

TITLE III. THE FAILURE OF TITLE III TO INDEX THE LIMITS ON CONTRIBUTIONS TO STATE PARTIES IS UNCONSTITUTIONAL

Under FECA, an individual may contribute no more than \$10,000 per calendar year to a state committee of a political party; an individual may contribute no more than \$5,000 per calendar year to a local committee of a political party; an individual may contribute no more than \$25,000 per calendar year to a national committee of a political party; a national party committee and its Senate campaign committee may jointly contribute to a candidate for United States Senate, in any election, up to \$35,000 per calendar year; and an individual may contribute up to \$2,000 per election to a candidate for Federal office. 2 U.S.C. §§441a(a)(1)(D), 441a(a)(1)(C); §441a(a)(1)(B); §441(h); §441a(a)(1).

All of these limitations are all indexed for inflation, over time, under FECA, 2 U.S.C. §441a(c)(1)(D), as added by BCRA section 307(d), *except* for the limits on contributions to state and local party committees. The effect of indexing the limitations on contributions to national parties and candidates for inflation, over time, but not similarly indexing the limitations on contributions to state and local party committees, will obviously be to severely erode the ability of state and local party committees to engage in political communication and otherwise participate in the political process relative to national party committees and candidates for federal office.

Because the right to engage in political expression is a fundamental right, statutory classifications affecting such expression are subject to strict scrutiny, and thus requiring that they be narrowly tailored to serve a compelling government interest. *Austin*, 494 U.S. at 666. By thus severely disadvantaging state and local party committees with respect to their ability to engage in political communication and otherwise participate in the political process, BCRA deprives state and local party committees of the equal protection of the laws guaranteed by the Due Process Clause of the Fifth Amendment.