut the argument that White representatives might not well represent Black constituents because they are disconnected from issues of particular concern to the Black constituents. These two politicians not only advanced and supported legislation to benefit their constituents, but also, to benefit Blacks in America as a whole.

Claudine Gay suggests that, contrary to the expectations of White politicians, generally, and counter to the expectations placed on White officials representing Black Congressional Districts, there was the hope among some and an expectation among others that electing a sizeable number of Black representatives would usher in a “small scale revolution in electoral politics” because having more Black politicians in office would “lead to... more progressive legislation.”³⁴ A review of the impact of the Congressional Black Caucus since its founding suggests that there may be some merits to this line of thought.

³³Carol M. Swain, *Black Faces, Black Interests; The Representation of African Americans In Congress* (Cambridge: Harvard University Press, 1995), 178, 187

³⁴ Claudine Gay, "The Effect of Black Congressional Representation on Political Participation" *The American Political Science Review*, Vol. 95, No. 3. (Sep. 2001): Pg. 589

Scholars who support the idea that Blacks and Whites are equally suitable to represent Black constituents discount the concept of Black solidarity and the assumption that Black politicians automatically embrace and work for “the Black collective” within their constituency. Professor Lani Guinier, a nationally recognized leading scholar on elections, voter participation, voting rights and related topics, embraces the concept of Black solidarity. She offers a theory of Black electoral success. The notion falls under the “Responsiveness Assumption” in which a Black representative would share an original civil rights-based vision and would aid Black voters in gaining policy influence by maintaining a special connection to the Black community and its distinct interests.³⁵ To counter this notion, scholars point out that although Black Republicans share a racial/ethnic tie to their Black constituents, many Black Republicans are perceived to be inherently less effective representatives of their Black constituents than would be a White Democratic representative. This is because Black voters continue to align overwhelmingly with the Democratic Party and “Black issues” continue to be the social justice and human needs agendas most frequently associated with the Democratic Party. In *Black Faces in the Mirror*, Tate discusses former Oklahoma Congressman J.C Watts, a fiscally conservative Black Republican who had some liberal Blacks among his constituency.³⁶ This anomaly is cited as evidence to undercut the Responsiveness Assumption put forth in Guinier’s Theory of Black Political Success. Ignored by those who make the leap from the fact that J.C Watts’ district had some Black liberals to placing some significance on that is the fact that Congressman Watts did not represent a majority Black District. Also

³⁵ Lani Guinier, "The Triumph of Tokenism: The Voting Rights Act and the Theory of Black Political Success," *Michigan Law Review*, Vol. 89, No. 5. (Mar. 1991): Pg. 1101,1128

³⁶ Katherine Tate, *Black Faces in the Mirror: African-American and Their Representatives in the U.S Congress*;(Princeton: Princeton University Press, 2003), 131

ignored is the “star” factor he brought to his election as a former University of Oklahoma famed quarterback.

Former United States Senator Edward Brooke, a highly respected and effective African American Republican member of Congress from Massachusetts, a generally Democratic-leaning state, is perhaps the best example of a Black Republican who well represented both the interests of the Republicans who elected him and traditional “Black issues.” At the state legislative level, there are other examples of Black Republican representatives who represent well both Republican issues and “Black issues.” Some examples include Florida Representative Jennifer Carroll (R-FL), Georgia State Representative Willie Talton (R-GA), Nevada State Senator Maurice Washington (Senator, NV), and Oklahoma State Representative T.W. Shannon (R-Ok). The service of these representatives illustrates the extent to which Black representatives can represent both “Republican interests” that are seen to be in conflict with traditional “Black interests” and represent issues of particular concern to members of the Black community. The delicate nature of the balancing that is required to serve both Republican interests and “Black interests” is underscored by the fact that only 6.7 percent of Republican delegates at their convention were Black; seventy-five percent of African-Americans believed Republicans weren’t fighting for Black issues; and the Republican electoral success is based on the Parties ability to rally white conservatives often through the demonization of minorities.³⁷

Using the example of the Black Republican representative is particularly brilliant in light of Stanley Greenberg’s explanation for where Republican support is gained. Greenberg explains that Republican support comes from the White Protestant

³⁷ *Republicans and the Black Vote*, 9

faithful, whites in the “deep south,” “country folk” (whites who live outside metropolitan areas, high growth counties, areas where growth is predominantly coming from minorities), white married men under fifty with no college degree (coined f-you boys), White senior men over 65 (coined f-you old men), and White married men with a college degree (privileged men).³⁸ It is important to note that amongst these bases of support there is no recognized broad source of support coming from members of the Black population. This implies that there is a “blind eye” being turned to the Black constituency base, undermining the assumption that Black representatives will always cater to the needs of their Black constituents better than their white counterparts.

The above are intriguing arguments by those that believe White politicians and Black politicians can equally benefit Black constituents and they can’t be discounted. The arguments establish the fact that when looking only from a substantive legislative perspective (see footnote for term explanation),³⁹ both Black and White politicians are equally beneficial for Black constituents. What the arguments appear to overlook is that solely addressing legislative impact only examines the partial potential that a representative has. These claims are grounded in the descriptive representative realm. They ignore the symbolic representation sub-division. Bills that create the symbolic acknowledgement of groups are considered symbolic representation.⁴⁰ The establishment of Martin Luther King, Jr’s birthday as

³⁸ *Republicans and the Black Vote*, 10

³⁹ The term “Substantive Legislation” refers to legislation that regulates the behavior of individuals and corporations; protects consumers; fosters competition in the marketplace; or redistributes wealth, property, legally prescribed advantages; or civil rights among classes of people or ethnic groups. *Black Faces in the Mirror*, 98

⁴⁰ Katherine Tate, *Black Faces in the Mirror: African-American and Their Representatives in the U.S Congress*; (Princeton: Princeton University Press, 2003), 99

a national holiday, a bill naming a post office Medgar Wiley Evers⁴¹ post office⁴² or the official adoption of Black History Month in February can all be viewed as symbolic representation.

Descriptive representation is the idea that an increase in the number of historically disadvantaged groups can contribute “substantive representation” for those groups. Representatives try to achieve “substantive representation” through party list quotas, racial redistricting, and proportional representation.⁴³ In the defense of the ability of White candidates to effectively represent Black constituents and “Black issues,” scholars generally focus only on descriptive representations ability to translate into substantive legislative initiatives and the familiarity the representatives have with their constituents, citing things like legislation passed and time spent in the community. They fail to look at it from a symbolic representation perspective, which is equally as important as the substantive legislative realm.

Some argue these symbolic legislative acts are created to give the representative the appearance of being active because the bills are easier to pass.⁴⁴ This claim is not born out by the facts. Indeed, the King Holiday bill was among the longest and hardest fought legislative battles in the second half of the Twentieth Century. Because of the resistance from some to the establishment of a federal holiday honoring the life and work of Dr. Martin Luther King, Jr., it took nearly three decades of untiring work by a broad and diverse coalition, the leadership of the Congressional Black Caucus, marches, letter writing campaigns, call-in campaigns,

⁴¹ A Black civil rights activist from Mississippi who operated as the NAACP field secretary who was murdered in 1963

⁴²Katherine Tate, *Black Faces in the Mirror: African-American and Their Representatives in the U.S Congress*;(Princeton: Princeton University Press, 2003), 101

⁴³Suzanne Dovi, "Preferable Descriptive Representatives: Will Just Any Woman, Black or Latino Do?" *The American Political Science Review*, Vol. 96, No. 4. (Dec. 2002):729.

⁴⁴ Katherine Tate, *Black Faces in the Mirror: African-American and Their Representatives in the U.S Congress*;(Princeton: Princeton University Press, 2003), 103

leadership by multinational corporations and other big money interests, and other mobilization efforts by tens of thousands of Americans, to achieve passage of the Martin Luther King, Jr. federal holiday. It is because the referenced so-called “symbolic governmental legislative gestures” are perceived by some as forcefully integrating a oppressed group’s culture into the mainstream culture, that there is such resistance to these measures, and they are so challenging to pass.

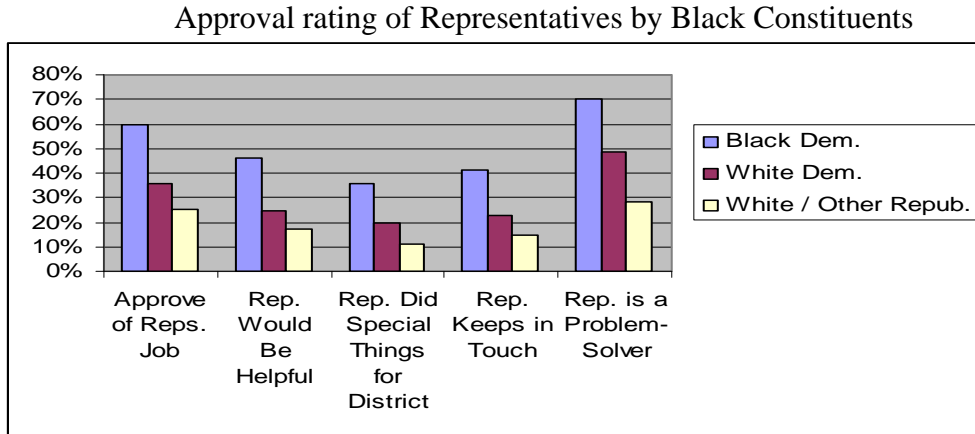
The benefits of the referenced symbolic legislative acts are explained in a study done by Dr. Margaret Mead and Dr. Bronislaw Malinowski referenced in Wayne Parsons book *Public Policy: An Introduction to the Theory and Practice of Policy Analysis*. Their study according to Parsons, concluded that people are products of society and therefore the cultures incorporated in it, not of psychology or biology.⁴⁵ If this is the case then symbolic legislation takes on a much more important role than the busy work that some political scientists would claim, because it incorporates another culture (even if it is to a limited degree) into the mainstream societal discourse. According to Parsons, this forced integration of the culture of a previously excluded segment of American society into the main culture should have a positive impact on the members of the society.

There are advantages other than symbolic representation to having a Black representative for a Black constituency. A study conducted by the National Business and Economic society discussed by Katherine Tate indicates that there is an overall stronger governmental approval among Black constituents when there is a Black Democratic candidate. The following chart reflects the responses from persons from

⁴⁵Wayne Parsons, *Public Policy: An Introduction to the Theory and Practice of Policy Analysis*; (Aldershot, UK: Edward Elgar Publishing, 1995), 96

different races and ethnicities to the following statements: I approve of my representative's job; my representative would be helpful; my representative has done something special for me; my representative does a good job keeping in touch; and my representative is a problem solver.

(Figure 2.2)



Source: Katherine Tate, *Black Faces in the Mirror: African-American and Their Representatives in the U.S Congress*: (Princeton: Princeton University Press, 2003), 119

Tate suggests that these findings indicate that a Black constituency has a much stronger approval of a Black Democratic representative than a White representative.

A Black candidate representing a Black constituency also appears to enjoy a half point approval advantage over a White representative operating in the same capacity.⁴⁶ This plays into the argument made by John Ferejohn in his essay “*Accountability and Authority: Towards a Model of Political Accountability*,” that an increased level of political transparency will generate a higher level of political approval.⁴⁷ If transparency creates a higher level of approval, then the closer relationship or bond that Black constituents feel toward politicians of the same race,

⁴⁶ *Black Faces in the Mirror*: 118,122

⁴⁷ David Lessen and Skilling, "Fiscal Transparency, Gubernatorial Popularity, and the Scale of : Evidence from the States" *Economic Political Research Unit, University of Copenhagen*, 2001-16, Pg 1

the greater the likelihood that there will be transparency. This should be true because there should be less of a sentiment of governmental distrust that should give constituents a greater feeling of trust. In turn, there should be a perceived higher transparency, even if the actual level of transparency remains the same. Not only are the greater sense of trust and satisfaction that flow from perceived transparency important, but so also, is the action that can be generated when constituents feel there is transparency. According to Ferejohn, political transparency can be beneficial by making the population more willing to donate resources (tax revenue) and support. This can be used to benefit the constituents who were more willing to give.⁴⁸ Overall transparency, which grows in the Black community when a Black politician is present, can be mutually beneficial for politicians and the people they represent.

Another benefit that a Black candidate can provide beyond the substantive legislative arena is in the area of voter participation. After analyzing data on Black political participation Tate indicated that a Black representative generally increases the level of voter participation. Commonly, a White representative does not generate the same result. This can be a substantial benefit especially in the Black community which historically participates less than their White counterparts in American electoral politics. Participation is very important for legitimizing a population cohort in American society. As Black participation in electoral politics increases, and there are more visible signs of the presence of Blacks in government, data suggest that Blacks generally feel more comfortable that the government will be responsive to their needs. Interestingly, in districts in which Black participation is highest and there

⁴⁸ David Lessen and David Skilling, "Fiscal Transparency, Gubernatorial Popularity, and the Scale of Government: Evidence from the States" *Economic Political Research Unit, University of Copenhagen*, 2001-16, Pg 3

is a Black representative, White voter participation decreases, further protecting the Black representative due to the impact of the racial voting bloc.⁴⁹ In addition to these effects there are additional political advantages to political participation that can be especially beneficial to the Black population. First, political participation is seen to make those who participate on a higher level have a view that the government is more morally proper and a more legitimate institution. Secondly, a higher group level of political participation is supposed to promote a self-realization in which the individuals of the groups feel that they have actualized their potential and have fed their political ego and political self-esteem.⁵⁰ This could be very beneficial for a group that has an overall lack of trust in the government and has sometimes been treated like social and political second-class citizens.

There are also legislative benefits to having a Black representative. Studies have shown that Black politicians give higher priority to correcting social injustices. Black politicians are also more concerned with the redistribution of wealth, social welfare, civil rights and liberties, and issues with overt racial components.⁵¹ These are all initiatives that would strongly benefit Black constituents.

There are also actual problems that appear to exist in the political arena and in the Party system. Problems exist that are only perceived by Black representatives. In a study of state legislators examined by James Button and David Hedge only thirty percent of Black Members of Congress almost always feel that they receive a fair hearing compared to seventy-three percent of White politicians who feel that Black

⁴⁹ Katherine Tate, *Black Faces in the Mirror: African-American and Their Representatives in the U.S Congress*;(Princeton: Princeton University Press, 2003), 133

⁵⁰ Steven E. Finkel, "The Effects of Participation on Political Efficacy and Political Support" *Journal of Politics*, Vol. 49, No. 2. (May,1987):443-444.

⁵¹ James Button and David Hedge, "Legislative life in the 1990's: A Comparison of Black and White State Legislators." *Legislative Studies Quarterly*, Vol.21, No. 2. (May,1996):200.

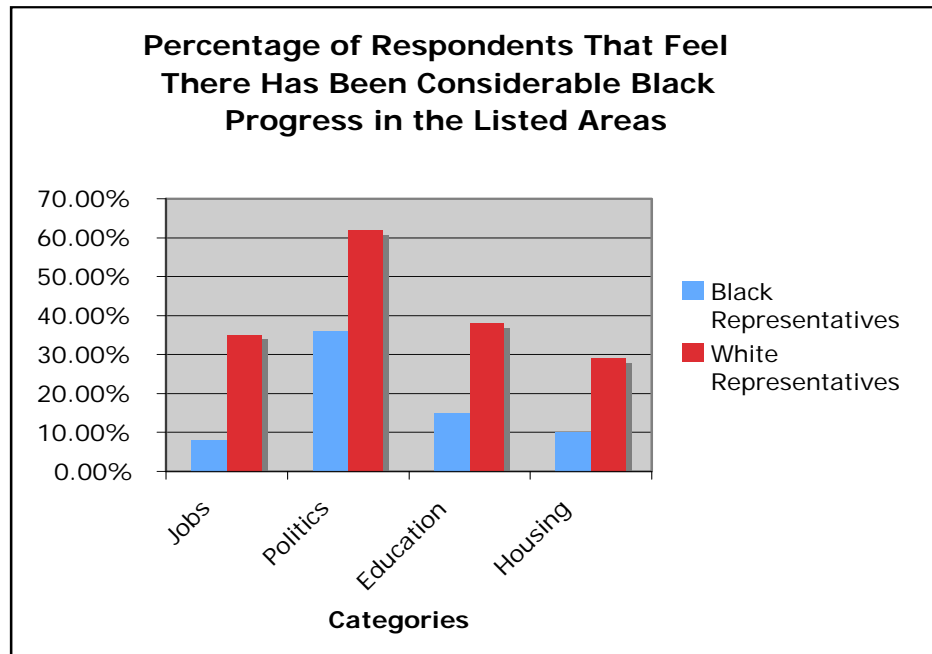
politicians have fair hearings. Sixty-two percent of Black politicians report having observed or experienced racism within the politician institute they operate, while only twenty-four percent of their White counterparts have reported the same thing. The same trend is seen with Party and committee discrimination where Black politicians report a substantially higher level of discrimination than White representatives.⁵² This difference in opinion between Black and White representatives indicates that there is a significant problem within political institutions that would go relatively unnoticed and unchanged unless there were a continued critical mass of Black politicians within these political bodies.

The final actual legislative difference between Black and White politicians can be seen within Congressional opinions regarding Black progress throughout the 1990's. In the areas of jobs, politics, education, and housing, White politicians felt substantially stronger than Black politicians that the Black population has made substantial progress. This is shown in Figure 2.3 that illustrates by race, what percentage of the politicians asked; felt there was significant progress made by Blacks in the areas listed.⁵³

⁵² James Button and David Hedge, "Legislative life in the 1990's: A Comparison of Black and White State Legislators." *Legislative Studies Quarterly*, Vol.21, No. 2. (May,1996):205

⁵³ James Button and David Hedge, "Legislative life in the 1990's: A Comparison of Black and White State Legislators." *Legislative Studies Quarterly*, Vol.21, No. 2. (May,1996):205.

(Figure 2.3)



Source: James Button and David Hedge, "Legislative life in the 1990's: A Comparison of Black and White State Legislators." *Legislative Studies Quarterly*, Vol.21, No. 2. (May,1996):205.

This can be problematic because it illustrates a disconnection between White politicians and the reality of their Black constituents. The undeserved feeling of progress could lead to the overlooking or failure to address a lot of constituent needs.

In any discussion of Black political representation the issue of the Black majority district has to be addressed. Despite the strong debate regarding its merits and the possible undermining of "true American democracy," redistricting and the creation of majority Black districts seems to be the main opportunity for the election of the majority of Black politicians. Today eighty percent of all Black elected officials are elected by majority Black electorates and even though seventy percent of Blacks live in majority White districts, only one percent of majority White districts

have ever elected a Black official.⁵⁴ As the trend of electing Black representatives from majority-Black districts continues, it will become increasingly difficult to expand the pool of Black elected officials. It will become progressively harder to establish majority Black districts because of Black residential dispersal a trend pointed out in, *Redefining Urban and Suburban America*. In the 2000 Decennial Census, there was a noted significant decline in the level of racial segregation seen in the 1990's. The number of predominantly White suburban neighborhoods significantly declined. Some attribute this trend to the increased level of job opportunities that Blacks are finding in suburban America and the decreasing numbers of job opportunities in predominantly Black neighborhoods.⁵⁵ There has also been a decline in the number of predominantly Black neighborhoods. This decline been attributed to the gentrification of older, urban neighborhoods, the decline of urban crime, and developmental policies geared toward encouraging urban job growth.⁵⁶

The trend of Black decentralization allows Black politicians, on an increasingly larger scale, to fall prey to the voter polarization that occurs among the races when there is a multiracial field of candidates, because it emphasizes the fact that Blacks exist in America as a minority. Exacerbating this problem are racial voting blocs that exist in America. In his book *Changing White Attitudes Toward Black Political Leadership*, Zoltan L. Hajnal cites an overwhelming amount of research has shown that there is a higher tendency for voters to vote for

⁵⁴Zoltan L. Hajnal, *Changing White Attitudes Toward Black Political Leadership*; (New York: Cambridge University Press, 2007), 40

⁵⁵Alan Berube, Bruce Katz, and Robert E. Lang, *Redefining Urban and Suburban America: Evidence From Census 2000*; (Washington, D.C: Brookings Institution Press, 2006), 4,5

⁵⁶ Alan Berube, Bruce Katz, and Robert E. Lang, *Redefining Urban and Suburban America: Evidence From Census 2000*; (Washington, D.C: Brookings Institution Press, 2006), 131

representatives of their own race. The studies referenced show that seventy to ninety percent of Whites will vote for representatives of their own race in biracial elections. These same studies point out, even more importantly, that the more important the office, the less likely whites people are to vote for a Black politician.⁵⁷ Hajnal's research corroborates the claim made by author Keith Reeves, "racial bloc voting among whites, perniciously stacks the electoral deck against them [Black politicians]." He then goes on to say that until race based voting diminishes, "race based districting is perhaps the only means of ensuring that Blacks are afforded an equal opportunity to compete for... elected office."⁵⁸ Aggravating the situation, Blacks only represent twelve percent of the voting eligible population.⁵⁹ Accordingly, any racial voting bloc would disadvantage a Black politician without a majority Black district serving as a safe haven. The problem becomes more daunting when combined with the fact that among White voters, there is a five percent higher voting and registration rate than Blacks in Congressional elections, and a three percent higher voting turnout in Presidential elections.⁶⁰ Despite strong racial bloc voting, it must be pointed out that there is growing support for Black candidates by Whites. In the 1960's the average support for a Black challenger by White voters was only seventeen percent. By the 1990's that had grown to thirty-seven percent. Although this is positive, this trend in increased support is coupled with a significant decrease of thirty-five percent in White voter turnout, over the same time period in elections

⁵⁷ Zoltan L. Hajnal, *Changing White Attitudes Toward Black Political Leadership*; (New York: Cambridge University Press, 2007), 40

⁵⁸ Keith Reeves, *Voting Hopes or Fears? White Voters, Black Candidates & Racial Politics in America*; (Oxford: Oxford University Press, 1997), 108

⁵⁹ <http://www.census.gov/population/www/socdemo/voting.html> - census cite

⁶⁰ <http://www.census.gov/population/www/socdemo/voting.html> - census cite

with a Black challenger.⁶¹ If this trend persists, increased support could be diminished if white registered voters do not actually vote.

Although the issue of Black decentralization is especially relevant now, this trend might not be a long term problem because it appears that it will occur in waves. Studies show that in historically multi-ethnic neighborhoods, not including an established Black presence will maintain its character. On the other hand multi-ethnic districts that contain a Black population often become predominantly Black.⁶² For today's politicians, this phenomenon can serve as a force limiting their chances of obtaining political office. It appears, however, that the effects of this Black dispersion will vary throughout time.

Overall it does appear that there are substantial benefits for Black constituents to having a Black representative. Not only from the descriptive representation perspective Swabey discussed, but also from a substantive standpoint. Black representatives also seem to provide a voice for the minorities of society by specifically paying more attention to minority issues. They have throughout time introduced and advanced legislation addressing substantive issues, but also, Black representatives have advanced symbolic legislation that has had far-reaching, global cultural and political impact.

There are many positive results for Black constituents and democratic institutions when a Black politician serves as their representative. Black representatives galvanize the Black vote. Their mere presence alone in an election translates into higher turnout rates amongst the Black constituents in the district

⁶¹ Zoltan L. Hajnal, *Changing White Attitudes Toward Black Political Leadership*; (New York: Cambridge University Press, 2007), 70

⁶² Alan Berube, Bruce Katz, and Robert E. Lang, *Redefining Urban and Suburban America: Evidence From Census 2000*; (Washington, D.C: Brookings Institution Press, 2006), 94

increasing the level of true democracy in America. Their concern with racism within governmental institutions makes their presence an asset in a push to have equality in all entities within our society, which is of specific importance when dealing with institutions that determine the fate of our nation. Their more accurate perception of Black progress (or the lack thereof) will ensure that there is at least an accurate awareness within our legislative bodies of what needs to be done to have greater equality in America. These benefits that come with Black politicians oppose the notion that any politician can represent the interests of Black constituents equally and supports the position that there may be added value to Black politicians representing Black constituents. Having concluded that there is merit to having Black candidates represent Black constituents, I turn to an examination of the consequences of the Bipartisan Campaign Reform Act on Black politicians.

Current Discussions on the BCRA

Changes brought about by the Bipartisan Campaign Reform Act have been said to split the electorate into two unequal parts, the “haves” or those who because of their individual wealth can underwrite their campaigns and make the system work for them, and the “have-nots” or people whose financial status precludes them from funding their own campaign and political activities, making it more challenging for them to get elected and build a coalition of support for their legislation.⁶³ Despite an incredible wealth of literature on the BCRA, there is a major shortcoming. The in-depth analyses on all the causes and consequences of BCRA does not provide context outside the direct results of change that is encompassed within the BCRA. This takes away context from the overall discussion of the BCRA.

Current literature allows readers to understand what the BCRA does, but does not allow readers to understand the unintended ramifications the changes made by the Act will have on specific political cohorts. This makes the literature regarding the BCRA incomplete. The BCRA literature also fails to address the racial and gender chasms and sub-groups within the United States Congress, only addressing the Members of Congress as a two-Party unit. This diminishes our understanding of the impacts of the Act. To get a true sense of the impact of the Act, we must first recognize that Congress, like the country it represents is not a homogenous grouping, but truly, an organized, balkanized group of representatives, representing disparate groups of people and competing issues across the county.

⁶³ Rodney A. Smith, *Money Power & Elections: How Campaign Finance Reform Subverts American Democracy*. (Baton Rouge: Louisiana State University Press, 2006), 76

Regardless of the shortcomings in the BCRA literature, it does provide a solid foundation and criteria by which to assess the ramifications of the proposed changes under the BCRA would have on Black politicians. The discussions in the existing literature offers information that could be gathered, analyzed, and interpreted to assess the impact on Black politicians, and subsequently contrast the findings against how the changes would affect White Democrats and Republicans. This is the approach I took. By doing this, the literature is broadened.

Political Action Committees

Title One of the BCRA limits the use of so-called “soft money” or funds not raised and expended as part of the federal election regulatory scheme, but which nonetheless have an impact on federal elections, e.g., funds often used by unions, corporations and others to impact the outcome of federal elections. Virtually eliminating soft money contributions dramatically changes the impact Political Action Committees (PACs) have on the political process. “Soft money” is defined thus:

“Party soft money is raised by the national parties from sources and in amounts prohibited in federal elections and transferred to state parties to the extent allowed under particular state laws. Money raised in this manner is generally from unions, corporations, and individuals who have reached their aggregate federal limit. The funds are kept in “non-federal” bank accounts (thus separate from money in “federal” accounts, which must be raised solely from federally-permissible sources and amounts); it is typically transferred from the non-federal accounts to state parties for grassroots and party-building activities. Party soft money has played a notable role in presidential elections since 1980, as party and campaign officials and party nominees have increasingly been involved in raising it.”⁶⁴

⁶⁴ <http://www.opensecrets.org/parties/s97-91.htm>

Limiting the use of “soft money” was viewed as the most important part of the Act by many scholars because it closed the loophole left in the Federal Election Campaign Act of 1971 as amended that was intended to limit the influence of corporations, unions, and wealthy individuals, in federal campaigns. The large amounts of unregulated soft-money contributions to political parties were viewed by some politicians and by scholars as the loophole that can lead to vast amounts of corruption.⁶⁵ It is now important to discuss a distinction made in the literature that provides a better understanding of the logic behind the BCRA’s ban on soft money and the targets of this legislation.

Business / Access-Based PACs

The move to ban soft money was designed to curb the large amounts of soft money that corporations, PACs and others were contributing to elections.⁶⁶ These groups were referred to as “access oriented groups” because their money was being pulled into the system in order to gain access to the high-ranking members of Congress so that they might pass legislation favorable to their industry interests.

Twenty-seven years before the Rehnquist Supreme court ruled in *McConnell v. FEC*, in the 1976 case of *Buckley v. Valeo*, the Court ruled that Congress has a right to limit the “appearance” of corruption, meaning, Congress had the right to keep the appearance of corruption out of the public eye. The Supreme Court opined this was important because the perception of corruption would erode the nation’s “confidence

⁶⁵ Author Unlisted, “Soft Money: The Current Rules and the Case for Reform,” *Harvard Law Review* Vol. 111, No. 5. (Mar., 1998), pp. 1340.

⁶⁶ Michael J. Malbin, *Life After Reform; When the Bipartisan Campaign Reform Act...Meets Politics* (New York: Rowman & Littlefield Publishers, Inc., 2003), 44.

in the system of representative government...to a disastrous extent.”⁶⁷ This ruling stresses the distinction between the access and influence based organizations. The fear of corruption within politics comes from the idea that corporations, wealthy individuals, and access- based groups create a bias in the legislation they produce through their money being pulled into the system.

Mark J. Rozell and Clyde Wilcox suggest the fear of access-based political groups dates back over 100 years to the McKinley presidential election. At that time, McKinley approached corporations and suggested they donate a share of their revenue to his campaign, warning these companies that the administration would not do business with companies that failed to contribute.⁶⁸ Although the appearance of buying votes outright at this high level has been more subtle in recent years, it has become the dominant image of the influence of special interest groups that people have come to fear. Despite the BCRA’s stated purpose of trying to undermine this and similar corruption Rodney A. Smith points out in a 2002 Gallup Poll sixty-seven percent of those surveyed believed that the BCRA would not curb the influence of special interest groups.⁶⁹ Furthermore, many believe that the influence of special interests was nothing more than a false notion embedded in the realm of politics. Taking this a step further, authors on the other side of the literature argue that believing PACs influence politicians through contributions is backward logic. They claim that special interest groups support their choice of political party and politicians because of their legislation policy output is in line with the groups interests, making

⁶⁷ John Samples, *The Fallacy of Campaign Finance Reform* (Chicago: The University of Chicago Press, 2006), 111.

⁶⁸ Mark J. Rozell and Clyde Wilcox, *Interest Groups in American Campaigns; The New Face of Electioneering* (Washington D.C: Congressional Quarterly Inc, 1999), 70

⁶⁹ Rodney A. Smith, *Money Power & Elections: How Campaign Finance Reform Subverts American Democracy*. (Baton Rouge: Louisiana State University Press, 2006), 17

special interest groups not the driving cause but just another receiving entity of legislation.⁷⁰ The same argument is made for individual donors who some believe present an influential threat if they are allowed to contribute unlimited amounts.⁷¹

Michael J. Malbin's research reveals the BCRA was intended to curb the amount of money corporations were donating through soft money contributions because they were becoming increasingly effective in soliciting money from members of the corporation as stock ownership increased.⁷² Stock ownership puts stockholders interests in line with that of the corporation because then the individuals' monetary situation is dependent on the success of the company, putting the best interest of the company and the individual in the same vein. This is the idea of bundling. This will allow the PACs with wealthier members to continue to raise money in this manner. Presently this idea of bundling is seen as one of the largest reform problems left in the post-BCRA era. A recent *New York Times* article discusses "powerhouse lobbyists" who call in vast amounts of donations from their clients and then deliver "mega-bales" of money to politicians. The article discusses the danger in this, citing the Jack Abramoff incident.⁷³ The article indicates the concern of Congress with the issue, revealing a Senate plan to require a detailed disclosure of all packaged donations and who is giving, bundling, and taking.⁷⁴ This demonstrates the prominence of bundling and the level of concern about both its impact on elections outcomes and its potential to corrupt. Proponents of the BCRA also argue that by reducing the funding that

⁷⁰ *Money Power Elections*, 46

⁷¹ Rodney A. Smith, *Money Power & Elections: How Campaign Finance Reform Subverts American Democracy*. (Baton Rouge: Louisiana State University Press, 2006), 66

⁷² Michael J. Malbin, *Life After Reform; When the Bipartisan Campaign Reform Act...Meets Politics* (New York: Rowman & Littlefield Publishers, Inc., 2003), 51

⁷³ Jack Abramoff was a high profile lobbyist who reportedly provided over \$25,000 dollars in meals, drinks, and concert and sporting tickets to White House officials through the process of bundling. This is a violation of the ethics board rules that don't allow White House officials from accepting gifts over \$20 dollars. He pleaded guilty to charges of conspiring to bribe public officials and is now serving jail time.

⁷⁴ Author Unknown, "Bundling in the Capital," *The New York Times*, 30 April 2007, 20

business PACs provide, the BCRA creates a more competitive political environment because the majority of business PAC money goes to incumbents providing them a further political advantage.

Influence / Labor and Ideological PACs

Unlike major corporate fund bundlers; ideological groups, labor unions, issue groups and other groups of this nature were affected by the BCRA to a lesser degree according to the literature. This latter grouping of contributors is said to be trying to influence the Congressional composition by helping challengers run, targeting potential candidates to run for office and assisting them in primaries.⁷⁵ These groups are also noted as being organizations that pool people with the same ideological base and sponsor candidates that adhere to those ideals,⁷⁶ which makes them a lot less threatening, therefore a lesser target of the BCRA.

Despite the above suggestions of scholars, in 2003, in the case of *McConnell v. FEC*, 540 U.S. 93 (2003), the Supreme Court seemed to hold just the contrary. In 2003, the Supreme Court was called on to determine the constitutionality of the McCain-Feingold Act or BCRA. The Court was asked to determine whether the "soft money" ban "exceeded Congress' authority to regulate elections under Article 1, Section 4 of the United States Constitution and/or whether it violated the First Amendment's Freedom of Speech protection."⁷⁷ In answering this question in the negative, the Supreme Court found, contrary to what the scholars appear to suggest, that the purpose of the Act was primarily to ban "soft-money contributions that were

⁷⁵ *Life After Reform*; 47

⁷⁶ Mark J. Rozell and Clyde Wilcox, *Interest Groups in American Campaigns; The New Face of Electioneering* (Washington D.C: Congressional Quarterly Inc, 1999), 77.

⁷⁷ The Oyez Project, *McConnell v. FEC*, 540 U.S. 93 (2003), www.oyez.org/cases

used to register voters and increase attendance at the polls,” not to impact campaign expenditures which the Court suggested would be more of statement of “political values: and might, therefore need further constitutional scrutiny.”⁷⁸ Given this interpretation, it appears as though notwithstanding the suggestion that the purpose of BCRA as a measure designed not to interfere with the extent to which the grassroots might participate in elections, its true purpose as found by the Supreme Court, and the only reason it remains in tact today, is that the purpose of the reforms was to prevent labor unions and other grassroots organizations from registering generally, lower income, lesser educated, citizens to vote and increasing their participation in the electoral process, actions which the Supreme Court found not to be protected First Amendment Free Speech.

The literature encompassing the debate between those who believe access-based groups are a source of corruption and those who do not misses a key area of PAC influence. As discussed before influence-based groups purpose is to shape Congress by promoting and helping new politicians who are in-line with their political views. If the true fear of PACs is their influence in the political realm then these groups merit as much discussion as access-based groups. Influence-based groups train candidates to run in primaries, conduct training seminars, provide manuals, videos, audiotapes, and other sources of information.⁷⁹ They also provide endorsements and ask for the members of these groups to assist their candidates in their quest for nomination.⁸⁰ These strategies provide candidates with immediate grassroots advantages. They also provide the candidates with written material

⁷⁸ The Oyez Project, *McCannell v. FEC*, 540 U.S. 93 (2003), www.oyez.org/cases

⁷⁹ Mark J. Rozell and Clyde Wilcox, *Interest Groups in American Campaigns; The New Face of Electioneering* (Washington D.C: Congressional Quarterly Inc, 1999), 39

⁸⁰ *Interest Groups in American Campaigns*, 67

reflecting the positions of the trainers. These strategies result in the identification and education of new cohorts of candidates immersed in the positions of the sponsors and beholden to the outreach and education groups from the beginning, not even taking into account the monetary incentives. The BCRA attempts to regulate the extent to which these types of groups can influence elections by limiting in-kind donations. The Act recognizes those who give their time and talent assisting with candidate education and outreach efforts as giving “in kind” contributions. BCRA defines in-kind in a manner similar to the Internal Revenue Code. “In-kind” contributions are defined as donations other than direct monetary donations; such as services, staff time and product time. Although these services are also subject to the five thousand dollar limit assessed at a free market value, there are loopholes in these rules. Here the issue of depreciation comes into play where services at a given time might be worth one amount but when finally given to the candidate might be worth much less. The key example here is polling. Polls can depreciate by fifty percent in fifteen days.⁸¹ At the beginning of an election the polling data can be worth a great deal. Many politicians use polls for important political decisions, including how to shape their developing political campaign.⁸² The provision of these services, gratis, has the same potential for corruption as access-based groups. The literature, nonetheless, seems to perceive these groups as less threatening.

Literature focusing on the flaws of the BCRA focuses on the nature of influence- based PACs, making reform appear overbearing in nature. These analysts argue that societies always:

⁸¹ Mark J. Rozell and Clyde Wilcox, *Interest Groups in American Campaigns; The New Face of Electioneering* (Washington D.C: Congressional Quarterly Inc, 1999), 107

⁸² Kenneth F. Warren, *In Defense of Public Opinion Polling*. (Cambridge, M.A.: Westview Press, 2001), 226

“...deal with special interests because human beings are, by nature, egocentric and selfish and will not ever reach unanimity. This leads to factions within society which they feel would be dangerous to undermine in a democratic society.”⁸³

The above argument leads to the conclusion that denying the effects of PACs as influencers might, in fact, be denying an inherent part of our society and might be dangerous to the overall societal standing. The literature also points out that despite the Act’s prohibition against unions contributing to Congressional candidates and political parties, unions are continuing to have tremendous influence on elections by targeting voter mobilization efforts to an ever greater degree.⁸⁴

PAC Debate

The negative view of PAC influence that shapes the inimitables of those who drafted the BCRA is not shared by all people. In the defense of PACs and special interests, it has also been pointed out by scholars that special interest groups are very beneficial in many ways. First, they initiate changes in a static government. Mark J Rozell and Clyde Wilcox cited a 1993 study by Denise L. Baer and David A. Bositis that they claim suggested that without the influence of special interest groups, governments would tend to be more static and out of touch with the electorate.⁸⁵ This has been proven to be very dangerous for the political process because as the politician becomes less in touch with the electorate, according to Paul R. Abramson, John H. Aldrich, and David W. Rohde, there would be an expected decrease in

⁸³Rodney A. Smith, *Money Power & Elections: How Campaign Finance Reform Subverts American Democracy*. (Baton Rouge: Louisiana State University Press, 2006), 40

⁸⁴Michael J. Malbin, *Life After Reform; When the Bipartisan Campaign Reform Act...Meets Politics* (New York: Rowman & Littlefield Publishers, Inc., 2003), 51

⁸⁵Mark J. Rozell and Clyde Wilcox, *Interest Groups in American Campaigns; The New Face of Electioneering* (Washington D.C: Congressional Quarterly Inc, 1999), 149

political efficacy or at least the belief by the electorate that the government will respond to their demands. This generally leads to a decline in voter turnout,⁸⁶ making static government self-replicating and very dangerous to the political process. So-called special interest groups are especially noted for bringing disenfranchised groups into the political process by encouraging them to seek nominations, helping them run for office, encouraging them to influence party platforms, helping develop their political skills and mobilizing the targeted electorate.⁸⁷ Highlighting the importance of special interest groups is a study on possibly one of the most subjugated groups in the American political realm, Black women. Hanes Watson, Jr. discusses a study done to determine the factors that led to the success of Black female politicians. He claims the study found one of the top factors leading to success was an association between the politician and Black women's groups, civil rights groups, and church organizations.⁸⁸ Many of these organizations are deemed to represent so-called special interests, validating some positive benefits of PACs or special interest groups.

Continuing to criticize the BCRA, Hanes Walton, Jr, author of *Black Politics and Black Political Behavior*,² argues that by reducing the capacity in which PACs can operate, the BCRA is reducing their ability to educate the electorate. It is well known that generally speaking the American electorate is uneducated when it comes to politics and the American government. Most Americans don't know who their representatives are or even the main issues in a Presidential election.⁸⁹ This point is crystallized in a quote from Gilbert Keith Chesterton, who writes, "Democracy means

⁸⁶ Paul R. Abramson, John H. Aldrich, and David W. Rohde, *Change and Continuity in the 2000 Elections* (Washington D.C: Congressional Quarterly Inc, 2002), 87

⁸⁷ Mark J. Rozell and Clyde Wilcox, *Interest Groups in American Campaigns; The New Face of Electioneering* (Washington D.C: Congressional Quarterly Inc, 1999), 149

⁸⁸ Hanes Walton, Jr, *Black Politics and Black Political Behavior: A Linkage Analysis* (London: Praeger 1994), 213

⁸⁹ *Black Politics and Black Political Behavior: A Linkage Analysis*, 157

government by the uneducated.”⁹⁰ PACs and special interest groups counteract this general ignorance by providing endorsements, “hit lists,” and voter guides, which quickly and effectively educate the electorate. Under BCRA, there is a limit as to time (prevented less than 60 days before a general election, 30 days before a primary federal election if other criteria are met); amount of money expended; breadth of the outreach (cannot reach more than 50,000) on these types of “electioneering communications.”

Another positive quality of PACs noted by scholars Rozell and Wilcox is that they tend to not only mobilize the people they are targeting they also motivate the opposing side that is trying to maintain the *status quo ante*. The best example of this comes from the 1960’s in the South, where the efforts to mobilize the Black population also had the unexpected effect of mobilizing the White Southerners who were in opposition to the Black mobilization effort.⁹¹ The efforts to enfranchise the Black voter, in effect, mobilized an even larger portion of society, and began a political dialogue that created an even higher level of political activity. A recent example of the mobilization effort is the NAACP National Voter Fund Campaign in the 2000 election. The NAACP utilized their massive directory to educate Black voters on issues such as hate crimes and racial profiling. Their main goal was to educate, not persuade.⁹² This had a positive mobilizing effect among Black voters because there were issues that a majority of Black voters could identify with and rally around, that were being ignored by many major politicians. This campaign, in-turn,

⁹⁰ <http://www.quoteworld.org/quotes/2694>

⁹¹ Mark J. Rozell and Clyde Wilcox, *Interest Groups in American Campaigns; The New Face of Electioneering* (Washington D.C: Congressional Quarterly Inc, 1999), 130

⁹² Donald P. Green and Alan S. Gerber, *Get Out the Vote: How to Increase Voter Turnout* (Washington D.C.: Brookings Institute Press, 2004), 50

mobilized many voters that previously felt excluded from the electoral process. Overall, like most of the debate regarding the BCRA two polarized sides have emerged and a debate has ensued. But, for now the overwhelming narrative in the literature proclaims the BCRA's intension is to curb the role access based PACs have in politics. In doing so there will also be implications on influence based PACs although they were not the primary targets of this reform.

Money In Elections

Candidate's Wealth

Avoiding the inequity of wealthy candidates buying their way into elective office is a problem that continues to plague American federal elections. Indeed, BCRA appears to be accelerating the act of candidate's self-financing. Examples of campaign self-financing that raised the ire of those who believe this to be a gross inequality that prevents lower income voters from being able to compete on the issues for election, on an even playing field, include: candidates Perot, Corzine, Swarzenegger, Blair Hull (a candidate for Democratic nomination to the Senate from Illinois who spend \$29 million of his dollars and failed to secure the election), Mitt Romney and others. These candidates entered races without an apparent political support base, in races in which there were abundant candidates, without a hue and cry from any constituent group, and self-financed their campaigns. The Federal Election Campaign Act of 1974 attempted to limit an individual's spending from personal funds for his or her election, In *Buckley v. Valeo*, the Supreme Court struck down those limits as violations of candidates' First Amendment Free Speech rights. The BCRA attempts to create equalizer by raising limits on individual and party support

for Senate and House candidates where an opponent exceeds a designated threshold for personal campaign funding. This only begins to permit less wealthy candidates to recalibrate the scales where an extremely wealthy candidate self finances in the tens of millions of dollars. The practice of self-financing by the wealthy has a chilling and inhibitory impact on qualified challengers who might otherwise run in an election. This is because in the face of soaring campaigning costs, it becomes harder for challengers to overcome the fundraising advantage of wealthy candidates with individual donations of roughly \$750 to \$1,000 at a time. The disadvantage is even greater if the wealthy candidate is also an incumbent. The ability wealthier candidates have to infuse their campaign with money if the race becomes overly competitive is an integral asset in a campaign.⁹³ This ability to provide quick cash infusions of unlimited amounts at the necessary point in tight elections makes wealth a large advantage in politics, which is argued to discriminate against the less wealthy politician because the wealthy candidate can buy their way into office.⁹⁴

The most common argument against this practice is that BCRA transforms open elections into races that only wealthy incumbents can realistically win.⁹⁵ Rodney A. Smith argues that the BCRA has done this by increasing the benefits of incumbency (which will be discussed later) and personal wealth while decreasing fundraising measures.⁹⁶ The biggest criticism of the BCRA is not solely that it reduces the fundraising ability of candidates, but that it does this while ratifying the Supreme Court decision in *Buckley V. Valeo* regarding personal campaign

⁹³Clyde Wilcox and Wesley Joe, "Dead Law: The Federal Election Finance Regulations, 1974-1996," *P.S.: Political Science and Politics Vol.31, NO 1* (Mar 1998): 14.

⁹⁴Jeffery Milyo and Timothy Groseclose, "The Electoral Effects of Incumbent Wealth," *Journal of Law and Economics Vol.42, NO 2* (Oct 1999): 700.

⁹⁵ Rodney A. Smith, *Money Power & Elections: How Campaign Finance Reform Subverts American Democracy*. (Baton Rouge: Louisiana State University Press, 2006), 7

⁹⁶ *Money, Power, Elections*, 8

contributions allowing the wealthy to donate unlimited amounts to their own campaigns. Passage of BCRA was an opportunity to attempt to test the limit of Buckley by trying a formula or an amount cap that would give less of a fund raising edge to the most wealthy. Scholars suggest the effect of *Valeo* has been to create an even more uneven playing field, in which individual candidate wealth has become the most important aspect of a candidacy.⁹⁷ They claim this creates a pseudo ruling class and although all people are eligible to run for federal elective offices who meet constitutional criteria, there is clearly a glass ceiling for the non-wealthy members of society.

In this discussion of candidate wealth it is important to point out that in the 2000 election cycle candidates self-funded seventeen percent of all receipts. The BCRA fights to trigger this wealth advantage with the Millionaires Provision. This provision states that if a candidate contributes over a specific amount to their own campaign, then an opponent can receive contributions from individuals up to six times the normal limit depending on how much the opposing candidate contributed to their own campaign.⁹⁸

Critics of the BCRA were quick to point out a logistical flaw relative to the increased contributions under the Millionaires Provision that might limit its usefulness to combat self-financing. They argue that candidates are able to give their campaigns an influx of money at a point in the campaign at which it would be too late for their opponents to raise adequate additional funds to catch up. They also point out that it will be hard for many opponents to raise the funds under the increased

⁹⁷ *Money, Power, Elections*, 68

⁹⁸ Michael J. Malbin, *Life After Reform; When the Bipartisan Campaign Reform Act...Meets Politics* (New York: Rowman & Littlefield Publishers, Inc., 2003), 159

regulations.⁹⁹ Most people already do not contribute to the limits. Accordingly, the assumption that people will have an outpouring of contributions because the limits are lifted, is viewed by many as too optimistic.

This opinion might be a correct assessment looking at polling results. In a study of Congressional donors in the 1996 election who gave in excess of \$200 dollars, fifteen percent said they would give more if they could. Twenty percent of donors of over \$1000 dollars said they would give more if limits were raised. It tended to be the wealthiest donors (net worth of over \$500,000 dollars) who were the most willing to give more. Overall only one sixth to one third of donors would give more.¹⁰⁰ What does this mean in terms of the impact of BCRA? Critics suggest that the Millionaires Provision will only make things worse by encouraging the politicians that can afford it to self- finance more of their campaign to ensure their victory.¹⁰¹ The early indications are, however, that the provision may be having the unintended effect of accelerating a trend toward greater reliance on large contributions. Surveys of 1990, 2002, and 2004 campaign contributions show that contributions of between \$750 and \$1000 grew from less than thirty percent of all donations made in 1990 to half of all contributions in 2002 and an even greater percentage in 2004, with roughly thirty percent giving in the range between \$750-\$1000 dollars and another twenty-nine percent giving between \$1001 and \$2,000 dollars.¹⁰²

Critics have been quick to point out the dangerous implications of the above trends expressing their concern that the people most likely to donate more under the

⁹⁹ *Life After Reform*, 170

¹⁰⁰ Michael J. Malbin, *Life After Reform; When the Bipartisan Campaign Reform Act...Meets Politics* (New York: Rowman & Littlefield Publishers, Inc., 2003), 73

¹⁰¹ *Life After Reform*, 173

¹⁰² Paul S. Herson, *The Bipartisan Campaign Reform Act and Congressional Election*, p.124.

increased contribution limits of the BCRA are wealthy businesspersons who are involved in politics, comfortable with the new system, conservative and by and large Republican.¹⁰³ This would create another advantage for the most affluent in the country, disproportionate numbers of whom tend to be for Republicans. Moderate Democrats, like those who supported the Bill Clinton; Democratic Leadership Caucus wing of the Democratic Party are expected to fair better than their more liberal counterparts, but they are all supposed to fair worse than Republican candidates according to the literature.¹⁰⁴ Those who will likely fair worse under this scenario are those who are least affluent in this country, African Americans and others who have been historically locked out and denied access to the opportunities and bounty of this nation.

Constituent Contributions

A large amount of the literature on the BCRA focuses on wealth. Individuals provide the vast majority of funds for Democrats and Republicans.¹⁰⁵ Under the BCRA, individual contributions will play an even larger roll in campaign financing. The BCRA doubles the individual contribution limit from \$1000 to \$2000 dollars to individual candidates per election cycle. Also the amount of money an individual can contribute to all federal candidates was raised to \$37,500 dollars. All these regulations are vastly relaxed if an opposing candidate self-finances their campaign over a specific trigger amount under the Millionaires Provision.¹⁰⁶ These changes have caused an eruption in the campaign finance debate; with one side arguing these

¹⁰³ *Life After Reform*, 62

¹⁰⁴ *Life After Reform*, 79

¹⁰⁵ *Life After Reform*, 61

¹⁰⁶ *Life After Reform*, 63

changes will reduce the dependence on soft money while the other side is arguing that it will only increase the role of wealth in elections.¹⁰⁷

The argument that the BCRA reduces the dependency on soft money comes from a clear line of thinking. If the BCRA allows more money to flow into the system through individual, hard-money donations, then there will be less of a need for soft money. The thinking that it will increase the advantage of the wealthy is more complicated.

Those that argue that reform is putting politics in the hands of the wealthy see the BCRA as part of a line of reform decisions that is only making a bad situation worse. They see reform as the force that is deterring the “common man” from making political contributions. Their evidence for this is found in the declining number of taxpayers who check the “voluntary political contribution box” on their federal income tax returns. The effects of reform have also been seen in the areas of contributions. Following the rendering of the 1976 Buckley V. Valeo decision to the present, there has been a consistent decline in the percentage of the population that voluntarily donates to political campaigns on their individual income tax returns. In 1980, 28.7 percent of people requested that a voluntary political donation be made through their 1040 filing. By 2000, only 11 percent of the population was giving through this vehicle. Under the current system, the numbers are expected to continue declining. Polls suggest that this drop is a result of the sentiment that only the wealthy and not the common citizen matter.¹⁰⁸

¹⁰⁷ *Life After Reform*, 63

¹⁰⁸ Rodney A. Smith, *Money Power & Elections: How Campaign Finance Reform Subverts American Democracy*. (Baton Rouge: Louisiana State University Press, 2006), 76

Other literature provides other reasons for the decline in the number of individuals who contribute to political elections. In the book *“Campaign Finance Reform,”* Corrado provides a simple explanation for the low and declining rate of individuals contributing to politician campaigns. The author explains that as the cost of elections continue to rise and more restrictions are placed on the funding, politicians are placing more emphasis on soliciting donations of five hundred dollars or more. This is because methods used to solicit “large-cap” donors are less expensive and time-consuming than the telemarketing and direct mail methods that are used to solicit “small-cap” donors.¹⁰⁹ This illustrates how the BCRA continues to remove the less wealthy from the election process.

To achieve the goal of this thesis to assess the ways in which the BCRA affects a specific cohort of politicians, namely Black federal legislators, it is also important to look at the assessment of the demographic characteristics of donors contained in the literature. The implications of these demographics will be discussed in greater detail later. Most donors are White and eighty percent of them come from families with incomes of \$100,000 dollars or above. They also tend to be well educated with half having graduate or professional degrees, and they are usually older.¹¹⁰ Due to the characteristics of the people that donate, there is a concern among people interviewed regarding the implications of individual political donations. Eighty percent of people questioned in a survey sighted by Kevin Phillips in *Wealth and Democracy*, said that they believed politicians do special favors for people who give large contributions; seventy four percent of the same respondents see this as a

¹⁰⁹ Anthony Corrado, *Campaign Finance Reform*. (New York: The Century Foundation Press, 2000), 39-40

¹¹⁰ Kevin Phillips, *Wealth and Democracy: A Political History of the American Rich*. (New York: Broadway Books, 2002), 328

problem.¹¹¹ In addition to looking at who donates, the motivation for the donations is also important. Individual contributors report more material motives for contributing than solidarity causes. Solidarity causes are similar social or political networks. Material motives are those motives that produce tangible benefits (the desires of the constituents for lower taxes, better healthcare, and other things of this nature).¹¹² People who contribute can then be divided into two categories: people who do it to encourage favorable legislation; and those who donate because they are drawn to a politician and they either want him or her to get elected to office or to keep him or her in office.¹¹³

Candidate Loans

In addition to trying to balance the wealth inequality through combating personal financing, the Millionaires Provision was also designed to balance the financial battlefield by creating new standards for recouping loans. Candidates frequently take out loans to meet campaign needs with the expectation that if they win they will be able to recover their losses through fundraising, creating an advantage for incumbents who have a greater likelihood of winning. The Millionaires Provision does not allow candidates to recoup more than \$250,000 dollars in loans. This loan recovery cap serves as a deterrent to the practice.¹¹⁴ The loan provision is among the most effective measures in reducing self-funding in campaigns. The total sum of the money provided to campaigns by loans was four times the amount of money (\$87.3

¹¹¹ Kevin Phillips, *Wealth and Democracy: A Political History of the American Rich*. (New York: Broadway Books, 2002), 328 Original Data from "ABC News," March 2001 and a "Random sampling of donors by the University of Akron funded by the Joyce Foundation."

¹¹² Michael J. Malbin, *Life After Reform; When the Bipartisan Campaign Reform Act...Meets Politics* (New York: Rowman & Littlefield Publishers, Inc., 2003), 69

¹¹³ Author Unknown, "The Ass Atop the Castle: Competing Strategies for Using Campaign Donations to Influence Lawmaking," *Harvard Law Review*, Vol. 116, No. 8. (June 2003): 2610

¹¹⁴ Michael J. Malbin, *Life After Reform; When the Bipartisan Campaign Reform Act...Meets Politics* (New York: Rowman & Littlefield Publishers, Inc., 2003), 159

million dollars) that candidates gave to their own campaign from their existing net worth. There were twenty-one Senate campaigns that exceeded the limitations set forth and that money would not have been able to be recouped. If this provision was in place, politicians might have changed their decision to use these loans, which could have potentially altered the outcome of those elections.¹¹⁵

Media

In addition to political contributions, either from PACs, individuals, or the candidates themselves, the literature also focuses on the impact the BCRA has on the media. Although the discussion of media is a sizable part of the literature, discussions of electioneering and other media related issues pertaining to the BCRA will not be excessively addressed in this document. Although the majority of the literature on the BCRA's impact on the media will be excluded, two discussions brought up by scholars need to be addressed due to the overwhelming potential dangers they can create for Black candidates.

The first argument against the BCRA claims that it deprives candidates of adequate financing to appropriately reach all the media outlets, leaving the candidates at the mercy of journalists. We have entered the age of the political commentator and columnist. Americans are no longer listening to the politicians themselves to understand political platforms. They now look to interpretations of political commentators to form their opinions.¹¹⁶ This has shifted control of the political dialogue to the commentators. This forces politicians to spend more time, and therefore money, trying to make sure their original message comes across in the

¹¹⁵ *Life After Reform*, 163

¹¹⁶ John Street, *Mass Media, Politics and Democracy* (New York: Palgrave, 2001), 160

manner they desire. Eric Alterman has labeled this shift in power the “Pundtocracy-gossip” merger. Critics of the BCRA suggest that under the Act, candidates will now have less money with which to shape, transmit and monitor their messages, at this time in which this is vitally important to election outcomes. These journalists may or may not choose to convey their message in a balanced or accurate manner.¹¹⁷ The inability to effectively communicate with the electorate and leaving ones political message open to the interpretation of the media can be very dangerous for politicians. Yet, the current reforms under the BCRA have been associated with putting politicians in that very situation. This can be particularly troubling for Black politicians because journalists often discuss them in a racial context. The quintessential example of this is journalists continued emphasis of Barack Obama’s ethnicity. This often goes against the desire of Black politicians to play down their race and have the focus be on their message not their skin tone. This only becomes more problematic because the decision to play down race is often made because there can be negative effects to a candidates election outlook if their ethnicity becomes too large of an issue.

The second discussion surrounds the issue of negative campaigning. Negative commercials and “attack ads” have the ability to totally degrade the political process. They are by and large generally less focused on policy initiatives and more focused on trying to attach particular feelings and values with opponents and candidates, often by invoking widely held myths and fears of the nation. A perfect example of this is the Willy Horton ad used in the 1988 Presidential election to show that Michael

¹¹⁷ Rodney A. Smith, *Money Power & Elections: How Campaign Finance Reform Subverts American Democracy*. (Baton Rouge: Louisiana State University Press, 2006), 6

Dukakis is weak on crime.¹¹⁸ Another potent negative campaign was effectively used against former Congressman Harold Ford in his 2006 quest for the United States Senate Seat from the State of Tennessee. In the final weeks before the general election, with the polls suggesting that Congressman Ford had a real chance of defeating Bob Corker, a Republican businessman, and becoming the first Black United States Senator from the State of Tennessee since Reconstruction, Corker supporters ran a prurient ad featuring a leggy blond woman in a commercial in which the woman suggestively asked Congressman Ford, who is single, call her. The implications were highly sexual and played to the seemingly intractable fears of the “Southern Good Ole White Boys” that “their women” are “being taken” by Blacks. From the day the ad hit the air, Congressman Ford’s ratings tanked. He lost the race by a narrow margin.

Rodney A. Smith claims the increasing costs of campaigning and the decreasing funding available as a result of the BCRA has many politicians turning to distasteful politics, like that reflected in the above ads. They increasingly resort to negative ad campaigns and other smear tactics. This is because it is perceived to be easier, and therefore less expensive to convey political messages through negative campaigns.¹¹⁹ As the examples above prove, a shift to negative campaigning can be very dangerous for Black politicians and very regressive for political dialogue. Because these ads play on preexisting fears and widely held myths it may prove too tempting for the opponents of Black politicians in tight races to make ads that play on fears held within the subconscious of mainstream America regarding the Black

¹¹⁸ Geoffrey Craig, *The Media Politics and Public Life* (Australia: Allen & Unwin, 2004), 131

¹¹⁹ Rodney A. Smith, *Money Power & Elections: How Campaign Finance Reform Subverts American Democracy*. (Baton Rouge: Louisiana State University Press, 2006), 6

population. Above they used fears regarding Black male sexuality and Black criminal behavior to subvert the political ambitions of their opposition. But, these are only two of the many different fears that can be utilized to debase a Black politicians political campaign.

Conclusion

The above literature review supports the notion that changes brought about by the Bipartisan Campaign Reform Act have aggravated the split in the electorate between the “haves”, and the “have-nots” making it more challenging for them to get elected and build a coalition of support for their legislative interests. We see that restrictions on PAC funding, union electioneering, bundling and other ways for smaller contributors to donate to federal campaigns and to make their issues heard, has decreased grassroots campaign participation at the level of those who have least among us. The literature pointed out, however, that for those who are affluent enough to be able to donate \$750 to \$1,000 to federal campaigns, their involvement has actually gone up since passage of the BCRA. With no limitation on the amount an individual can give to his or her own campaign, the most wealthy candidates are continuing to self-finance their constituent outreach and engagement, while those who cannot afford to do so, are being left behind, or even worse, opting not to run for federal election. The literature does not indicate what this means for Black candidates. Given that Black candidates are disproportionately less wealthy than their white counterparts and generally have less access to mainstream media outlets than their White counterparts, the impact on Black candidates is likely negative.

To get a better understanding of the likely impact of BCRA on Black candidates and federal officials, a quantitative assessment of each political cohort is used to evaluate who would have the easiest transition to the post-BCRA environment. Having established the criteria for evaluation I turn to a discussion about the data and methodology that will be used assess the impact of the BCRA's changes on Black Congressional candidates.

Data and Methodology

The literature previously discussed implied that there were several indicators that allow for measuring the impact of the BCRA. The emphasis placed on personal wealth in light of the reduction of other funding venues makes this a good indicator on whom will be most detrimentally affected by the BCRA. Also the shift in the importance of large-cap constituent contributions makes this is another area that needs to be focused on. Finally, the attempt to reduce PAC funding through soft-money donations have scholars claiming that will lead to an overall reduction in PAC funding making this the final area in need of examination.

The BCRA applies to federal elections; therefore, we must examine federal elections to assess its impact. Presidential and Senatorial elections are excluded because of the lack of an African-American presence in these positions. Consequently it makes sense to examine the House of Representatives for several reasons. First, there has been a strong institutionalized presence of Black representatives for decades. House elections are also more frequent and allows for more immediate comparisons. Last, it allows for the examination of both the long standing Black incumbents and recently elected representatives.

For this analysis the 1997-1998 election period and the 2005-2006 election period was used. These periods were selected for two different reasons. First, they provide a time period in which there was not a presidential election taking place. Presidential elections divert a percentage of the funding and attention that would go toward Congressional elections to the Presidential race. This would in-turn skew the

data if compared to congressional elections held in years that presidential elections didn't take place. The second reason why these two election periods were selected is due to their proximity to the enactment of the BCRA. It was desired that the two election periods closest to the ratification of the reform were utilized excluding Presidential election years, leaving the 2005-06 and the 1997-1998 congressional elections as the best choice.

The next step was to breakdown the members of the House of Representatives into various cohorts to allow for comparative analysis. Members of the House were broken down into three main groups: Black candidates, White Democrats and Republicans. Republicans did not have to be broken down by ethnicity because there were no Black Republicans in the House of Representatives in the 1998 or 2006 Congresses. The division of the Democratic Party between Blacks and Whites allows the appropriate assessment of whether findings in the data are based along lines of race, or if the findings in the data broke down along party lines. Latino and Asian candidates were excluded because their fundraising challenges are not addressed in this paper and because of their relatively small numbers.

For the actual data, variables were created that assess the claims made in the literature and determine how they can be applied to the various groupings of politicians previously discussed. The first set of variables is used to determine the impact a reduction in various types of PAC funding will have on politicians. The following are the variables: power rankings among all representatives, power rankings among representatives within their own party, total PAC contributions, and the percentage of total funding coming from PACs. I also assessed all funds raised

through PACs looking at money coming from ideological, business, and labor PACs, and the percentage each group comprises of the total PAC contributions. This allowed for analysis to be done that focuses on how the reduction of funding from PACs overall would likely affect the different cohorts of politicians and how the reduction in specific types of PAC funding would affect the politicians. The power rankings are important because it is suggested in the literature that PACs will contribute more readily to politicians with more influence within Congress. It was expected that politicians with higher power rankings would enjoy the benefits of PAC support to a larger extent, potentially making them more dependent on PAC funding. The power rankings are determined by a group called KNOWLEGIS¹²⁰ and are posted on the website of the United States Congress. The rankings are determined by how effective a politician is in advancing an agenda whether it is a personal, party, state, or district agenda.¹²¹ The rest of the variables were obtained from The Center for Responsive Politics. They are a “a non-partisan, non-profit research group based in Washington, D.C. that tracks money in politics, and its effect on elections and public policy.”¹²² Data was collected from both the 1997-1998 election and the 2005-2006 election so that a comparison could be made, allowing for a before and after picture, giving an assessment of the ramifications of the BCRA.

It was also necessary to have variables to help analyze the role of individual contributors in congressional campaigns due to the increased role of these contributions in the post-BCRA environment. The following variables were used for that purpose: total funding from individual contributors, the percent of the total funds

¹²⁰ KNOWLEGIS claims to be a group that “provides you with accurate legislative data to successfully manage your interactions with key policymakers and ultimately influence legislation crucial to your organization's political agenda.”

¹²¹ http://www.congress.org/congressorg/power_rankings/backgrounder.tt- Congressional Website

¹²² <http://www.opensecrets.org/about/index.asp>- Organizations Website

raised that come from individual contributors, the percentage and amount of funding coming from small-cap contributors,¹²³ and the percentage and amount of funding coming from large-cap contributors.¹²⁴ The individual contributor data was collected for both time periods and will be utilized to evaluate the abilities of different political cohorts to raise funds from individual contributors. The small-cap and large-cap contributor categories are necessary because large-cap contributors are more likely to give larger contributions under the higher contribution limits set under the BCRA, making a higher concentration of large-cap contributors beneficial to politicians.

It was important to look at the demographics of the districts that the politicians represent. Specific district components that are discussed in the literature are more conducive to soliciting individual campaign contributions. The variables used to better understand the Congressional districts were: total population, the percentage of the population that was Black, the percentage of the total population that was White, educational attainment, and average income. These are seen as the key factors in determining who is more likely to give individual donations to a politician. These variables were obtained from the U.S Census.

I also assessed the individual wealth of the candidates because one of the biggest concerns in the literature regarding the BCRA is that the reduction of numerous funding sources, while allowing politicians to contribute unlimited amounts to their own campaigns, will give the wealthier of candidates a large political advantage. The following variables were used to analyze the impact of this new legislation: self financing from candidates, the percentage of total funds raised

¹²³ "Small Cap"- Individuals contributing under \$200 dollars

¹²⁴ "Large Cap"- Individuals contributing over \$200 dollars

coming from self-financing, the candidates personal wealth ranking in Congress, challengers self financing, and the total percentage of opponents funding coming from self financing. This data was taken from The Center for Responsive Politics.

Personal loans were also analyzed. To address the perceived abuse of personal loans in politics, the BCRA banned politicians from recouping money for loans over \$250,000 dollars. The following variables were used to address the impact of this provision on House elections: total funding from loans and a category that records the politicians who took out loans over the \$250,000 dollar cap. This was intended to show the prevalence of loan use that is viewed as excessive by the drafters of the BCRA and which groups would be most affected by this change. The data utilized was provided by a non-partisan website, www.campaignmoney.com.

In addition to the above variables, evaluations of whether the BCRA is creating a financial crunch for politicians were needed because this was the primary claim made by opponents of the reform. To do this the following categories were created: total funds raised, total amount spent, debts acquired during the campaign, and cash on hand. The additional category, total surplus or debt for the entire campaign, was derived from subtracting the total amount raised from the total amount spent. This data was compiled for both election periods. This allows for the comparison between time periods, which could reveal that the BCRA is depriving politicians of the necessary funding. This data came from The Center for Responsive Politics.

The final data collected dealt with politicians' time in office. This is important because many feel the BCRA benefits incumbents. To analyze this, data was

collected on the politicians' years in office and victory margin in both time periods. This allowed for a correlation to be drawn between the time a politician spent in office and other data observed. The comparison of the victory margins in the different election periods were designed to show whether the BCRA exacerbated or decreased political competitiveness. The data used for this also came from The Center for Responsive Politics.

In addition to a descriptive analysis these variables will be used in a regression analysis to provide a causal analysis between the variables used that can overcome the Null hypothesis. PAC contributions and individual contributions will serve as the dependent variables being analyzed. Personal contributions and loans taken out by candidates will be excluded from the regression analysis because the percentage of politicians utilizing these fundraising methods is not substantial enough to ensure the results. We can now move into an analysis of the data and offer conclusions drawn from the analysis.

Discussion of Descriptive Statistics

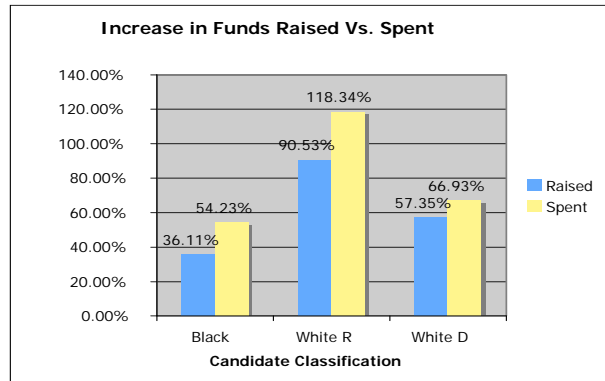
Through the use of the existing literature, criteria was established in order to determine whether the fundraising capacity of Black representatives, White Democrats, or Republicans will be compromised the most if the BCRA has its intended implications. It is now time to interpret what the analysis of these variables has determined.

General Indicators

Two positions have emerged in the literature regarding the BCRA reform. Scholars like Rodney A. Smith and others argue that the reduction in funding that is anticipated as the result of the curbing of soft money under BCRA would leave politicians without adequate funds to run competitive campaigns. Those on the other side of the argument suggest that the reduction of funds will not be harmful because the BCRA has measures, like increased contribution limits, which will counterbalance the loss of soft money. To explore both sides of this argument, an analysis was conducted of the emerging trends in fundraising efforts. These trends were compared with trends in campaign spending. If a finding is made that the increase in spending is less than or equal to the increase in fundraising by politicians, then the BCRA likely has not created a monetary crunch for politicians. However, if the increasing campaign costs, as indicated by campaign spending, exceed fundraising, then it would

signify that there is an inability of politicians to raise sufficient funds to keep up with the increasing costs of running a campaign. The graphic below (Figure 5.1) represents the three different political candidate cohorts and illustrates their ability to keep up with the fundraising requirements for their particular campaigns.

(Figure 5.1)



Source: Table derived from the data from the Center for Responsive Politics

From the above chart, it appears as though all cohorts are unable to generate funds to equal the increasing cost of continuing to remain in office. It appears also, however, that the group that is struggling the most is Republicans. Although they exhibited the most significant increase in funds raised, they came 27.8 percent short of meeting their spending needs that increased by 118.34 percent between the 1997-1998 and the 2005-2006 election periods. Black Democrats fell 18.1 percent short of raising funds necessary to meet their spending needs, that increased by 54.2 percent. White Democrats fared best falling only 9.5 percent below their spending needs. This merits further exploration because although this illustrates funding shortfalls across the board, it does not lead to the conclusion that the shortfall is as the result of the BCRA.

There is additional evidence that can be used to assess the claims of many BCRA scholars that the reform has caused or will cause campaign finance difficulties for current politicians. One of the basic comparisons that can be done is of the politicians total funds raised excluding cash on hand, and the amount of money spent. This has the potential to illustrate either an increasing or decreasing number of politicians experiencing a fundraising deficit. From the 1997-1998 to the 2005-2006 election period, Black Democrats experienced a 260 percent increase in those in their ranks who saw their political campaigns running in the red. White Democrats witnessed a 284 percent increase for the same election periods. The Republican members of the House experienced the worst fundraising shortfall. They experienced a 460 percent increase in those in their ranks who were running in the red. The reasons for these shortfalls are probably many, among the obvious, the national economic downturn and massive layoffs; the huge political scandals during this time period that resulted in Democrats taking back the United States Congress; and perhaps, a decrease in Party support to candidates. The question that looms is do any of the shortfalls have to do with the BCRA?

Not only were there increased fund raising shortfalls, but there was also an increase in the number of federal candidates and elected officials incurring personal debts following the campaigning period. Debts incurred by Black candidates in the 2005-06 election period were up 50 percent from the 1997-1998 election cycle. The debts incurred by White Democrats increased less by only 13 percent. As in the other general assessment measures, Republicans incurred the largest increase in debt. They experienced a 150 percent increase.

Without answering why, the above data collectively illustrate a shift in the post-BCRA era. This shift has led to an overall inability of all politicians to keep up with the financing demands of current political campaigns. The general measures of campaign finance shortcomings illustrated that Republicans generally appear to be experiencing the worst transition into the post-BCRA era countering the sentiment that they would thrive in a post-BCRA environment. Within the Democratic Party it can be concluded that White Democrats are faring better than their Black counterparts. Fewer White Democrats have gone into debt in the most recent election period following the adoption of the BCRA and less of their campaigns expenses were in excess of the money raised (when just looking at money raised compared to money spent). The task now will be to explore the specific areas the literature attributes to this apparent fundraising shortage in the post-BCRA era and see who will incur the harshest backlash if the effects of the BCRA manifest themselves in the intended manner.

Political Action Committees

Business

As evidenced by Michael J. Malbin, in his work *Life After Reform*, special interest groups and simultaneously PACs would be drastically affected by the measures included in the BCRA. The ban on soft money and additional regulations were supposed to be targeted toward business based PACs. The literature attributes this to the primary desire of the drafters of the BCRA to curtail the actions of access-based groups as opposed to directing attention to influence-based groups, such as,

labor and ideological groups. This immediately raises flags for the Republican Party. Their close ties with “big business” would leave them overexposed to any large reduction of funding from businesses. The overexposure to business related PACs is evident in the percentage of the overall funding for Republicans in the House of Representatives that comes from business-related PACs. In the 2005-2006 election cycle, business-related PACs made up an average of 83.13 percent of all Republican PAC receipts and 35.30 percent of their total average fundraising receipts. This far exceeds the percentage of total PAC receipts from business PACs to Black and White Democrats. On the surface, an examination of the Democratic Party’s reliance on “big business” would make the Party appear to be a homogeneous unit. Business PAC funding comprises essentially an equal percent of their total PAC receipts. For White Democrats, business related PACs make up 59.13 percent of their total PAC receipts and 56.32 percent of Black Democrats PAC receipts. But, a clear difference between Black Democrats and White Democrats becomes apparent when looking at the percentage of total receipts that come from business- related PACs. Twenty-four percent of the total amount raised by White Democrats came from business-related PACs, while 33.08 percent of the total receipts raised for their Black Democratic counterparts came from business-related PACs. Figure 5.2 summarizes this information:

(Figure 5.2)

Funding from Business PACs

	Percent of PAC Receipts	Percent of Total Receipts
White Republicans	83.13%	35.39%
Black Representatives	56.32%	33.08%
White Democrats	59.13%	24.10%

Source: Data from the Center of Responsive Politics was used to find the breakdown of PAC contribution sources. The percentage was then determined through a mathematical equation.

This illustrates that overall the reliance on business related funding is extremely similar between Black Democrats and the Republicans. This puts Black candidates at a disadvantage in the fundraising battle within their party if the BCRA works as intended and reduces the impact of business PACs on politics. This has the potential to cause Black Democrats to have to spend more time raising funds from a number of smaller donors and from the Democratic Party and less time serving their constituents because it would be necessary to find alternate sources of funding. This prospective scenario places Black politicians in a bind. It can prove difficult to support “Black interests,” advance legislation to foster “Black progress,” and fight against racism in Congress, if the interests of the majority White Democrats are not aligned with these, when the Black Members would potentially be forced to rely on member-to-member contributions from their White peers to supplement the lost funding.

The positive news for Black candidates and Black members of Congress is that the BCRA does not appear to have adversely impacted their external funding. Business-related PACs appear to be pouring more money into elections than ever. In the 1998 election cycle business PAC receipts were on average 1.15 times larger than

contributions from labor PACs and 4.98 times the amount of money contributed from ideological groups. This has changed drastically over the years, in the 2005-2006 election cycle the business receipts for Black candidates were more than twice the amount of receipts coming in from Labor PACs and over 11 times more than receipts coming from ideological based groups. This is not a result of a drastic decrease in funding from either ideological PACs or labor PACs. On average, ideological PACs only decreased their funding slightly, over \$2,000 dollars per candidate, and labor-related PACs actually increased their financial support of Black candidates. The financial contributions of Business PACs increased so drastically that it caused business receipts to increase as a percentage of total receipts despite the efforts of the BCRA to curtail the impact of access-based groups and to stimulate grassroots politics. A similar increasing trend can be seen within the Democratic Party. Funding from PACs stayed constant among Republican candidates. White Democrats saw business political contributions go from 1.3 times the contributions from labor to 2.02 times, and saw business contributions go from 4.37 times the amount of ideological groups to 6.78 times. Republican contributions from business stayed level at about 16 times the amount of money given from labor but actually declined from 11.8 to 6.16 times the amount of contributions coming from ideological groups.

Overall the data suggests that the effort of the BCRA to curtail the influence of access-oriented business PACs has generally not yet been realized. This is most likely due to the ability of access-oriented PACs to “bundle.” This allows business PACs to make up the money lost due to the ban on soft money contributions. Bundling can serve as an explanation as to why the review of business PAC

contributions revealed that those contributions have actually increased as a percentage of total PAC funding in the post-BCRA environment. It is impossible to really determine this because at this time, the disclosure laws on bundling are murky. In the future we may see a change in this regard as the Senate is presently consideration legislation that would add significant transparency to the bundling process. It is important to point out, however, that if the desired effect does take place, Black candidates will be put at a fundraising disadvantage within the Democratic Party due to their substantially larger reliance on business PAC dollars.

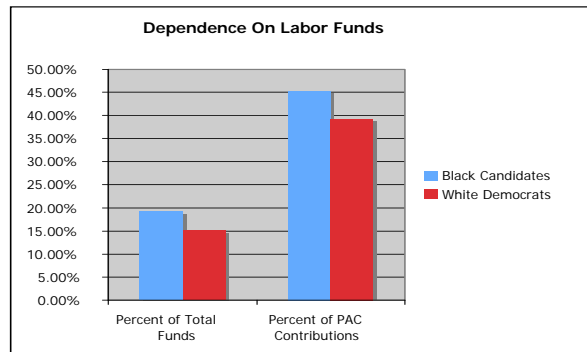
LABOR PACs

The BCRA also has implications for ideological and labor based PACs, which have been coined the “influence based” PAC’s. When looking at the labor related PACs one of the most important things asserted in the literature is that they have a harder time raising hard money than their business counterparts. It was asserted in some of the literature that business related PACs would have an easier time maintaining the *status quo* because they have the capability of generating additional sums of hard money, especially due to the process of bundling. Labor PACs are not as fortunate. While labor union PAC’s have large number of smaller contributors they do not have the numbers of individually wealthy contributors as business PACs who are willing and capable of “bundling” funds which can translate into increased hard money contributions. This has led to the key assessment in the literature that labor union PACs have a significantly more difficult time raising hard money. The analysts claim this will lead to labor union PACs putting less money into contributions and

more money into vote mobilization. If this is the case, this would be problematic for politicians who depend heavily on funding from labor PACs.

Prior to passage of the BCRA, in the 1998 election, Black candidates had the highest reliance on labor funds.

(Figure 5.3)



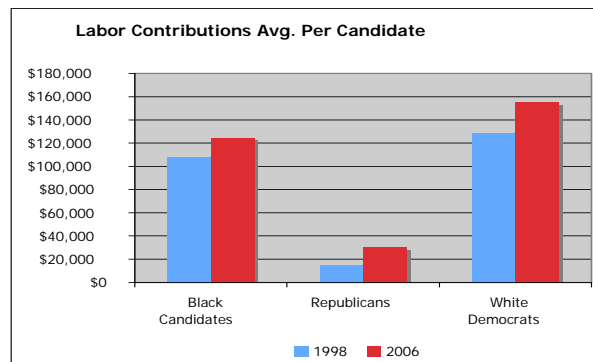
Source: Data from the Center of Responsive Politics was used to find the breakdown of PAC contribution sources. The percentage was then determined through a mathematical equation.

It can be seen in the graphic representation above (figure 5.3) that although Black candidates have the highest dependence on labor PAC funding, White Democrats are in a similar situation. On average 19.20 percent of total campaign funding for Black candidates came from labor PACs and 15.12 percent of the total campaign funds of White Democrats were derived from campaign contributions from labor PACs. Contributions from labor PACs made up 45.34 percent of all PAC contributions to Black candidates and 39.24 percent of all PAC contributions to White Democrats. Republican candidates would fair significantly better if there were a reduction of funding from labor PACs. Labor PAC contributions comprised only 5.07 percent of Republican PAC receipts and 1.9 percent of their total funds raised. These figures

indicate that the Republicans as a collective will likely be unhampered in their ability to raise funds as the result of the limitation imposed on soft money union PAC contributions.

The inability of labor PACs to compete with business PACs in the hard money battle is evident in the vast decline of labor funds as a percentage of both total PAC receipts and total campaign fund raising. As a dollar amount, however, and not a percentage, labor PACs are contributing more money per-candidate in recent years than in years past. This is evidenced in Figure 5.4

(Figure 5.4)



Source: Data from the Center of Responsive Politics was divided by candidate group then averaged

Despite the actual increase in dollars per candidate, the fact that labor union PAC contributions now comprise a smaller percentage of the total funds raised by candidates illustrates the declining role of labor PACs in the political fundraising arena. For Black candidates, in the 2005-2006 election season, labor contributions declined to only 16.31 percent of their total receipts, down 2.9 percent from 1998. White Democrats experienced a similar decrease of approximately four percent, from 15.12 percent to 11.59 percent. Republicans received about the same percentage of

union dollars as in previous years, even under the BCRA. The percentage of total candidate receipts from labor union PACs remained about even going from 1.9 to 2.0 percent. The largest declines were seen in the percentage of PAC funding coming from labor groups. As a percentage of overall PAC fundraising, labor union PAC contributions to Black candidates declined by 8.29 percent and to White Democrats, by 5.5 percent. For Republicans, labor PAC contributions fell as a percentage of their overall PAC dollars by less than 1 percent, from 5.86 to 5.07. Looking at these figures it appears that White Democrats and Black candidates were similarly affected by the decreasing ability of labor PAC's to raise additional hard money, with Black candidates losing more funding from labor PACs as a percentage of their total PAC funding than White Democrats, but more as a total percentage of their receipts. Although 2.9 percent may not sound substantial for Black candidates 2.9 percent is equivalent to \$22,915 dollars, a substantial amount. The 4 percent decrease for White candidates represents a decline of \$46,850 dollars, another significant figure. The biggest beneficiary in this situation appears to be Republicans. They generally remain unscathed by the reduction in labor funds due to their lack of primary reliance on the labor based PACs. Although this points out a commonality between White Democrats and Black candidates, the impact on Black candidates will likely be greater than that on White Democrats because of the greater challenge Black candidates will have raising from among their generally less affluent constituents and the funds they will lose as the result of the limitations on business campaign financing. Because of this situation, it is expected that both Republicans and White Democrats will fare better under BCRA provisions than the other cohort. This suggests that Black candidates

will likely be the most damaged as the result of the federal election and campaign finance changes under BCRA. They are expected to encounter great fundraising hardships as the result of both a reduction in funding from both the organized business and labor communities.

IDEOLOGICAL PACs

Ideological PACs will be affected in a manner similar to labor PACs. In the scheme of federal election financing, however, they are much less relevant and do not merit much discussion. A great deal has not been written about them. They represent 11 percent of total PAC receipts and no more than a minuscule 5.7 percent of total funding. Ideological PACs have reduced their funding by approximately 4 percent for White Democrats and 2 percent for Black candidates. The funding that once was going to the Democratic Party seems to have shifted to the Republican Party, which witnessed a doubling in their percentage of support from ideological PACs, from 3 percent of their total receipts to 6 percent.

When discussing PACs and which politicians will receive the most money from them, one of the common sentiments is that politicians with more political clout and influence will more likely receive most PAC money, especially the access oriented groups. It has been argued that over reliance on PAC funds may compromise the politicians who receive the abundance of PAC funds. It has been suggested that these candidates may shift attention to the interests of the PACs and away from stimulating a grassroots individual fundraising effort. The real challenge appears to be not only who can garner the miniscule ideological PAC support, but rather, where the

politicians rank in terms of power and how this translates into dollars. Overall, Black politicians and White Democrats have matched up equally in this regard. Black politicians have an average power ranking of 144 overall and 120 within the Democratic Party.¹²⁵ White Democrats have an average power ranking of 134 overall but 115 within the party. From this perspective there should be no significant benefit to White Democrats in terms of funding received due to influence.

PAC CONCLUSION

The federal campaign finance changes brought about by the BCRA seem to have had the most positive impact of the Republican Party. This is mainly due to the inability of the BCRA to achieve its goal of reducing the influence of access based PACs in the early years under the reform legislation. The alternate fundraising method, “bundling” is so far only being effectively used by business PACs. Between the cohorts that were used for this paper, within the Democratic Party it is debatable whether White Democrats or Black candidates have been more adversely affected. Although labor union contributions decreased by a lower percentage of total funds for Black politicians than White Democrats, contributions from labor PACs decreased by a larger percentage when addressing their total PAC funds. The biggest question moving forward is will be to what extent the BCRA will realize its intended effect of reducing the access-based money, poured into the system by business PACs. If this does occur, it will have a significant adverse affect on Black politicians within the Democratic Party in regards to their fundraising abilities. Interestingly, the data indicate that they mirror Republicans in their overall reliance on business PACs,

¹²⁵For power ranking definition refer to “Data and Methodology” section.

which could create a clear disadvantage for Black candidates in the Democratic Party if the Bipartisan Campaign Reform Act ultimately works in its intended manner.

Candidate Wealth

CANDIDATE SELF-FIANCING

In addition to the reduction of funding from PACs, the large proportion of the literature on the Bipartisan Campaign Reform Act discusses candidate wealth. When discussing the potential advantage that unlimited personal contributions to one's own campaign provides, the importance of personal wealth in elections becomes obvious. The extent to which wealthy candidates can and do self-finance becomes even more important in a time in which the BCRA potentially reduces other primary sources of funding (i.e. soft money), a move which many believe will ultimately leave many politicians with inadequate funds to run a competitive, successful campaign. Data examined earlier in this paper confirm a monetary shortfall for campaign financing needs.

Of the areas examined thus far the personal wealth of politicians is by far the most polarized by race. Although changes in PACs were more detrimental to Blacks in the Democratic Party, some of the changes had a larger negative effect on White Democrats than they did on Black candidates. This occurred in the cases in which the impact on Black candidates mirrored that of Republicans. When it comes to personal wealth there is a real race differential.

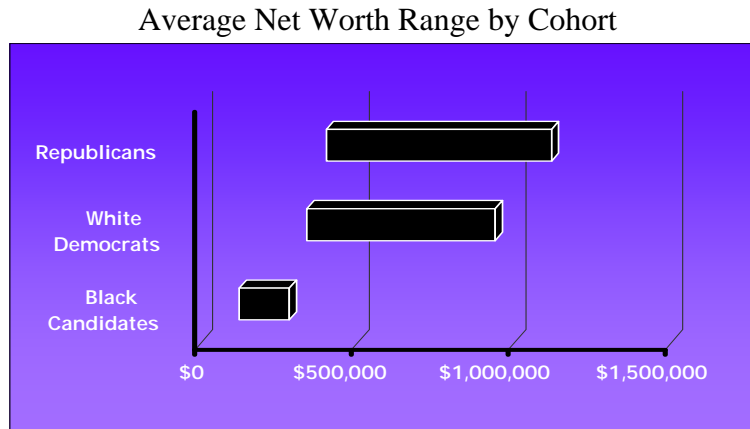
When looking at the average personal wealth ranking of Black candidates they are at a clear disadvantage. The average personal wealth ranking for Black

candidates is 305 out of the 435 Members of the House of Representatives. This translates into a monetary net worth in the range of \$125,001 dollars to \$285,000 dollars. Individual net worth is defined as a person's total assets minus his or her total liabilities.¹²⁶ The wealthiest Black politician, Al Green (D-TX) had a personal wealth ranking of 96, leaving no Black presence in the top 20 percent of the Members House of Representatives and only one Black politician in the top 25 percent of the House (the second highest Black candidate Maxine Waters D-CA is ranked 119th). Looking at this in another way, 236 White politicians in the House have a personal wealth ranking above the average personal wealth ranking of Black candidates (representing approximately 64 percent of the total Members of the House).

When looking at the racial wealth gap factor in Congress from a monetary perspective the situation appears even worse. White Democrats had an average personal wealth ranking of 213 and White Republicans had an average wealth ranking of 200. This represents an average net worth of \$341,021 to 942,000 dollars for White Democrats and \$403,017 to \$1,122,000 dollars for Republicans. This indicates that even in the best situation for Black candidates they will have a personal net worth disadvantage of \$56,021 dollars in comparison to White Democrats, and \$278,016 dollars when compared to Republicans (Refer to figure 4.5 below). The following graph depicts the relationship between the various cohorts in regards to the range of their average net worth.

¹²⁶ www.investopedia.com- Financial dictionary site

(Figure 5.5)



Source: Data from the Center for Responsible Politics

In “Money, Power & Elections,” Rodney A. Smith asserts that personal wealth provides the more affluent candidates with a tremendous campaign advantage. “They can give their campaigns an unlimited fast cash infusion at any point in the election if their fundraising efforts are coming up short. In this regard Black candidates are at a large disadvantage because they don’t have the same capacity to contribute to their own campaigns due to their lower average net worth.” The positive here for Black candidates is that only 11.78 percent of the candidates who were successful in retaining their seats or winning a new seat contributed to their own campaign. The downside is the average contribution was \$237,996 dollars. If the maximum of the range for net worth for Black politicians is only \$285,000 dollars then making a personal contribution that meets the average contribution amount would be a major financial strain if not financially unfeasible. This can potentially mean that if a personal campaign contribution were necessary, a Black politician in the House would be unable to adequately self-finance their campaign.

The small number of successful Black candidates who self-finance does not mean that personal financing of ones campaign is irrelevant to the political process when dealing with the House of Representatives. Although self-financing is marginal among those who win their bids for the House, looking at the prevalence of self-financing among challengers indicates self-financing does play a large role in the campaigns of challengers for House seats.

Of the 435 Members of the House of Representatives, data could only be obtained for 311 of their challengers. Of the 311 challengers, 225 of them donated money to their own campaigns. This represents approximately 72 percent. On average, challengers that decided to contribute money to their own campaigns contributed \$92,166.69 dollars to their campaigns representing on average 26.54 percent of their total funding. Comparing this to the average net worth of each candidate,¹²⁷ this could prove very problematic for Black politicians. If the average net worth of the Black politician is in the range of \$125,001 to \$285,000 dollars, then the average self-financing amount by challengers would represent at best approximately one-third of their total net worth. This is compared to 9.78 of the total net income for White Democrats and 8.21 percent for Republicans.¹²⁸ Assuming that challengers would share common characteristics with the cohorts of incumbents they would replace,¹²⁹ it would seem that potential Black challengers might be discouraged from running a campaign because of the lack of personal wealth. The problem here is it is impossible to determine who may have shied away from politics for this reason because these

¹²⁷ Reference "Figure 5"

¹²⁸ Figures derived from the high side of the ranges of average net worth

¹²⁹ I make this assumption with the idea in mind that any politician that successfully complied with the criteria needed to compete for a federal and ran a campaign for a Federal office would be in a legitimate position to do so therefore they would emulate the monetary situation of those already in office

data are not collected. If this assessment is accepted then for those who feel the BCRA has increased the role of self-financing, the BCRA has the potential to place Black challengers at a potentially tremendous disadvantage.

PERSONAL LOANS

In addition to self-financing campaigns, politicians sometimes supplement their external fundraising shortfall with a personal loan. This was pushed into the dominant narrative in the literature regarding the BCRA due to a provision in BCRA placing a \$250,000 dollar cap on the amount a candidate for federal elective office can recoup in loans to his or her campaign. This is expected to have significant implications in the current political environment in which there are huge and frequent campaign funding shortages. This may lead to more politicians utilizing loans to supplement the funding shortfall.

Despite the growing importance of candidate campaign loans, loans remain a marginal aspect of campaign financing in the House of Representatives. Collectively, only 36 members of the House took out loans and only 7 of them were over the 250,000 cap. Of the seven representatives (Representatives Schmidt (R-OH), Buchanan (R-FL), Mahoney (D-FL), Yarmuth (D-KY), Engel (D-NY), Sherman (D-CA), and Kagen D-WI) who took loans in excess of \$250,000, 5 of them had 51 percent of the vote or less. This makes utilization of the personal loan over the \$250,000 dollar limit appear to be more attractive to politicians in tight races.

Despite the fact that personal loans may have had a large impact in tight races, there is inadequate data from which to reach this conclusion, due to the small number of races in which personal loans in excess of \$250,000 were made. What can be said

is that for those who chose to utilize loans the average amount was \$229,456 dollars including the two loans that were more than double the other loans taken out (Buchanan (R-FL): \$1,000,000 and Kagen (D-WI): \$2,570,000). If the two loans are excluded, then the average amount for a candidate loan in a House race was \$137,954 dollars. A loan of this amount might be problematic for Black politicians due to their substantially lower net-worth. They, accordingly have less assets with which to collateralize a large loan. If loans do become a more fundamental part of fundraising in House elections as costs soar and funding falls behind, Black politicians will surely find themselves disadvantaged as they seek to acquire loans and remain financially competitive.

CANDIDATE WEALTH CONCLUSION

Black candidates are the clear losers under BCRA when considering the issue of personal candidate wealth. If it is believed that the BCRA places more emphasis on candidate's personal finances by reducing other avenues of funding, then they must also accept the fact that Black politicians will be disadvantaged. The data utilized clearly shows that their average net worth is significantly lower than the other Members of the United States House of Representatives, and they will have a more difficult time gaining access to large cap loans. (I leave for another discussion the consideration of the challenges that some Black politicians who are well collateralized may have securing a loan because of discriminatory lending practices by American lending institutions.)

Individual Contributors

The wealth of candidates' individual contributors has increased in importance in the post-BCRA era. One of the fundamental ideas previously discussed is that the reduction in PAC funding will likely not be problematic because the increased contribution limits for individuals will allow candidates to supplement the money lost with increased funding from individuals. Those candidates who relied on individual contributors the least in the past will have the roughest transition into an era of political fundraising that is meant to benefit those who most excessively use grassroots politics and are not beholden to large PAC interests. This is where the wealth of candidates' individual contributors gains importance. There is a correlation between the willingness and desire to give larger individual contributions and the personal wealth of individuals. This position was documented in a survey that showed that individuals who contributed more than \$200 dollars were more likely to contribute additional money under expanded contribution limits. This likelihood only increases as the initial contribution increases. The data set utilized divided the individual contributor base into small-cap contributors, those giving under \$200 dollars, and large-cap contributors, individuals giving over \$200 dollars. This provided a good base on which an initial assessment could be made into who would benefit most from the changes under the BCRA. Additional assessments of the demographics of each congressional district will provide supplementary information into who will benefit more under the changes imposed under the BCRA. Although many candidates do go outside of their personal Congressional Districts for individual contributions, this is a process that if excessively used is viewed as detrimental for

politicians. This was documented in a study done by Brad Alexander that concluded that politicians who raise significant amounts of money out of state are less likely to win their election.¹³⁰ This suggests that politicians with disproportionately more voters of fewer financial means in their districts may not be at a disadvantage when running against a challenger from the same district, but should the politician attempt to seek higher office, there would certainly be funding challenges. Candidates overcome this advantage by aggressively seeking smaller contributions from more constituents.

An analysis of who is the most dependent on individual contributors will reveal, to some degree, which cohort has the greatest advantage under the BCRA. In analyzing our candidate cohorts in the 2005-2006 election cycle, it appears that Black candidates had the least amount of support from individual contributors. Only 44.98 percent of their total receipts came from individual contributors. As with personal wealth, White Democrats and Republicans appear relatively similar to one another. On average 51.87 percent of Republican receipts came from individual contributors and 53.61 percent of White Democratic candidate receipts came from individual contributors. It is also important to analyze the ability of the candidate cohorts to increase the funding coming from individual constituents. The percentage gap between White candidates (Republicans and White Democrats) and Black candidates has significant monetary implications for the different politician groupings. Black candidates only receive \$346,296 dollars from individual contributors, while White Democrats and Republicans received on average \$753,786 and \$746,513 dollars

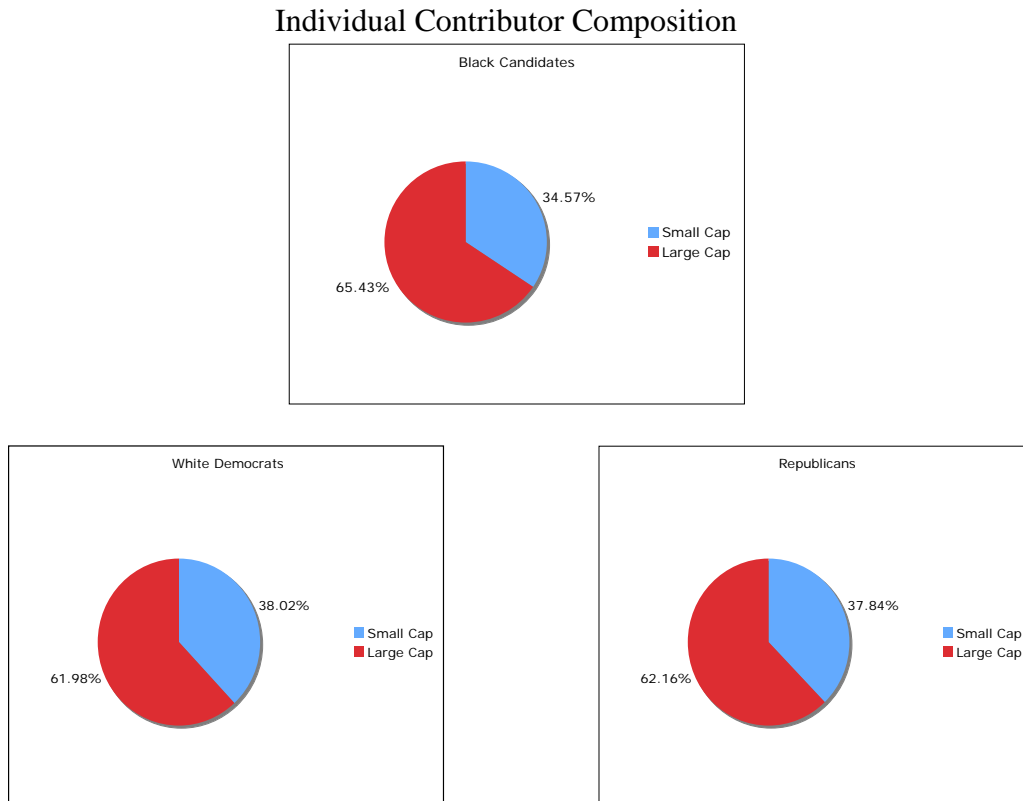
¹³⁰ Brad Alexander, "Good Money and Bad Money: Do Funding Sources Affect Electoral Outcomes? *Political Research Quarterly*, Vol. 58, No. 2. (Jun., 2005), pp. 356.

respectively. This monetary difference has large implications if the answer to funding problems in the BCRA era is supposed to be individual contributors. Looking at the monetary change in individual fundraising from the 1998 period to the 2006 election period, it becomes even more apparent that Black candidates couldn't keep up with the adjustments the other cohorts made over the years. While both White Democrats and Republicans increased their receipts from individual contributors by figures in the \$300,000 dollar range (\$334,332 dollars for Republicans and \$344,411 dollars for White Democrats) Black candidates only raised their receipts from individual contributors on average by \$130,400 dollars.

A conclusion needs to be reached as to why Black politicians receive significantly less funding from individual contributors at a time when the literature indicates the importance of individual contributors and the ability to solicit increased amounts of funds from them is at an all time high. I begin this examination by conducting an examination of the individual contributions. Michael J. Malbin in his work *Life After Reform*, stresses the importance of the composition of the individual receipts. Malbin suggests that it would behoove politicians to have a higher percentage of individual receipts coming from large-cap contributors because their willingness to contribute more will make the transition easier in this new fundraising era.

A composition of candidates' individual contributors reveals they are very similar to one another regardless of the cohort.

(Figure 5.6)



Source: Individual contributor donation amounts came from the Center for Responsible Politics. A mathematical equation was then used to determine the percentage.

The difference is seen when looking at how much large-cap individuals contributed based on the grouping into which their representatives fell.

(Figure 5.7)

Large-Cap Contributions

	Large-Cap Contributions
Black Representatives	\$133,076.00
White Republicans	\$237,153.33
White Democrats	\$244,496.46

Source: Data from The Center for Responsible Politics

In the large-cap category, Black candidates received 56 percent of the funding that Republicans received, and only 54 percent of the funding White Democrats received. An explanation is needed as to why Blacks have a substantial problem in raising these funds from individual contributors. The answer lies in an examination of the Congressional Districts of the cohorts examined in this paper.

CONGRESSIONAL DISTRICTS

Kevin Phillips' work, referred to in the previous section, suggests that people coming from families with higher incomes and personal wealth, a higher level of educational attainment, and who are White, will be more likely to contribute to political campaigns.

By using the median family income as the primary determinant of individual political contributions, it appears that politicians who represent majority-black districts would be most concerned with the increased importance the BCRA places on grassroots fundraising. Although the majority of these politicians are Black, there are two exceptions. Representatives Robert A. Brady of Pennsylvania (D-1st) and Stephen J. Cohen of Tennessee (D-9th) represent majority-black districts. The White Representatives in majority-black districts fare worse when looking at the median family income than the Black politicians who represent majority Black districts. The two White Democrats (Brady and Cohen) who represent majority Black districts have

average constituencies whose average incomes are \$28,261 dollars and \$33,860 dollars, respectively. These two averages are under the \$34,838 dollar average income in the Black majority districts represented by Black politicians. This difference manifests itself in the total funds raised by these politicians from individual contributors. Representatives Brady and Cohen both raised well under the \$752,786 average for the individual contribution amount for the White Democrat cohort. In fact, averaged, the total amount of money raised from individual contributors for these two politicians is significantly more reflective of the average total individual contribution received by the Black politician cohort. This emphasizes the importance that district characteristics have on the ability of politicians to raise funds from individual contributors.

Black politicians who represent Black majority districts also fair poorly in comparison to White Democrats who represent majority White districts. Their constituents average approximately \$10,000 dollars less per median household income than White majority districts represented by White Democrats. This latter grouping has a median household income of \$44,780 dollars, compared to the \$34,838 dollar median income average in Black majority districts represented by Black politicians.

The most interesting phenomenon when looking at the data in regards to median household income is the median income of the 11 Black politicians who represent majority White districts. It is important to point out in this regard that Black politicians with majority White Districts have much more of a racial balance than White politicians with White majority districts, averaging 52.76 percent White and

30.28 percent Black as opposed to 77.33 percent White and 8.91 percent Black. From the median income perspective, these districts almost mirror the characteristics of majority Black districts, averaging only slightly over \$1,000 dollars more per family in median family income. Despite this these politicians on average raised \$71,307 dollars less than Black politicians with Black majority districts.

Basing this assessment purely on the accepted notion that those coming from higher income bases will be more likely to provide individual contributions to candidates, it appears that White Democrats representing majority White districts (which is all of them except two) will have the constituency bases best suited to solicit individual contributions. Utilizing the average population of the different district types and the average median income of the districts, reveals that there is 6 billion dollars less coming into Black majority districts represented by Black politicians and more than 11 billion dollars less coming into Black majority districts represented by White Democrats. One has to believe that this difference in money coming into the districts from personal incomes will have some implication on individual contributors. It indicates that White politicians representing White majority districts will benefit the most by the increased importance of individual contributions.

The other indicators of the likelihood to contribute to campaigns also seem to benefit white Democrats representing White majority districts. Educational attainment was the other primary determinant of likely individual contributions to campaigns. Black politicians, both those who represent White and Black majority districts have similar percentages of their populations with a college diploma. Slightly more than ten percent (10.28%) of the population has attained at least a

college diploma in Black majority districts represented by Black politicians. For Black politicians representing White majority districts that number is 10.79 percent. Again White Democrats representing Black majority districts experience the worst scenario with only 8.50 percent of their populations having a college degree or better. The populations of White majority districts represented by White Democrats to no surprise have the highest percentage of constituents with at least a college degree at 12.86 percent. Although the difference between 10.79 percent or 10.28 percent and 12.86 percent may not seem astounding, it has to be thought of in the context of a 2.58 percent difference or 2.07 percent difference when dealing with an average of 644,170 people (the average number of people in a White majority district). This could equate into 13,334 to 16,620 people in a given Congressional District who are more likely to provide individual contributions for White Democrats from White majority districts.

The high school dropout rates reveal a similar educational advantage for the constituents from White majority districts represented by White politicians. Black politicians representing Black majority districts, Black politicians representing White Majority districts and White politicians representing Black majority districts show average high school dropout rates of 12.49 percent, 13.45 percent, and 14.13 percent, respectfully. These figures are compared to the 9.16 percent average dropout rate for the constituents of White politicians representing White majority districts. The following chart summarizes the previously expressed information.

(Figure 5.8)

Educational Attainment by Cohort

	High School Dropout Rate	Population With College Degree or Better
White Majority District (White Dems.)	9.16%	12.86%
Black Majority District (Black Rep.)	12.49%	10.28%
White Majority District (Black Rep.)	13.45%	10.79%
Black Majority District (White Dems.)	14.13%	8.50%

Source: Data from the Annie E. Casey Foundation

Using the foregoing assumptions that it is more likely for people with higher average incomes and higher educational attainment to provide their representatives with individual contributions, the data suggest that White Democrats from White majority districts (who compose the majority of the White Democrats) will be able to raise the most money from individual contributors within their own Districts. Our previous data did indicate this, with Black candidates only averaging \$346,296 dollars from individual contributors, while White candidates managed to raise \$753,786 dollars from individual contributions on average. Taking into account the White Democrats who represent Black majority districts underscores the disadvantage of representatives of Black majority districts relative to individual fund raising. It came as no surprise that representatives Brady and Cohen (the White Democrats representing Black majority districts) each raised under the average amount of money coming from individual contributors for White Democrats.

Overall the above data support the notion that Black politicians have district characteristics that are not conducive for large individual campaign contributions. Even Black politicians representing White majority districts are put at a disadvantage. In fact, Black politicians representing White majority districts average the lowest sum

of individual contributions, with a cumulative average of \$289,803.20 dollars. The data reveal that all politicians are put at a disadvantage if they represent a Black majority district regardless of race. Because the majority of the representatives from Black majority districts are Black, the emphasis on individual contributions disproportionately effects Black politicians.

INDIVIDUAL CONTRIBUTORS CONCLUSION

As with the personal wealth discussion, above, there appears to be a clear loser if the BCRA has the intended impact on campaign financing. The examination of past elections evidenced a significantly lower level of individual contributor support for Black politicians. If under the BCRA fundraising success is supposed to be defined by politicians' access to individual contributors, then Black politicians will lose that battle because the majority of Black politicians represent majority-Black districts. The demographics of the residents in their districts suggest that they will not have a substantial base of large individual contributors to their campaigns. Things will only get worse for Black politicians as the BCRA continues to encourage a decline of contributions and overall political participation coming from less affluent constituents.

Conclusion

From the above analysis, it appears as though Black politicians would be in the most jeopardy if the BCRA has the intended impact of curtailing business PAC contributions, affording affluent candidates to self-finance, and promoting greater reliance on grassroots individual contribution campaigns. This cursory review

indicates that the larger reliance of Black representatives on Business PACs, lower access to individual contributors, and lower personal wealth all work against their flourishing under BCRA. A more detailed analysis could lead to other conclusions and a true understanding of the implications of the BCRA on the different political cohorts analyzed.

A Look Through Regression Analysis

A regression analysis was used to determine the causal relationship between campaign contributions and several predicting factors. This allows for a more rigorous test of the questions address in this thesis. What was examined in this analysis was the impact each independent variable had on either PAC contributions or contributions from individual constituents. Due to the limited numbers of candidates in the United States House of Representatives who self-financed their campaigns with large sums of money and the limited number of candidates relying on large loans, these two categories received no further analysis.

Individual Constituent Contributions

The data in the table below (Figure 6.1) suggest that there are several variables that have a substantial impact on the individual contributions received by a politician.

(Figure 6.1)

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	Candidate's Race	-11.075	2.831	-.284	-3.912	.000
	Median Income	.000	.000	.226	4.687	.000
	Party	-1.885	1.127	-.081	-1.672	.095
	Percent Black	-.105	.056	.139	-1.867	.063

Dependent Variable: Individual Contributions

The regression run determined that there is a highly significant relationship between the race of the candidate and the amount of individual contributions received by the candidate. The analysis revealed that if a politician were Black he would experience a decline in the amount of contributions from individuals.¹³¹ Determining the strong relationship between declining individual contributions and race does not alone provide enough information as to specifically how the BCRA is detrimental to Black politicians. It does speak to the dangers of the BCRA's push for grassroots politics, and it indicates that there should be other independent variables that contribute to this strong relationship. Figure 6.1 shows these other underlying relationships.

Median income and the percentage of the constituent population that is Black also have a significant relationship to the amount of individual contributions received. It appears from this analysis that the conclusion reached through descriptive analysis was correct. The conclusion from that analysis was that there is, indeed, a strong relationship between median income in a district and the individual contributions received. Because of this relationship, Black candidates were found to be at a disadvantage due to the lower median income of residents of their Congressional districts. Although the percentage of Blacks in a given district does not have as strong of a relationship with individual contributions, only possessing a significance of .063, it is an important relationship nonetheless. There is a negative relationship between the percentage of the District that is Black and the amount of individual contributions received by a candidate. This buttresses previous claims that it disadvantages politicians to come from districts with large Black populations. Since a majority of

¹³¹ This is based on the 40 categories that the politicians in the House were divided into based on the dollar amount they raised from individual contributions (see Chapter 4 for full explanation).

Black politicians come from districts that are composed primarily of Black individuals, it appears that this will disadvantage them particularly now that individual contributions are meant to supplement funds lost due to the ban on soft money.

Argument can be made from the data that individual contributions are determined more by Party fundraising tactics and less by the other independent variables previously addressed. It was for this reason that it was important to include Party affiliation in the model to see how significant it is to individual contributions as compared to other variables. It was important to determine which political Party would be negatively impacted by the proposed fundraising shifts. The model revealed that the proposed shift in the importance of individual contributors would have a negative effect on the Democratic Party. This coupled with the implications of district makeup make Black politicians worse off under the proposed changes. It is also important to note from the model that Party affiliation achieves a lower level of significance compared to the other significant dependent variables. The candidate's race and median income level of the residents in the candidate's congressional district play a far greater role in determining size and amount of individual contributions.

PAC Contributions

The other area of campaign contributions that was analyzed through a regression model is PAC contributions. The regression analysis results are reported in Figure 6.2.

(Figure 6.2)

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	Candidate's Race	-2.903	3.255	-.075	-.892	.373
	Power Ranking	-.039	.006	-.426	-6.078	.000
	Percent Black	-.115	.063	-.153	-1.836	.067
	Party	-5.784	1.748	-.250	-3.309	.001
	Personal Wealth Rank	.005	.005	.048	.944	.346
	Margin of Victory	-38.268	5.486	-.434	-6.976	.000

PAC Contributions

As with the descriptive statistical analysis, the regression model shows that the decline in PAC funding that would occur if the BCRA were to work as intended, would have mixed implications for Black candidates. These data from the regression analysis buttress the data from the descriptive statistical analysis. They both suggest that PACs contribute to candidates without regard to the wealth of the candidate. This is especially significant for Black politicians who the data indicate are generally less affluent than their White counterparts.

The regression analysis appeared to suggest a surprising inverse relationship between the margin of victory of a candidate and PAC contributions, namely that the PAC contributions went down as a candidate captured a larger percentage of the vote. Further exploration of the data in the aggregate indicated that what appeared at first glance to be a decline in PAC funding concomitant with an increase in the percentage of the vote, was actually a race-based factor. Because most of the Black candidates

received statistically significant higher percentages of the vote than their White counterparts, and a smaller percentage of PAC dollars, the variance was actually based on race. Exacerbating the lack of PAC funding by Black candidates are the three other independent variables that have a negative and statistically significant relationship on PAC funding: lower power rankings, higher concentrations of Black constituents, and being a member of the Democratic Party. Unfortunately for Black candidates they are on the wrong side of each one of these categories. As previously discussed they have lower average power rankings, higher concentrations of Black constituents and in the House, all Black Members are Democrats. This may account for or be a contributing factor for the significantly lower PAC contributions received by Black politicians. The trends exhibited above remains relatively constant regardless of the type of PAC specifically being addressed as illustrated by the following figures:

(Figure 6.3)

Coefficients^a

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
Candidate's Race	-1.409	2.664	-.042	-.529	.597
Power Ranking	-.039	.005	-.485	-7.305	.000
Percent Black	-.093	.051	-.143	-1.807	.072
Party	-11.645	1.431	-.582	-8.138	.000
Personal Wealth Rank	-.002	.004	-.018	-.379	.705
Margin of Victory	-22.415	4.491	-.294	-4.991	.000

a. Dependent Variable: Business PAC Contribution

(Figure 6.4)

Coefficients ^a					
Model	Unstandardized Coefficients		Standardized Coefficients	T	Sig.
	B	Std. Error	Beta		
Candidate's Race	-.199	1.899	-.006	-.105	.916
Power Ranking	-.009	.004	-.117	-2.486	.013
Percent Black	-.001	.037	-.002	-.039	.969
Party	16.343	1.020	.814	16.024	.000
Personal Wealth Rank	.003	.003	.034	.980	.328
Margin of Victory	-17.894	3.201	-.234	-5.590	.000

a. Dependent Variable: Labor PAC Contribution

There are two noticeable differences when comparing the model for labor PAC contributions with the other two regression models regarding PACs (Figures 6.2 and 6.3). The first of these differences is the impact Party affiliation has on PAC contributions. The labor PAC contribution model (Figure 6.4) confirms that the Democratic Party is significantly more reliant on labor PAC contributions than the Republican Party. The second noticeable difference between the three models is the importance placed on the concentration of Black people within a district. When looking at PAC contributions as a whole or business PACs specifically, the percentage of Black constituents in a district has significance. As the concentration of Black constituents increases contributions from business PACs decline. But, when looking at contributions from labor PACs, the districts' racial makeup loses all significance. This can be seen as beneficial for Black politicians within the Democratic Party because it indicates that there are fewer independent variables that

impair their candidacies in comparison to others in the Democratic Party than originally thought.

Overall, the data from the regression analysis corroborated the findings in Chapter 5. They suggest that the push for individual fundraising would be detrimental to Black candidates because they are expected to fare poorly in head-to-head fundraising efforts that rely on the economic status and educational attainment level of the residents in their districts and Party affiliation. As was the case in the previous chapter it left a mixed picture as to who would be most harmed by the increased regulation of PAC funding. Like previously asserted, it will definitely be the Democratic Party. But, from there it becomes a question of whether the lower level of PAC funding insulates Black candidates from shifts in PAC contribution behavior, or if the lack of money they currently receive will only exacerbate a negative situation experienced from the decrease in money flow as compared to rising campaigning costs. There was also one finding that came out of this additional analysis that appears to be a silver lining for Black candidates. The fact that there is no relationship between the racial makeup of a district and labor PAC contributions serves as at least one positive for Black candidates.

Conclusion

When the Bipartisan Campaign Reform Act was drafted in 2002 its purpose was to try to balance the impact of money in federal elections. The ban on soft money was intended to not only curb the perceived source of corruption within politics but also provide an opportunity for politicians with less influence the chance to remain competitive in the fundraising race. The ban on soft money was supposed to usher in an age of revived political participation on a local level because candidates would have to turn to local constituents to provide them with additional resources to make up for lost funding. But, instead of creating a new era of small cap financing from numerous sources the BCRA had the unintended consequence of making wealth the most important aspect of campaign finance. Politicians turned to their own funds to supplement money lost and also turned to the wealthiest members of their districts to solicit larger contributions to fill in the void left by the ban on soft money. The only problem with this is it creates a legislative body of haves and have-nots. There are the politicians that have the individual wealth and more affluent constituent base and there are those politicians that do not. In a discussion of wealth Black candidates and Black representatives are disproportionately have-nots. Their district demographics are not conducive to an environment in which wealthy constituents equate to financing success. They are also the have-nots in the discussion of personal wealth. They on average have overwhelmingly lower personal net worth than their white counterparts in Congress. It is for these reasons that Black politicians who seek positions on the federal level are potentially negatively impacted by the BCRA.

The previous discussion of the implications of the Bipartisan Campaign Reform Act has added another level to the continuing debate regarding campaign finance reform. As the echoes of debate regarding the Constitutionality of the act reverberate in the courts and discussions of the “haves and have-nots” continue to be discussed by leading political scientists in op-ed columns and political journals, the contextual ramifications of the reform remain unaddressed. The “haves” as well as the “have-nots,” have no race, gender or significance. This thesis tried to give color to the debate regarding campaign finance reform for at least one societal minority, Black congressional representatives and candidates. For Black politicians the results were clear. Due to their Congressional district demographics, their lack of personal wealth and arguably their reliance on Political Action Committees, they will find themselves at a disadvantage if the goals of the BCRA come to fruition.

The analysis of campaign finance data culminated in the above finding. Beginning at the most descriptive level, it appeared that all politicians in the United States House of Representatives are having difficulties continuing to raise the levels of funds they did prior to passage of BCRA, at this time of escalating campaign costs. This appeared to be the case when looking at the increasing numbers of candidates across-the-board who were operating in debt by the end of their campaigns. For many who continue to renounce the BCRA this serves as evidence enough for claims that the BCRA is excessively limiting the streams of revenue while not allowing sufficient alternative sources of financing. For the purposes of this examination this was insufficient. It only indicated what has occurred thus far. It was entirely too vague to provide information about who would be specifically effected. But even this

descriptive level analysis showed that Black candidates were experiencing more financial strain in the post-BCRA environment than the other members of the Democratic Party.

To try to attain a deeper understanding, three overarching areas discussed in the literature were examined: the role of PACs, candidate wealth, individual contributions, in shaping the future ability of candidates to compete financially in Congressional elections. From this more rigorous analysis, it appears that from a statistical standpoint, Black candidates will endure the most negative impact under the BCRA if the Act has the intended ramifications.

With PACs, it is uncertain what the impact will be. The BCRA has not yet impacted the amount of money business PACs contribute. This is most likely due to bundling. The Republican Party as well as Black candidates, who share a common dependence on business PACs, appear to have temporarily avoided hardship that may have resulted from a reduction in business PAC dollars. Legislation currently making its way through the Senate, which would create more transparency in PAC fundraising, may cause a decrease in this activity, severely hampering the ability of Black candidates and Republicans to raise the funds needed for their political and campaign activity. Although this would be problematic for both groups, the impact on Black Members of Congress would be significantly greater. Black Congresspersons do not enjoy the benefits of the majority of Republicans in Congress of higher personal net worth and who enjoy the support of wealthier donors. The fact that Black members in the Democratic Party are disproportionately affected by BCRA and would be disproportionately impacted by the proposed new legislation also raises

concerns about questions of adequate constituent representation. It will become increasingly difficult for Black candidates to address the ideological divide between themselves and the other members of Congress on issues of Black progress and racism within our political institutions if they become dependent on the White members of the Democratic Party to help fund their campaigns. The same can be said for advancing a progressive legislation that focuses on “Black issues,” if they ultimately become financially more dependent on Party funds and member-to-member contributions. Ultimately the BCRA has the potential to make Black representatives second class within the Democratic Party by basing fundraising success on the access to wealth.

The Democratic Party as a whole appears to be experiencing a reduction in its fundraising efforts from influence PACs as a percentage of overall PAC contributions. This should raise concern for Democrats because it may suggest that adverse actions are beginning to flow from the Supreme Court ruling in *McConnell v. FEC*, 540 U.S. 93 (2003).¹³² It also corroborates the assertions of scholars that influence PACs will ultimately suffer under new provisions because of their ineptness at raising additional hard money. Since Black candidates and White Democrats have a similar reliance on these PACs, it is difficult to have a definite loser. Initially, in this paper it appeared as though Black candidates would likely be worse off than White Democrats due to the reduction in PAC funding. Later analysis suggested that it was unclear who really ended up worse off. It does appear as though the Democratic Party will ultimately experience exorbitant losses as the result of the campaign finance reforms.

¹³² In the majority opinion it was stated that the BCRA’s purpose was to limit the soft money grassroots activities of influence PACs

What can be stated without argument is that the shift in emphasis toward individual candidate wealth and an increase in self-financing of campaigns have pushed the fundraising advantage toward White Democrats and Republicans. The significant difference between the net worth of Black candidates and White politicians in Congress emphasizes the importance of wealth in politics. Wealth disproportionately favors White politicians and has the potential to not only harm Black candidates in office, but also will likely have a chilling and inhibitory impact on Black candidates contemplating running for office, potentially causing a reduction in a Black political presence as challengers for seats in the House.

Wealth also allows White politicians greater access to large sum loans because White Members of Congress have greater equity to serve as collateral, as loans become an increasingly important part of campaign finance packages for races for the United States House of Representatives. This topic will surely become an increasingly potent topic for discussion.

Finally, the shift in the fundraising focus toward grassroots politics gives a distinct advantage to White politicians. The demographics of the residents in the Congressional Districts of Black politicians do not suggest the likelihood of a substantial increase in individual constituent funding of political campaigns as a supplement for the reduction in funding that previously came from soft-money. Nor do the District demographics suggest the likelihood that the constituents in the Congressional districts of Black members of Congress will be able to increase their individual contributions to offset the inability of the candidates to self-finance at the same rate as their White counterparts or to take advantage of the Millionaires

Provision that might cushion the blow. White politicians representing majority White Districts have the edge in this regard. This should not only concern Black politicians in the present, it should also be of great concern for those Black politicians who have future ambitions for federal elective office. A strong initial donor base might provide “start up capital” for larger campaigns, as a district or statewide donor base is being established. This could potentially assist some Black politicians with aspirations of working their way up through the political system. However, the need for large infusions of cash at pivotal points later in the campaign season pose a great challenge to less wealthy, and subsequently most Black, candidates.

There are many questions left unanswered by this research that should form the basis for further study. One significant issue that was not addressed herein because of time and resource limitations, which should be examined in the future, is the media aspect of the BCRA. The media implications should be explored not by focusing on the electioneering provisions because these provisions will likely not have racial or ethnic ramifications. The more interesting consideration would be what impact, if any, the BCRA might have on the role of media in impacting the anticipated increasing shortcoming in raising adequate funds for campaigns. As discussed in the literature review, Michael J. Malbin attributed a potential rise in negative campaigning to the inability of politicians to meet rising campaign costs. Geoffrey Craig stated that negative campaigns often play on the myths and fears that exist within the subconscious of the nation (See Ch. 3) The rise in negative campaigning that exploit pervasive myths and fears about political segments or subsets of the American population, could have an especially potentially damaging

impact on Black candidates. There are still many subconscious biases toward Blacks, for example, excessive Black male aggressiveness and Black male overt-sexuality and lust for white women. A negative commercial that plays to these fears on a subconscious level could potentially be disastrous for a Black politician. The commercial that was run in opposition to Harold Ford provides evidence of this. Despite the public outcry, Congressman Ford plummeted in the polls immediately following the running of the commercial implying that Ford, a Black man, was sexually desired by a white woman. If it were found that negative ads increased as a result of the BCRA, it would be interesting to determine whether there would also be an increase in negative political ads that play on race fears and intolerance and the effect of these commercials. Through the years, in austere times, racial bigotry has often been the scapegoat for failing economic and social policies of the day.

It would also be interesting to explore the BCRA impact on racial “Punditocracy.” This paper pointed out that decreased funding is attributed to having increased the role political pundit’s play in establishing public ideas and dialogues regarding candidates. This simultaneously decreases the ability of politicians to generate their own message (See Ch. 3) This can be a problem for Black candidates who are trying to engage in race neutral politics. A determine is warranted of whether BCRA’s contribution to the power of the “Punditocracy” hurts Black politicians by creating a void in which pundits discuss the racial implications of the campaigns with even fewer Blacks at the table, thereby creating a racial context around an election, while silencing the nonracial message from the politicians who are members of traditionally underrepresented racial minority groups. This would be of particular

interest in multiracial statewide or national elections.

Future studies focusing on the implications of the decreased money in the hands of influence PACs could also be important in providing a better idea of the racial implications of the BCRA. To win an election, traditionally underrepresented minority groups must often educate, register to vote, mobilize and get to the polls less active voting cohorts, including members of minority populations who vote at proportionately lower rates than their majority counterparts. Grassroots activities in minority neighborhoods targeted at stimulating political participation, voter education, and educational aid to political aspirants, have yielded favorable results with increased participation by members of these groups. The activities that have yielded the favorable results are costly and time consuming. The activities were mostly funded by soft-money. The decreased PAC funding resulting from BCRA will likely decrease the voter education and participation activities. The resulting effect on Black politicians will be an interesting area of study.

The majority of the findings in this thesis are provisional. Due to the relatively recent enactment of the BCRA, many of the predicted implications have yet to be felt. It is important not to forget that we are entering only the third election cycle under the reform. There is current evidence that trouble is on the horizon as more candidates are enduring a financial squeeze. Candidates, who have alternate sources of funding and hedge against decreased funding in the future, will remain successful. Black politicians do not fit into this category. They remain susceptible to all future decreases in funding and don't have the net worth or constituents to provide sources of alternative monetary support. This paper suggests that this problem will increase in

significance as Black populations across America disperse. Gentrification of Black enclaves and increased financial opportunities that are opening to Blacks outside of Black neighborhoods could dissipate significant Black enclaves. This could reduce the number of Black politicians that would continue to run for election from majority Black districts. This could have interesting implications.

In majority Black districts there are often races between two or more Black candidates who appeal primarily to the “Black interests” as defined from the literature examined in this paper. As Black candidates are forced to compete in racially diverse districts and appeal to a broader variety of interests as well as more frequently compete against multiracial fields, campaign costs will increase and the candidates will not be able to meet the increasing costs by raising funds at their current level. Black politicians representing majority white districts (these districts tend to be the most racially diverse) raise on average \$71,000 less than Blacks representing majority Black districts. To remain viable candidates, Black candidates running in non-majority-Black districts would need to find additional funding.

As written and interpreted by the Supreme Court, the BCRA would hamper the prospects of Black politicians running in either majority-Black or non-majority Black districts. To level the playing field, the self-financing provisions should be revisited by Congress. Consideration should be made to capping the level at which individuals can self-finance their federal campaigns. It will be a delicate balancing act to devise a plan that balances the First Amendment rights of the most affluent candidates and the voting rights of the less affluent candidates and constituents. There will either have to be bans on excessive personal spending, decreased importance on constituent

contributions, the return of soft money or some substitute to allow Black candidates in the future to continue to make political progress under BCRA

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