
A review of a book about David Daube inevitably invites the reviewer to recall his own contacts with Daube. In my own case, I knew Daube only through a brief exchange of correspondence. In the early 1980s, while still a graduate student, I was organizing a series of symposia on just-war doctrine, religious thought, and nuclear war. I had known of Daube’s own work on themes like civil disobedience in antiquity. His book Civil Disobedience in Antiquity contained some marvelous passages on war and resistance to war, and I wondered if he might be willing to bring to bear some of his own insights on the problem of nuclear deterrence. I sent him a letter inviting him to come to the Catholic University of America to present a paper. Although he could not participate, Professor Daube wrote back; he was most pleased with the invitation. He reminisced in a couple of lines about his own graduate school days and enclosed some recent reprints of his. I recall that today because of the extreme graciousness he demonstrated. It is rare when one recalls rejection letters with fondness.

The book Calum Carmichael has written is not a standard biography. It might be called a biographical reminiscence. Carmichael was himself a graduate student of Daube’s at Oxford University in the area of Biblical law. He draws deeply on his long acquaintance with Daube—spanning over three and a half decades from the time they first met in October, 1962, to the time of Daube’s death in February, 1999. The book thus reports on the many conversations Carmichael and Daube had over their long friendship. But the book is more than a mere reminiscence. At many points in the book, Carmichael connects his remembrances of Daube with larger themes in Daube’s scholarship and his life, thus illuminating the ways in which the personal gave shape to the substantial body of work Daube has bequeathed the scholarly world. Carmichael, furthermore, uses Daube’s own reminiscences about the European world in which he came of age to develop a deep and impressionistic account of the German and English academic worlds of which Daube was a part before Carmichael became acquainted with him.
In a way perhaps unmatched by any twentieth scholar, David Daube’s life and academic career spanned, in John Noonan’s words, “continents and worlds.” He was born in Freiburg and received training in Roman law at the University of Freiburg under the direction of Otto Lenel and at Göttingen under the supervision of Wolfgang Kunkel. Lenel, much older than Kunkel, can fairly be called a dominating figure in the study of Roman law. In a tribute to Daube’s own prowess in Roman law, Lenel prepared a chart which he called the *Arbor Leneliana*—“Lenel’s Tree.” It showed, in unbroken succession, generation after generation, the great Continental Roman lawyers. A Latin caption heading the chart called it “[the series of doctors and disciples . . . who through nine centuries handed on, in their own living voice, the Roman law to our own time].” The chart began with Irnerius and mentions, in succeeding generations, the giants of medieval, early modern, and modern Romanist legal study—Irnerius to Bulgarus, to Bassianus, to Azo, to Accursius, on through Bartolus and Baldus, and on to more modern writers, like the seventeenth-century Benedict Carpzow and the eighteenth-century Johann Gottlieb Heineccius. The twenty-seventh name on the list is Otto Lenel. The twenty-eighth and last name is David Daube. August and exalted company, indeed.

Daube, clearly, was one of the great Romanists of the twentieth century. But he was not only a scholar of Roman law. He succeeded in mastering two other large and complex bodies of thought as well—rabbinic law, and the New Testament and early Christian literature. His knowledge of both Jewish law and early Christianity allowed Daube to engage in highly original inter-disciplinary scholarship. Forced to flee the Continent with the rise of Nazism, Daube taught for many years, first in Great Britain and, finally, at Boalt Hall School of Law at the University of California-Berkeley. His life as a nomadic scholar added further dimensions to his writing.

Carmichael reviews this background and Daube’s scholarly accomplishments with warmth and in depth. But he does a great deal more as well. He succeeds not only in identifying themes that Daube returned to repeatedly in his scholarship but in situating those themes in Daube’s own personality and experiences. One can take the example of Daube’s relationship to authority. We learn that this was always a problematic relationship for Daube. He experienced intense boredom with his studies as a teenager and was in constant trouble. Carmichael

tells in touching detail the story of Daube’s expulsion from gymnasium when he was fifteen. Someone who “always sat at the very back of the class in order to create mischief,” (21) Daube and a friend one day pulled an elaborate and embarrassing prank on their mathematics teacher. After this incident, which Carmichael states was “the one that ‘broke the camel’s back,’” (22) Daube was expelled for a period of two years.

In later portions of the book, Carmichael adverts to the theme of authority with some frequency. On the one hand, Daube was sometimes the victim of arbitrary authority. In 1940, after moving to Great Britain, he was arrested and briefly interned as an enemy alien. Tricked by the camp commandant, Daube even found himself briefly detained on suspicion of being a Nazi spy. So, Daube had ample reason to be mistrustful of authority.

We see the theme of relationship to authority emerge again, in a different light, in Carmichael’s discussion of Daube’s Jewishness. At times, even as early as his student days under Lenel, he chafed against the Jewish dietary rules. But when Hitler rose to power, Daube returned to a strict practice of orthodox rules as a means of asserting his Jewish identity against the oppressiveness of National Socialism. Later, after moving to the United States, he abandoned the outward practice of dietary orthodoxy.

The irony of being a law professor who held such a mixed appreciation of rules was not lost on Daube. He confessed to Carmichael that “he preferred grace to law.” (7)

It is one thing, of course, to allow this subtext to come to the surface at various points of one’s narrative. But a reading of Carmichael’s book also reveals how this theme connects with features of Daube’s scholarship. It was his gimlet-eyed view of authority, one can conclude from Carmichael’s presentation, which led to Daube’s great originality of thought. Whether he was writing on the nature and function of legal fictions, the language of legal or literary texts, or larger issues of power and resistance, Daube’s insights are always startling, refreshing, and new. And they achieve their originality because of Daube’s restlessness with rules and his willingness to subvert established expectations.

One can read and re-read Carmichael’s account for many similar insights into Daube’s personality and accomplishments. One must add, of course, that Carmichael has not written a hagiography. He provides us with both flattering and unflattering details of Daube’s life. Carmichael has performed an extremely valuable service for scholars of
Roman law, rabbinic law, and Jewish and Christian studies generally. He has given us a richly textured account of one of the most learned and original minds of the twentieth century.

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