

# NATIONAL REVIEW

## Progressives' Push for Campaign-Finance Reform Is an Assault on Free-Speech Rights

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August 1, 2019

In *Brandenburg v. Ohio* (1969), the Supreme Court held that speech is protected up to the point of “inciting or producing imminent lawless action.” Now, it seems that Democrats would like speech protected up to the point of advocating a political position.

It’s a minor revision — to protect the integrity of our democracy, of course.

A recent *New York Times* article [reports](#) that seven Democratic presidential candidates, including viable contenders such as Elizabeth Warren and Pete Buttigieg, have taken the so-called “[Reform First](#)” pledge, promising to make campaign-finance reform their first order of legislative business were any of them elected president. The pledge was created by [End Citizens United](#), the influential progressive advocacy group named for the landmark 2010 Supreme Court case that rendered a host of campaign-finance restrictions unconstitutional. By signing, a candidate promises to make “comprehensive anti-corruption, money-in-politics and voting rights reform legislation . . . the very first bill [sent] to Congress” under his or her presidency.

The pledge also stipulates that these future regulatory efforts should be “similar to or [build] upon the *For the People Act*,” the breathtakingly flawed 700-page campaign-finance-reform bill [passed in March](#) by House Democrats. The bill, which subsequently died in the Republican-controlled Senate, is symbolic of the campaign-finance agenda that’s now a centerpiece of the progressive platform. It would ban or severely restrict lobbying and PAC spending. It is also so wrought with flagrant First Amendment violations that it was opposed by, among other liberally inclined organizations, [the ACLU](#). And for good reason: It constitutes a frontal assault on the constitutional rights of all Americans.

If the plan ever passed, “a bunch of friends or civic-minded citizens in a small town who want to get together and pool their money to speak out about a school-board race wouldn’t be able to do that anymore without a lawyer, an accountant, registering as a PAC, and so on,” says Ilya Shapiro, a fellow at the Cato Institute who specializes in First Amendment issues. “For everyday people who want to get involved in their congressional race, or their city council or what have you, it becomes a lot more complicated, advantaging the bigger players who can just run issue ads independent of a party or a campaign. It becomes a lot more complicated for someone who doesn’t have a phalanx of lawyers or accountants at their disposal.”

The push for campaign-finance restrictions is premised on the seemingly noble desire to “get money out of politics.” But what its proponents fail to recognize is that money is the conduit through which Americans of all political stripes and colors and tax brackets express their political will. This is not least true for middle- and working-class voters, who rely on the ability to collectively organize in order to exercise political influence. Banning or restricting political spending for these groups would essentially amount to banning or restricting their political participation.

“Money isn’t speech, but money facilitates speech,” says Shapiro. “Money isn’t abortion, but if there was a ban on spending money on abortion then that would violate the right to abortion as defined by the Supreme Court. Money is not guns, but if you ban spending money on firearms, that’s a Second Amendment violation. It’s kind of facile to say that money isn’t speech — if you limit political speech or any speech besides that which you can print up on your own leaflets or stand on the corner shouting, well, that’s a pretty big restriction on speech.”

The regulation of political spending is inherently contrary to the purpose of the First Amendment, because most political speech necessarily involves the spending of money. In the same way that an oil company might shell out money for campaign ads, the *New York Times* spends money paying columnists to editorialize on politics and the League of Conservation Voters buys ads advocating environmental causes. But regulating political spending is particularly problematic for those without other ways of making their voices heard. The Left’s favorite boogeymen — the Kochs and the Mercers of the world — are fully capable of exerting influence on the political process by other means. Local churches, trade associations, and other nonprofits — the groups through which most ordinary Americans participate in politics — are not. In their reformist crusade, Democrats threaten to further diminish the political representation of disaffected American communities, rather than enhancing it.

Still, many prominent Democrats have made this issue a central aspect of their political message. Warren and Buttigieg — both signers of the “Reform First” pledge — have both declared that our democracy is poisoned by the insidious influence of powerful, deep-pocketed corporations. Though seven out of the top-ten organizational spenders in the 2018 election cycle donated disproportionately to Democrats, progressives tend to portray the relatively unregulated marketplace of ideas made possible by *Citizens United* as the only obstacle to a veritable left-wing utopia. A statement from fellow presidential candidate Kirsten Gillibrand reads:

If we want to pass progressive legislation like Medicare for All, a Green New Deal, common-sense gun violence prevention, and comprehensive immigration reform, we have to start by breaking the chokehold corporate special interests have on Washington.

Oddly enough, we have yet to see Senator Gillibrand’s bold new legislation intended to combat the outsize influence wielded by Planned Parenthood, the Sierra Club, and public-sector unions in Democratic politics. Such organizations and their right-wing equivalents — whose members are, again, largely average Americans — stand to be hurt the most by the “Reform First” crowd’s efforts. And that’s a shame, because they’re a vital part of our representative democracy: In a nation as vast and diverse as ours, to be heard the average voter must have the ability to join with like-minded compatriots toward common political goals.

Alexis de Tocqueville once remarked that nothing impressed him more than “the intellectual and moral associations of America.” And yet, the new progressive vision is one wherein voluntary

association is strictly regulated. Last night's Democratic debate saw explicit promises to amend our Constitution in order to "clear up *Citizens United*" — an ominous sign of the Democratic party's disposition towards free-speech rights. If, God forbid, those promises were somehow kept, Americans with the resources to navigate the new regulatory burden — the leaders of ExxonMobil, for example — would be relatively unaffected. The single mothers in Chicago who want to band together to campaign for better schools, however, would not be so lucky.

"For the people," indeed.