

Study Guide for United States Supreme Court: Gitlow v. New York Course Hero Study

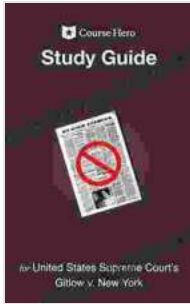
Case Name: Gitlow v. New York **Citation:** 268 U.S. 652 (1925) **Facts:** Benjamin Gitlow was convicted under a New York statute that prohibited the publication or distribution of materials advocating the overthrow of the government. Gitlow had published a pamphlet urging workers to overthrow the capitalist system. **Issue:** Does the First Amendment protect speech that urges the overthrow of the government? **Holding:** No. The First Amendment does not protect speech that poses a clear and present danger to the government. **Reasoning:** The Court held that the pamphlet posed a clear and present danger because it was likely to incite violence against the government. The Court also noted that the government has a legitimate interest in protecting itself from overthrow.

Gitlow v. New York was a landmark case that established the "clear and present danger" test for speech that advocates the overthrow of the government. This test has been used by the Court in subsequent cases to balance the government's interest in protecting itself from overthrow with the First Amendment's protection of free speech.

The Court's decision in Gitlow v. New York has been controversial. Some critics argue that the "clear and present danger" test is too vague and that it gives the government too much power to suppress speech. Others argue that the test is necessary to protect the government from overthrow.

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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The Court has upheld the "clear and present danger" test in subsequent cases, but it has also narrowed its scope. In *Brandenburg v. Ohio* (1969), the Court held that speech that advocates the overthrow of the government is protected unless it is likely to incite imminent lawless action.

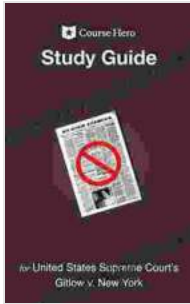
Gitlow v. New York is a complex and important case that has had a significant impact on the First Amendment law. The Court's decision in *Gitlow* has been both praised and criticized, but it remains a landmark case that has shaped the way that the First Amendment is interpreted.

- [Gitlow v. New York](#)
- [Clear and Present Danger](#)
- [First Amendment](#)

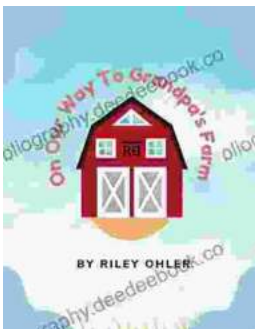
[Image of Benjamin Gitlow]

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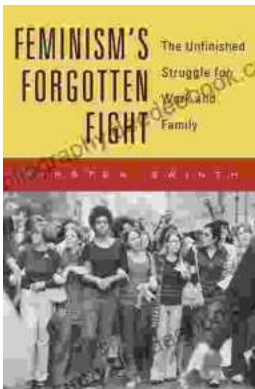


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