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# Court Voids Subversion Law in Ohio

The Supreme Court overruled a 42-year-old precedent yesterday and struck down Ohio's "criminal syndicalism" law against the "mere advocacy" of subversive ideas.

In a unanimous but unsigned opinion, the Court held that the First Amendment forbids state laws that punish mere speech unless they make clear distinctions between merely strong language and the advocacy of "imminent lawless action."

Specially, overturned was the Court's 1927 decision *Whitney v. California*, which has long been more famous for the separate opinion of Justices Louis D. Brandeis and Oliver Wendell Holmes than for its ruling in favor of the anti-subversive laws that sprang up in 20 states after the First World War.

The Brandeis-Holmes formula that even inflammatory speech is protected unless there is a "clear and present danger" was not far from the standard of "imminent lawless action" the Court said had evolved over four decades.

More recent cases, said the Court, "have fashioned the principle that the constitutional guarantees of free speech and free press do not permit a state to forbid or proscribe advocacy of the use of force or of law violations except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or pro-

duce such action."

The Smith Act, the Federal anti-subversion law, was not affected by this doctrine, the Court indicated, because that similarly worded law had "embodied such a principle" and had been applied narrowly in key cases. Justices Hugo L. Black and William O. Douglas, who have argued for years against the Smith Act, parted company with the rest of the Court on this question but joined in the overall decision.

Yesterday's decision came in the case of Clarence Brandenburg, a Ku Klux Klansman from Columbus, Ohio, whose denunciations of Negroes, Jews and the Supreme Court were filmed and televised. The American Civil Liberties Union appealed his conviction, which brought him a one-to-ten year prison sentence and a \$1000 fine.

In other action:

In a decision that cast a cloud over the work over such administrative agencies as the Subversive Activities Control Board, the Court ruled 5 to 3 that a Baton Rouge Teamsters official has the right to sue the Louisiana Labor-Management Commission of Inquiry on grounds that he is threatened with unfair punishment.

Roderick Jenkins charged that the Commission was harassing him and other members of the union local for producing evidence that helped put James R. Hoffa in jail. Louisiana replied that the Commission was modeled after the U.S. Civil Rights Commission, but Justice Thurgood Marshall said the Federal body had nothing like the criminal jurisdiction of the state body.

Marshall said Jenkins had a case for a Federal court injunction against the Commission if he could show that it denied him vital rights of confronting and cross-examining his accusers while exercising the power to issue a "finding"