

Law and the Holocaust

Law and the Holocaust

U.S. Cases and Materials

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AND

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*For Benjamin Ferencz, the last living Nuremberg prosecutor
and a tireless advocate to replace the rule of force with the rule of law*
M.J.B.

For my mom, a Holocaust survivor
R.M.J.

Contents

Table of Cases	xiii
List of Illustrations	xix
Preface	xxi
Part I • Introduction	3
A. Overview	3
B. Nazi History	5
<i>United States v. Goering</i>	5
Notes	19
<i>United States v. Ohlendorf</i>	40
Notes	50
<i>Extradition of Breyer</i>	51
Notes	54
C. Germany's Judges	62
<i>United States v. Altstoetter</i>	62
Notes	87
D. Early U.S. Holocaust Litigation	97
<i>In re German Jewish Children's Aid Inc.</i>	97
Notes	99
<i>Holzer v. Deutsche Reichsbahn-Gesellschaft</i>	105
Notes	107
<i>In the Matter of M.</i>	109
Notes	115
<i>In re Kohn's Estate</i>	119
Notes	122
<i>Lerner v. Huber</i>	125
Notes	126
E. Genocide and U.S. Law	130
<i>Kiobel v. Royal Dutch Petroleum Co.</i>	133
<i>In re Arab Bank, PLC Alien Tort Statute Litigation</i>	142
Notes	151
Part II • Punishing the Perpetrators	161
A. Overview	161
B. The IMT, Dachau, and NMT Trials	166
<i>United States v. Goering</i>	167
Notes	172

<i>United States v. Weiss</i>	177
Notes	179
<i>Flick v. Johnson</i>	183
Notes	187
C. The Eichmann Trial	192
<i>Attorney General v. Eichmann</i>	195
Notes	223
D. U.S. Deportation Proceedings	229
<i>United States v. Hansl</i>	232
<i>Petkiewytsch v. Immigration and Naturalization Service</i>	236
Notes	243
<i>United States v. Demjanjuk</i>	244
Notes	257
E. Nazi Hunting	258
<i>Degrelle v. Simon Wiesenthal Center</i>	260
Notes	262
Part III · Restituting the Victims	265
A. Overview	265
B. Standing	266
<i>Zivkovich v. Vatican Bank</i>	267
<i>Schoeps v. Andrew Lloyd Webber Art Foundation</i>	269
Notes	272
C. Jurisdiction	280
<i>Bennigson v. Alsdorf</i>	280
<i>Alperin v. Franciscan Order</i>	284
Notes	285
D. Statutes of Limitations	289
<i>Cassirer v. Thyssen-Bornemisza Collection Foundation</i>	290
Notes	293
<i>Grosz v. Museum of Modern Art</i>	295
Notes	303
<i>Vineberg v. Bissonnette</i>	304
Notes	307
E. <i>Forum non Conveniens</i>	308
<i>Fischer v. Magyar Államvasutak Zrt.</i>	309
Notes	313
F. International Comity	315
<i>United States v. Portrait of Wally</i>	315
Notes	321
G. The Political Question Doctrine	326
<i>Burger-Fischer v. Degussa AG</i>	327
<i>Whiteman v. Dorotheum GmbH</i>	345
Notes	347

H. The Foreign Affairs Doctrine	349
<i>American Insurance Association v. Garamendi</i>	350
Notes	357
I. Foreign Sovereign Immunity	360
<i>Republic of Austria v. Altmann</i>	361
Notes	368
<i>de Csepel v. Republic of Hungary</i>	372
Notes	379
<i>Simon v. Republic of Hungary</i>	379
Notes	390
J. The Act of State Doctrine	392
<i>Bernstein v. Van Heyghen Freres Societe Anonyme</i>	393
<i>Bernstein v. N.V. Nederlandsche-Amerikaansche Stoomvaart-</i>	
<i>Maatschappij</i>	396
Notes	397
<i>Von Saher v. Norton Simon Museum of Art at Pasadena</i>	398
Notes	405
K. Post-Judgment Matters	407
<i>Stanford v. Commissioner of Internal Revenue</i>	407
<i>Grunfeder v. Heckler</i>	414
<i>Rosner v. United States</i>	417
Notes	420
L. Ethical Concerns	424
<i>WIP Wohnungsbaugesellschaft Prenzlauer Berg mbH v. Sutton</i>	424
<i>In re Fagan</i>	428
<i>United States v. Belgorodskaya</i>	429
Notes	432
Part IV · Other Vestiges	437
A. Overview	437
B. “Weltanschauung”	437
<i>Kober v. Kober</i>	437
<i>Rosenfeld v. Rumble</i>	440
<i>Werner v. State</i>	442
<i>Rebmann v. Rohde</i>	449
Notes	454
C. Memorabilia	459
<i>Yahoo! Inc. v. La Ligue Contre Le Racisme et L’Antisemitisme</i>	459
Notes	471
<i>Price v. United States</i>	479
Notes	487
<i>Rosenberg v. Zimet</i>	488
Notes	490

D. Historiography	495
<i>Tewarson v. Simon</i>	496
<i>Society of Survivors of the Riga Ghetto, Inc. v. Huttenbach</i>	501
Notes	506
<i>Carlsen v. City of Portland</i>	510
<i>Weiss v. American Jewish Committee</i>	515
Notes	521
<i>Yara v. Perryton Independent School District</i>	528
Notes	531
<i>Mt. Ivy Press, L.P. v. Defonseca</i>	537
Notes	543
<i>McCalden v. California Library Association</i>	548
<i>In the Matter of the Application of Action and Protection Foundation</i>	563
Notes	569
E. Neo-Nazis	575
<i>Grutzmacher v. Chicago Sun-Times, Inc.</i>	576
<i>In re Hale</i>	584
Notes	588
<i>Village of Skokie v. National Socialist Party of America</i>	591
<i>Pritchard v. Carlton</i>	596
<i>Lewis v. Wilson</i>	603
Notes	607
<i>State v. Stalder</i>	611
Notes	619
<i>United States v. Allen</i>	623
<i>Slavin v. Artus</i>	629
Notes	633
F. Hyperbole	638
<i>Smith v. Wal-Mart Stores, Inc.</i>	639
Notes	647
<i>Gilbert v. DaimlerChrysler Corporation</i>	653
<i>Fernwood Mobile Home Park v. Almeyda</i>	660
Notes	664
<i>Hawkins v. Department of Public Safety and Correctional Services</i>	667
<i>T.E. v. Pine Bush Central School District</i>	674
Notes	681
Part V · Appendices	691
Appendix 1 Nuremberg Laws (1933–35)	691
Appendix 2 London Declaration (January 5, 1943)	695
Appendix 3 Moscow Declaration (October 30, 1943)	698
Appendix 4 Potsdam Agreement (August 1, 1945)	699
Appendix 5 London Agreement (August 8, 1945)	703
Appendix 6 International Military Tribunal Charter (August 8, 1945)	705

Appendix 7	Göring et al. Indictment (October 6, 1945)	712
Appendix 8	Control Council Law No. 10 (December 20, 1945)	716
Appendix 9	Displaced Persons Act (June 25, 1948)	720
Appendix 10	Genocide Convention (December 9, 1948)	722
Appendix 11	Luxembourg Agreement (Israel-West Germany) (September 10, 1952)	724
Appendix 12	Foreign Sovereign Immunities Act (October 21, 1976)	729
Appendix 13	Holtzman Amendment (October 30, 1978)	735
Appendix 14	U.S. Holocaust Memorial Council Act (October 7, 1980)	737
Appendix 15	Two Plus Four Agreement (September 12, 1990)	738
Appendix 16	Nazi Persecution Payments Act (August 1, 1994)	741
Appendix 17	Holocaust Victims Redress Act (February 13, 1998)	743
Appendix 18	U.S. Holocaust Assets Commission Act (June 23, 1998)	746
Appendix 19	Rome Statute (July 17, 1998)	750
Appendix 20	Nazi War Crimes Disclosure Act (October 8, 1998)	758
Appendix 21	Washington Principles (December 3, 1998)	762
Appendix 22	Holocaust Restitution Tax Fairness Act (June 17, 2002)	763
Appendix 23	Terezin Declaration (June 30, 2009)	764
Appendix 24	Terezin “Guidelines and Best Practices” (June 9, 2010)	771
Appendix 25	No Social Security for Nazis Act (December 18, 2014)	775
Appendix 26	Holocaust Expropriated Art Recovery (“HEAR”) Act (December 16, 2016)	778
Index		783

Table of Cases

*Principal cases are listed in **bold**.*

- Abagninin v. AMVAC Chemical Corp., 152
Abdullahi v. Pfizer, Inc., 39
Abelesz v. Magyar Nemzeti Bank, 391
Abrams v. Société Nationale des Chemins de Fer Français, 360
Alperin v. Franciscan Order, 284
Alperin v. Vatican Bank, 349
Alsdorf v. Bennisson, 286
Altmann v. Republic of Austria, 368
American Insurance Association v. Garamendi, 350
Andritsch v. Henschel, 665
Arce v. Douglas, 535
Arlington Heights Neighborhood Ass'n v. City of Portland, 523
Attorney General v. Eichmann, 195
- Bakalar v. Vavra, 307, 308, 407
Baker v. Carr, 326
Banco Nacional de Cuba v. Sabbatino, 398
Barclay v. Florida, 667
Bartha v. Bartha, 454
Bennisson v. Alsdorf, 280
Bernstein v. N.V. Nederlandsche-Amerikaansche Stoomvaart-Maatschappij, 396
Bernstein v. Van Heyghen Freres Societe Anonyme, 393
Bevan v. Columbia Broadcasting System, Inc., 685
Black v. Kirkland, 634
Blameuser v. Andrews, 588
- Bolivarian Republic of Venezuela v. Helmerich & Payne International Drilling Co., 392
Borger by Borger v. Bisciglia, 494
Botts v. State, 611
Boumediene v. Bush, 192
Bronner v. Duggan, 152
Brooks v. Sotheby's, 314
Buck v. Bell, 92
Burger-Fischer v. Degussa AG, 327, 349
Burr v. Sim, 123
- Capitol Records, Inc. v. Mercury Record Corp., 107
Carlsen v. City of Portland, 510
Cassirer v. Kingdom of Spain, 391
Cassirer v. Thyssen-Bornemisza Collection Foundation, 290, 294, 407
Churchill v. University of Colorado at Boulder, 229
Comer v. The [Philadelphia School District's] Legal Department, 457
Commonwealth v. Baumhammers, 622
Coster v. Duquette, 544
Crisp v. Sears Roebuck & Co., 638
Cromitie v. United States, 622
Cykert for Cykert v. Bowen, 420
Czerski v. Yellow Cab Co-op., Inc., 456
- Davoyan v. Republic of Turkey, 152
de Csepel v. Republic of Hungary, 372, 379, 391

- Dean v. State, 633
- Degrelle v. Simon Wiesenthal Center**, 260
- Dering v. Uris, 573
- DiBacco v. U.S. Department of the Army, 263
- Dickinson v. Austin, 634
- Emergency Coalition to Defend Educational Travel v. U.S. Dep't of the Treasury, 572
- Ex parte Musgrove, 665
- Ex parte Quirin, 192
- Extradition of Breyer**, 51, 258
- Fagan v. Czech Republic, 266
- Fedorenko v. United States, 231
- Felber v. Yudof, 152
- Feldman v. Fitzpatrick, 456
- Fernwood Mobile Home Park v. Almeyda**, 660
- Fireman's Fund Insurance Co. v. Black, 358
- Fischer v. Magyar Államvasutak Zrt.**, 309, 391
- Flick v. Johnson**, 183
- Fortin v. Hartford Underwriters Insurance Co., 456
- G.D.S. ex rel. Slade v. Northport-East Northport Union Free School District, 682
- Gersh v. Anglin, 570
- Gilbert v. DaimlerChrysler Corporation**, 653
- Goldstein v. United States, 360
- Grimes ex rel. Grimes v. Sobol, 534
- Grosz v. Museum of Modern Art**, 295
- Grunfeder v. Heckler**, 414
- Grutzmacher v. Chicago Sun-Times, Inc.**, 576
- Guengerich v. Baron, 647
- H.A. v. Teaneck Bd. of Education, 666
- Hale v. Committee on Character and Fitness for the State of Illinois, 589
- Hale v. Fox, 589
- Halprin v. Prairie Single Family Homes of Dearborn Park Ass'n, 681
- Hamdan v. Rumsfeld, 192
- Haupt v. United States, 191
- Hawkins v. Department of Public Safety and Correctional Services**, 667
- Herero People's Reparations Corp. v. Deutsche Bank, A.G., 152
- Hilton v. Guyot, 315
- Hirota v. MacArthur, 182
- Hirsh v. State of Israel, 361
- Hoffmann v. United States, 488
- Holzer v. Deutsche Reichsbahn-Gesellschaft**, 105, 108
- Houghton Mifflin Co. v. Noram Publishing Co., 23
- Houghton Mifflin Co. v. Stackpole Sons, 22
- In re 375 Park Avenue Associates, Inc., 527
- In re Arab Bank, PLC Alien Tort Statute Litigation**, 142
- In re Daniel, 544
- In re Disciplinary Proceedings Against Isaacson, 667
- In re Estate of Feinberg, 131
- In re Fagan**, 428
- In re German Jewish Children's Aid Inc.**, 97
- In re Hale**, 584
- In re Holocaust Victim Assets Litigation, 266, 436
- In re Kohn's Estate**, 119
- In re Kover, 456
- In re Linke's Will, 124
- In re M.A., 457
- In re Morisseau, 667
- In re Muhlbauer, 62

- In re Nazi Era Cases Against German Defendants Litigation, 349, 359
- In re Podkowik's Estate, 99
- In re Ruben's Estate, 122
- In re Toren, 266
- In the Matter of M.**, 109
- In the Matter of the Application of Action and Protection Foundation**, 563, 570
- Institute for Development of Earth Awareness v. People for Ethical Treatment of Animals, 647
- International Art Center v. Estate of Stettiner, 289
- Irving v. Penguin Books Ltd., 573
- Iwanowa v. Ford Motor Co., 349
- Jacobson v. R.J. Reynolds Tobacco Co., 647
- Johnson v. Eisentrager, 188
- Jones v. Golden, 634
- Jovic v. L-3 Services, Inc., 152
- Keegan v. United States, 26
- Kiobel v. Royal Dutch Petroleum Co.**, 133
- Kober v. Kober**, 437
- Koutnik v. Brown, 634
- Kovachevich v. United States, 458
- Kungys v. United States, 231
- Lawrence v. Deutsche Bank National Trust Co., 458
- Lerner v. Huber**, 125
- Lewis v. Wilson**, 603
- Living Centers of Texas, Inc. v. Penalver, 664
- Long v. Pierce, 59
- Long Island Housing Services, Inc. v. German-American Settlement League, Inc., 27, 28
- Mandel v. Board of Trustees of the California State University, San Francisco State University, 622
- Marbury v. Madison, 326
- Matter of Anonymous, 619
- Matter of Di Bella, 122
- Matter of Price, 477
- Matter of Strong, 122
- McCalden v. California Library Association**, 548
- Mermelstein v. Institute for Historical Review, 572
- Minichiello v. Supper Club, 665
- Mt. Ivy Press, LP v. Defonseca**, 537, 543
- Mutual Benefit Company's Petition, 123
- National Socialist Party of America v. Village of Skokie, 607
- Nektalov v. Kuwait Airways Corp., 359
- Nordwind v. Rowland, 433
- Opara v. Carnegie Textile Co., 681
- Orkin v. Taylor, 405
- Owens-Corning Fiberglas Corp. v. Garrett, 665
- Pauley v. Bayer Corp., 665
- Pensionsversicherungsanstalt v. Komarin, 433
- People v. Assi, 622
- People v. Johnson, 665
- People v. Nellessen, 667
- People v. Rubin, 610
- People v. Tiller, 665
- Pernikoff v. Kennedy, 424
- Petkiewytch v. Immigration and Naturalization Service**, 236
- Philip Morris USA, Inc. v. Brown, 666
- Philipp v. Federal Republic of Germany, 314
- Pollard v. Georgetown School District, 682
- Presbyterian Church of Sudan v. Talisman Energy, Inc., 152

- Price v. United States**, 479
Pritchard v. Carlton, 596
- Rebmann v. Rohde**, 449
 Regierungspraesident Land Nordrhein
 Westfalen v. Rosenthal, 433
 Reif v. Nagy, 308
Republic of Austria v. Altmann, 361
 Revici v. Conference of [sic] Jewish
 Material Claims Against Germany
 Inc., 265
 Roistacher v. Bondi, 325
 Romalis v. United States, 434
Rosenberg v. Zimet, 488
Rosenfeld v. Rumble, 440
Rosner v. United States, 59, 417
 Rukoro v. Federal Republic of
 Germany, 158
 Ryan v. United States, 230
- Saint Francis College v. Al-Khazraji,
 683
 Salatino v. Salatino, 432
 Scheerer v. U.S. Attorney General, 570
**Schoeps v. Andrew Lloyd Webber Art
 Foundation**, 269
 Schooner Exchange v. McFaddon, 361
 Sesto v. Slaine, 456
 Sexual Minorities Uganda v. Lively,
 152
 Shaare Tefila Congregation v. Cobb,
 682
 Shively v. Green Local School District
 Board of Education, 682
Simon v. Republic of Hungary, 59,
 379, 391
 Sittler v. United States, 258
Slavin v. Artus, 629
 Smith v. City of New York, 433
Smith v. Wal-Mart Stores, Inc., 639,
 650
 Societe Internationale Pour
 Participations Industrielles et
 Commerciales, S.A. v. Rogers, 423
- Society of Survivors of the Riga
 Ghetto, Inc. v. Huttenbach**, 501
 Somers v. Express Scripts Holdings,
 681
 Soobzokov v. Lichtblau, 232
**Stanford v. Commissioner of Internal
 Revenue**, 407
 State v. Costella, 611
 State v. Schaub, 665
State v. Stalder, 611
 State v. Tankovich, 633
 State ex rel. Counsel for Discipline of
 Nebraska Supreme Court v. Beach,
 648
- T.E. v. Pine Bush Central School
 District**, 674
Tewarson v. Simon, 496
 Thomas v. Los Angeles Times
 Communications, LLC, 547
 Thuesen v. Amerisure Insurance Co.,
 457
- Underhill v. Hernandez, 392
 Ungaro-Benages v. Dresdner Bank AG,
 313
United States v. Allen, 623
United States v. Altstoetter, 62
 United States v. Balsys, 231
United States v. Belgorodskaya, 429
 United States v. Boggi, 456
 United States v. Brandt, 38
 United States v. Cannon, 633
 United States v. Cox, 665
 United States v. Curtis, 666
United States v. Demjanjuk, 244
 United States v. Dornon, 635
United States v. Goering, 5, 167
 United States v. Greer, 458
 United States v. Hale, 589
United States v. Hansl, 232
 United States v. Kramrish, 434
 United States v. Krauch, 59, 424
 United States v. Lynch, 666

- United States v. Ngombwa, 152
 United States v. Norton, 666
 United States v. Odeh, 457
United States v. Ohlendorf, 39, 40
 United States v. One Oil Painting
 Entitled “Femme en Blanc” by Pablo
 Picasso, 286
United States v. Portrait of Wally,
 315
 United States v. Price, 666
 United States v. Three Juveniles, 620
 United States v. Ward, 666
United States v. Weiss, 177
- Village of Skokie v. National Socialist
 Party of America**, 591
Vineberg v. Bissonnette, 304
 Violeta Friedman Case, 262
**Von Saher v. Norton Simon Museum
 of Art at Pasadena**, 398, 405, 406
- Walker v. Texas Division, Sons of
 Confederate Veterans, Inc., 611
 Wanamaker v. VHA, Inc., 684
 Warner v. St. Bernard Parish School
 Board, 535
- Way v. Shawnee Township, 681
**Weiss v. American Jewish
 Committee**, 515
Werner v. State, 442
Whiteman v. Dorotheum GmbH,
 345, 349
 Wiercinski v. Mangia 57, Inc., 681
 Wiggins v. State, 665
 Winterstein v. U.S. Dep’t of Justice,
 Office of Information and Privacy,
 262
**WIP Wohnungsbaugesellschaft
 Prenzlauer Berg mbH v. Sutton**,
 424, 432
- Yahoo! Inc. v. La Ligue Contre Le
 Racisme et L’antisemitisme**, 459
**Yara v. Perryton Independent School
 District**, 528
 Yeshiva & Mesivta Toras Chaim v.
 Rose, 521
- Zivkovich v. Vatican Bank**, 267
 Zyklon B Case (Tesch), 59

List of Illustrations

Page	
9	Adolf Hitler (courtesy of U.S. Holocaust Memorial Museum / Erich C. Jochberg)
14	SS members (courtesy of Ullstein Bild / Granger, NYC)
23	Map of Nazi-occupied Europe (courtesy of Wikimedia Commons / Goran tek-en)
27	German American Bund (courtesy of Rex Hardy Jr. / The LIFE Picture Collection)
31	Girl wearing Jewish star (courtesy of U.S. Holocaust Memorial Museum / Doris Moncznik Gross)
37	Wannsee villa (courtesy of Ullstein Bild / Granger, NYC)
38	Heinrich Himmler and Reinhard Heydrich (courtesy of Ullstein Bild / Granger, NYC)
50	Auschwitz concentration camp (courtesy of Granger, NYC)
55	Jews boarding train (courtesy of Granger, NYC)
56	Map of concentration camps (courtesy of U.S. Holocaust Memorial Museum / Marilyn Spencer)
58	Auschwitz inmates (courtesy of Ullstein Bild / Granger, NYC)
61	Dachau corpses (courtesy of U.S. Holocaust Memorial Museum / Milton F. Gowen)
87	Roland Freisler (courtesy of Granger, NYC)
92	“Judgment at Nuremberg” (courtesy of United Artists / Photofest)
102	St. Louis passengers (courtesy of Suddeutsche Zeitung / Granger, NYC)
163	Map of Allied zones (courtesy of Wikimedia Commons / Paasikivi)
167	IMT defendants (courtesy of U.S. Holocaust Memorial Museum / Gerald (Gerd) Schwab)
179	Martin Gottfried Weiss (courtesy of U.S. Holocaust Memorial Museum / Vincent Paul Donaghue)
191	Nazi saboteurs trial (courtesy of Library of Congress)
194	Adolf Eichmann (courtesy of Granger, NYC)
257	John Demjanjuk (courtesy of David Rubinger / The LIFE Images Collection)

- 259 Simon Wiesenthal (courtesy of Rue des Archives / Granger, NYC)
- 279 Nazi-looted artwork (courtesy of U.S. Holocaust Memorial Museum / National Archives and Records Administration — College Park, Maryland)
- 325 “Portrait of Wally” (courtesy of AP Photos / John McConnico)
- 328 Gold rings (courtesy of U.S. Holocaust Memorial Museum / National Archives and Records Administration — College Park, Maryland)
- 370 “Woman in Gold” (courtesy of Granger, NYC)
- 461 Yahoo! screenshot (courtesy of Georges Merillon / Gamma-Rapho via Getty Images)
- 526 Anne Frank (courtesy of Granger, NYC)
- 527 U.S. Holocaust Memorial Museum (courtesy of U.S. Holocaust Memorial Museum)
- 597 Miami Beach Holocaust Memorial (courtesy of Hoberman Collection)
- 608 Frank Collin (courtesy of AP Photos / Fred Jewell)
- 638 Trump protesters (courtesy of Elijah Nouvelage / Getty Images News)
- 685 “The Great Dictator” (courtesy of Charles Chaplin / Photofest)
- 686 “The Producers” (courtesy of AP Images / Lucas Vallecillos / VWPics)

Preface

In Google Books, a search using the word “Holocaust” returns 576,000 hits, while a readers’ list of “well-written” books about the Holocaust contains 597 entries. See http://www.goodreads.com/list/show/1720.Well_Written_Holocaust_Books. In a recent article, Michael Berenbaum, the former director of the U.S. Holocaust Memorial Museum’s Holocaust Research Institute, observed that groundbreaking books about the Holocaust appear so frequently that it is “impossible for me to keep up with my own field.” See Ted Merwin, *Too Many Holocaust Books?*, JEWISH WEEK, Jan. 28, 2016, at <http://jewishweek.timesofisrael.com/too-many-holocaust-books/>.

This book, we hope, will be included in future lists of well-written and groundbreaking books about the Holocaust. It is the first law school casebook to examine the Holocaust. And as a casebook, it is the first book of any kind to tell the story of the Holocaust and its aftermath through the use of U.S. judicial opinions. Our aim is to enrich the law school experience and aid students in becoming more sensitive and thoughtful lawyers.

The research for this book closed on September 1, 2017. Because of space limitations, we had to make very difficult choices about what to include and what to omit. To compensate, numerous references to other works about the Holocaust appear throughout our commentary.

As editors, we have not indicated where material has been corrected, reordered, or excised, except when not doing so would create confusion. Similarly, we have converted all footnotes to text without further elaboration. With respect to citations, we generally have followed the *Bluebook*, but have deviated from it whenever we felt doing so improved clarity.

Like all authors, we need to repay some debts. We are especially grateful to our publisher, Dr. Keith R. Sipe, and all the folks at Carolina Academic Press who believed in us and helped make our vision a reality. We also wish to thank our wonderful friends and colleagues, including Tom Campbell, Sam Garkawe, Jon M. Garon, Peter Hayes, Donald J. Kochan, Sherry L. Leysen, and Matthew J. Parlow. Lastly, but certainly not least, we wish to recognize our families for their love and support.

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In closing, we welcome your feedback and can be reached at the following e-mail addresses: bazyler@chapman.edu and jarvisb@nova.edu.

“First they came ...”

First they came for the communists, and I did not speak out —
because I was not a communist.

Then they came for the trade unionists, and I did not speak out —
because I was not a trade unionist.

Then they came for the Jews, and I did not speak out —
because I was not a Jew.

Then they came for me —
and there was no one left to speak out for me.

*Martin Niemöller**

* Niemöller was a German pastor who initially supported the Nazis but later turned against them. As a result, he was interned in the Dachau and Sachsenhausen concentration camps from 1938 to 1945. In 1946, he wrote “First they came ...” to express his remorse over not speaking out sooner. Because of repeated editing, many different versions of his poem exist but all end the same way. For a further discussion, see <https://www.ushmm.org/wlc/en/article.php?ModuleId=10007392>.

