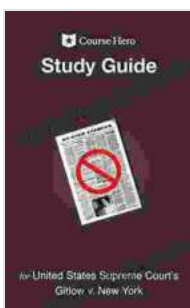


# Study Guide For United States Supreme Court Gitlow New York Course Hero Study

In the annals of American jurisprudence, *Gitlow v. New York* stands as a landmark case that shaped the First Amendment's protection of free speech. This study guide will delve into the intricacies of *Gitlow*, providing a comprehensive analysis of its historical context, legal arguments, and far-reaching impact.

## Historical Context

The early 20th century marked a period of heightened political tension and social unrest in the United States. The Industrial Revolution had created stark economic disparities, while the rise of labor unions and radical ideologies challenged the established Free Download. Amidst this turmoil, the government sought to suppress dissent and maintain control.



## Study Guide for United States Supreme Court's *Gitlow v. New York* (Course Hero Study Guides) by Yvette Himmel

★★★★★ 5 out of 5

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In 1918, Benjamin Gitlow, a prominent leftist leader, was arrested for distributing copies of a pamphlet entitled "The Left Wing Manifesto." The pamphlet advocated for a communist revolution and denounced the capitalist system.

## **Legal Arguments**

Gitlow was charged under New York's Criminal Anarchy Law, which criminalized any attempt to incite "violence or unlawful acts" or "destroy the government." The prosecution argued that Gitlow's pamphlet constituted a clear and present danger to public safety.

Gitlow's defense contended that the First Amendment protected his right to express his political beliefs, even if they were unpopular or inflammatory. They argued that the pamphlet posed no immediate threat to the government and that the state had no legitimate interest in suppressing political speech.

## **Supreme Court Decision**

In 1925, the Supreme Court ruled against Gitlow by a 7-2 vote. Justice Edward T. Sanford, writing for the majority, held that the government could restrict speech that posed a "clear and present danger" to national security or public Free Download.

The Court reasoned that Gitlow's pamphlet, by advocating for violent revolution, crossed the threshold of permissible speech and could be rightfully suppressed. However, the Court emphasized that this restriction was limited to speech that posed an imminent threat of harm.

## **Dissent**

Justice Holmes and Brandeis dissented from the majority opinion, arguing that Gitlow's pamphlet posed no clear and present danger and that the First Amendment should protect all political speech, regardless of its content. Holmes famously stated that "the best test of truth is the power of the thought to get itself accepted in the competition of the market."

## **Impact**

Gitlow v. New York had a profound impact on American free speech law. It established the "clear and present danger" test as the standard for determining when speech could be restricted. However, the case also raised concerns about the limits of government power to suppress political dissent.

In the decades that followed, the Supreme Court gradually expanded the First Amendment's protection of free speech, making it more difficult for the government to restrict political expression. However, Gitlow remains a reminder that the government still has a legitimate interest in ensuring public safety and preventing violence.

## **Study Guide**

This study guide is designed to enhance your understanding of Gitlow v. New York and its significance in American constitutional law.

## **Questions to Consider**

\* What were the historical factors that led to Gitlow's arrest and prosecution? \* Describe the legal arguments presented by both sides in the case. \* How did the Supreme Court's ruling in Gitlow impact the First Amendment's protection of free speech? \* What are the major points of

contention between the majority and dissenting opinions? \* How has Gitlow shaped subsequent free speech cases decided by the Supreme Court?

## Suggested Readings

\* Gitlow v. New York, 268 U.S. 652 (1925) \* Brandenburg v. Ohio, 395 U.S. 444 (1969) \* Schenck v. United States, 249 U.S. 47 (1919)

Gitlow v. New York is a seminal case that continues to shape the boundary between free speech and government authority. By studying this case, we can gain a deeper understanding of the complex relationship between individual rights and public safety.



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