incitement was protected if the likelihood of dangerous consequences was low. This position was expressed in its fullest form in *Brandenburg*.

BRANDENBURG v. OHIO

Supreme Court (United States).
395 U.S. 444 (1969).

PER CURIAM:

* * * The appellant, a leader of a Ku Klux Klan group, was convicted under the Ohio Criminal Syndicalism statute for "advocat(ing) the duty, necessity, or propriety of crime, sabotage, violence, or unlawful methods of terrorism as a means of accomplishing industrial or political reform" and for "voluntarily assembl(ing) with any society, group, or assemblage of persons formed to teach or advocate the doctrines of criminal syndicalism."

* * * The record shows that a man, identified at trial as the appellant, telephoned an announcer-reporter on the staff of a Cincinnati television station and invited him to come to a Ku Klux Klan "rally" to be held at a farm. [One] film showed 12 hooded figures, some of whom carried firearms. [Another] scene on the same film showed the appellant, in Klan regalia, making a speech. The speech, in full, was as follows:

> [The] Klan has more members in the State of Ohio than does any other organization. We're not a revengent organization, but if our President, our Congress, our Supreme Court, continues to suppress the white, Caucasian race, it's possible that there might have to be some revengeance taken. We are marching on Congress July the Fourth, four hundred thousand strong. From there we are dividing into two groups, one group to march on St. Augustine, Florida, the other group to march into Mississippi. Thank you. * * *

* * * [Statutes, like the Ohio "antianarchism" one, were upheld in the first half of the twentieth century, e.g., in *Whitney*.] More recent precedents like *Dennis* 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 violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action. * * * As we said in *Noto v. United States,* 367 U.S. 290, 297–298 (1961), "the mere abstract teaching [of] the moral propriety or even moral necessity for a resort to force and violence, is not the same as preparing a group for violent action and steeling it to such action."

* * * Accordingly, we are here confronted with a statute which, by its own words and as applied, purports to punish mere advocacy and to forbid, on pain of criminal punishment, assembly with others merely to advocate the described type of action.[4] Such a statute falls within the condemnation of the First and Fourteenth Amendments. [*Whitney* was overruled, and Brandenburg's sentence reversed.]

4. Statutes affecting the right of assembly, like those touching on freedom of speech, must observe the established distinctions between mere advocacy and incitement to imminent lawless action. * * *