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 ***Jewish Justices of the Supreme Court: From Brandeis to Kagan* by David G. Dalin (review)**

Britt P. Tevis

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REVIEW

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In lieu of an abstract, here is a brief excerpt of the content:

Reviewed by:

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Britt P. Tevis (bio)

The eight Jews who have been appointed to the US Supreme Court personify Jewish political power and/or professional success. David G. Dalin never says as much, but it is presumably this supposition that inspired his book *Jewish Justices of the Supreme Court: From Brandeis to Kagan*. This work spotlights the Jews who have served or currently serve on America's highest court. Dalin's book proceeds chronologically. Chapter One examines presidents' appointment of Jewish lawyers to less prominent posts. The eight subsequent chapters discuss the justices' careers and relationships with the presidents who appointed them and then assess their Jewish legacies.

Scholarship about American Jewish legal practitioners can be divided into a handful of categories: biographies, autobiographies, texts that address the nexus between Jewish lawyers and antisemitism, and those that discuss Jewish lawyers and judges but not as Jews. Dalin's work, a collective biography that presents short narratives of the justices' lives, falls neatly into the first of these. It is not a group biography, as it does not draw parallels between the justices' lives or reveal much interaction between them. Yet Dalin's text is also something of a departure from **[End Page 305]** contemporary American Jewish histories, which tend to define "Jewish" broadly. Dalin's work, by contrast, defines Jewish primarily as a religious designation. His evaluation of the justices' Jewishness measures the degree to which they performed normative religious practices and, to a lesser extent, considers their encounters with antisemitism and involvement with Jewish communal organizations.

Using this definition, Dalin concludes that Louis D. Brandeis's Jewish legacy is "complicated" (75). Brandeis was cremated, which is against Jewish law, and Kaddish was not recited at his funeral, yet he legitimized Zionism for many American Jews and Christians. Felix Frankfurter's legacy is "enigmatic" (181). He worked for a Protestant firm, never attended synagogue, and married a Protestant. He did, however, request that Kaddish be read at his funeral. Abe Fortas wed a non-Jew, abandoned

Orthodoxy, and avoided Jewish communal life, and thus his “Jewish religious legacy was negligible” (241). Arthur Goldberg, a life long Zionist, hired many Jewish law clerks, advancing their careers at a time when anti-Jewish bias was widespread in the legal profession. Benjamin Cardozo, a Sephardic Jew, was the only justice who kept kosher and alone “maintained a life long affiliation with an Orthodox synagogue” (113). Assessing the three currently serving Jewish justices, Dalin determines that Elena Kagan “seems to have a stronger Jewish religious identity and involvement than either Justice Stephen Breyer or Ruth B. Ginsburg” (273).

For readers unfamiliar with the Jewish justices, Dalin’s book constitutes a fine primer. Dalin is a fluid writer and includes charming personal details of his subjects’ lives, which make for enjoyable reading. Those interested in learning about the justices’ religious practices will appreciate this work, as will readers curious about the justices’ social networks.

For readers craving fresh historical analysis, however, this work falls short. It includes little unpublished information. Dalin’s endnotes indicate that he relied almost exclusively on secondary sources. Further, Dalin relies on what readers already know—that these eight Jews rose to the top of their profession—to justify writing about them as a collective without offering new insights about this group of high-achieving Jews. He neglects to frame the Jewish justices as a group using anything beyond chronology. The discussions of the relationships between the Jewish justices and the presidents who appointed them are interesting, but Dalin never explains how to understand these appointments or relationships in the context of Jewish power or success.

Likewise, Dalin’s narrow definition of Jewish imposes a dubious hierarchy on the justices, elevating certain expressions of Judaism over others. Ginsburg served as a camp rabbi, has sporadically attended **[End Page 306]** synagogue throughout her life, and has published works with Jewish themes and content. Nonetheless, her Jewishness is deemed “less than” Kagan’s. Breyer “may be the least religious” of the three current Jewish justices (276). Contrasting and ranking the Jewish...

in conversation with her experiences as a consul and her abundant correspondence, Aizenberg reveals a Mistral who was deeply committed to identifying injustice toward Jews (which had indeed started well before the Holocaust) and who had fought openly for the creation of the State of Israel.

As a historian, I found Aizenberg's archival work and contextualization deeply rewarding. The readers get to see these authors as humans responding to the events in Europe and their fictions as closely interwoven with those experiences. Aizenberg also reconstructs the rich analytical webs created by critics who, for the most part, ignored these writers' engagement with the Shoah. Aizenberg addresses issues of the representation of the Shoah and successfully places these writers among others around the world who spoke against these atrocities. This book should be a great resource to scholars who teach about Holocaust literature but do not include voices from outside of Europe and the United States.

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Jewish Justices of the Supreme Court: From Brandeis to Kagan. By David G. Dalin. Waltham: Brandeis University Press, 2017. xiii + 384 pp.

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