

## GITLOW V. NEW YORK BRIEF

In 1919, Benjamin Gitlow, a politician and member of the Socialist Party, published an article called the “Left Wing Manifesto” in a socialist newspaper called *The Revolutionary Age* that he managed. The article called for the party to strike and revolt against the government. For this reason, the state of New York, the plaintiff of the case, brought charges against Gitlow for violating the Criminal Anarchy Law, which made it a crime to advocate for the violent overthrow of the government.

The court raised the question, “Did Gitlow’s speech in his Left Wing Manifesto present clear and present danger?” This was considered on the grounds that the article published by *The Revolutionary Age* directly called for members of the Socialist Party to overthrow the government. Gitlow was convicted, appealed in multiple state courts, and eventually made it to the U.S. Supreme Court.

The Supreme Court upheld the decisions of lower courts in saying that Gitlow’s conviction did not violate his First Amendment right to freedom of speech. They did so by using the previously established precedent of “clear and present danger” to justify their ruling. They decided that this rationale helped prevent violent revolution, as Gitlow’s article directly suggested the American people overthrow the government.

In a dissenting opinion (one that disagrees with the majority’s ruling), Justice Oliver Wendell Holmes argued that clear and present danger should be applied even more strictly than the court did. He believed Gitlow’s speech did not present immediate danger, and therefore his First Amendment right to free speech was actually violated.