As Cicero reports it, Cato was amazed that one haruspex could refrain from laughter when seeing another (Cic., Div. 2.51). Yet Cicero himself declared that religious piety was a principal cause underlying Roman military success: *pietate ac religione atque hac una sapientia, quod deorum numine omnia regi gubernarique perspeximus, omnes gentes nationesque superavimus* (Cic., Har. 19). A single priesthood, the *fetiales*, was involved in a fascinating intersection of military, religious, and legal powers. The boundaries separating those three powers are more distinct in the modern age, so their ancient symbiosis often seems mystifying, a problem Alan Watson attempts to unravel by exploring the beginnings of the archaic fetial priesthood.

Watson’s title gives the impression of surveying a vast trilogy (law, war, religion) in the context of archaic Rome, a time for which reliable literary and historical sources are extremely rare. In fact, Watson’s topic is limited to a much narrower focus, the *ius fetiale* and the functions of that priesthood in archaic Rome. This is a new topic for Watson, an appropriate extension of his previous work.\(^1\) While the focus of his work is the archaic age, Watson scatters a few observations about fetials in the Republic. One of the last chapters, entitled “Survival and Change”, evaluates six major texts of the Republic and Empire that involve fetials, the last one in A.D. 359. Watson finds those texts largely consistent with archaic fetial doctrine.

The book is organized into nine chapters wherein Watson clarifies or emphasizes important legal principles for understanding fetial law. In chapter one (“The Fetials”) the province of this priesthood is explained as a reciprocal relationship with other Latin peoples whose function was to keep the peace, to prevent war, and to sanction treaties to end war. In short, they extended every legal opportunity to avoid war. Watson’s careful reading and acceptance of the pri-

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\(^1\) One could have hoped for better editing and/or proofreading from a distinguished university press: p. 10: "if only men like he could demand clothing"; p. 14: "commited"; p. 30: "reknown"; p. 62: "nourished by the mother, who he calls ..."; p. 77: "ad nauseum".

mary testimonia is refreshing in the face of so many skeptical interpreters—he constantly resists the modern Ambrose Bierce-style of cynicism wherein peace is dimly viewed as "a period of cheating between two periods of fighting."

Chapter two ("Testis, Witness: Testis, Judge") reveals Watson's fundamental observation about fetials based on comparison with private archaic law: testis meant judge as well as witness in early law. The consequence for interpreting fettual action is that, as with a similar re-interpretation of early litis contestatio, we understand the fettial litis contestatio to mean "the call [to the gods] to act as judges" rather than "the plea to act as witnesses." With this new interpretation the judicial metaphor of war includes a nonpartisan judge.

Chapter three ("Declarations of War") continues the trial metaphor: "The decision to fight a war is only a decision on how to enforce the judgment of Jupiter" (p. 25). Watson then lists various parallels of fettial war declaration and private law, such as the similarity between the fettial emissio hastae and the manus injecctio of private law (p. 26); legal representation in private law and the fetials as representatives among international disputes (pp. 22-3); grace periods (p. 24); the absence of machinery to provide the execution of judgment, common to both private and fettial law (p.25). Watson also demonstrates (pp. 24-7), using just one fettial text from Livy, that the three parts of legis actio correspond nicely with fettial ritual. First, the appointment of a judge and declaration of wrongdoing (in iure) correspond to Jupiter's being appointed judge in fettial ritual (Liv. 1.32.6-7). The second part of legis actio, evidence and judgment (apud iudicem), is not as closely paralleled in fettial ritual, but a second judgment occurs wherein all the gods are called upon to judge, thus entering on record that Jupiter gave his verdict for the Romans (Liv. 1.32.8.12a). The final part of legis actio (per manus injecctionem) begins the execution of judgment, and has its parallel in fettial law (Liv. 1.32.12b-14). As Watson states, "the extent of the parallel with private law is, of course, remarkable" (p. 27). The reasoning for such legal ritual Watson explains thus: "This approach to the declaration of war has important consequences. First, the Romans have the psychological advantage of knowing, even before the fighting begins, that they have the verdict of the gods. Their war is just. Second, this conclusion is not shaken even by a Roman defeat. A defeat in the just war shows that the Romans were unable to execute the gods' judgment. Execution of judgment is not the affair of the gods. Third, a breach of faith after a treaty or declaration of war has, as its secular equivalent, contempt of court. It is notorious that as a general rule judges treat contempt of court as an offense of great seriousness. Breach of faith brings down the wrath of the god" (pp. 27-8. Breaches of faith are described in chapter six).

"Treaty-Making", the subject of chapter four, is a clear argument but offers little new with the exception of Watson's observation that noxal surrender in private law and the deditio of an individual are directly correspondent (p. 37).

In chapter five ("Cautelary Jurisprudence and Judgments") Watson speculates on the dual nature—legal and religious—of fettial duties. Watson is comfortable with the legal half of their dualism, but not the religious half: he finds this priesthood "remarkably unreligious" (p. 42). Watson tries to guess a reason for this: "...elsewhere I have disputed the input of religion into early Roman private law—the Twelve Tables, for instance, are remarkably secular—and now I would
not accept that the *ius fetiale* has a sacred character even though it is the responsibility of a priestly college. In fact, the problem is why priests are allotted these tasks at all—secular ambassadors, such as are found elsewhere, could also have performed these functions. And the fetials had no other religious function. The explanation which I will develop...is that the fetiales were most likely a special creation of the Latins who were ethnically related...who had no common political institutions, but did share religious traditions, and were faced by powerful enemies. Advantage was taken of the shared religion to have priests as ambassadors whose real function was to preserve peace among the Latin peoples when conflicts arose among them” (pp. 42-3). This is compelling reasoning if one accepts the premise that such duties are in fact divorced by nature from religious interests. But it is a distinctly modern notion to relegate religion to a safe distance from political and military arenas, or from national and international law. It is not difficult, I think, to demonstrate that the ancient world shared a much different view of religion.

In chapter seven (“Surrender of an Enemy City”) Watson examines how fetials have no involvement with *deditiones* (except of individuals), and further summarizes their limited role into roughly four areas: 1) Ritual surrounding the making of treaties, primarily aiming for peace, 2) Declarations of war, ensuring that war is just and declared only as a last resort, 3) Demands of reparation, 4) Surrender of individuals. What fetials are *not* involved in Watson also finds noteworthy: 1) Accepting the surrender of a community, 2) Reconsidering if a war is just or not (as *augures* could reconsider the auspices of a general), 3) Attending to vows of generals (a duty of the *pontifices*), 4) Becoming involved with *evocatio* (which was the province only of a dictator or top general).

Endowing the confusion of historical evidence with the simplicity of ingenious interpretation is the mark of good and innovative scholarship, which is precisely what Watson has done with this book. It will be interesting to observe its reception among many scholars (especially among the Germans) who are interested in similar topics such as imperialism,¹ or the social/legal/religious structures of war. Let a few minor observations here begin the process:

Watson does not sufficiently examine the “just cause” doctrine in its development. He claims that attention to it fell into desuetude along with the fetials: “one need not hold that...the Romans still believed that a just cause was needed for a just war: performance of the modified formalities may have been sufficient” (p. 57). Watson must explain the concerns of many Romans—at the very least Cicero—who wrote at length on just cause theory in the *late* Republic. The duty of determining just cause might easily have fallen not into desuetude but into the province of secular officials such as military or legislative leaders.

Watson is aware of the problematic and scanty evidence for this early period. Attempting to anticipate criticism, he forwards the premise that religious formulae could not be invented for propaganda purposes, citing Georges Dumézil as expert testimony (xii-xiii). But Dumézil and Watson are both unconvincing on this point. Julius Caesar and Augustus both, to cite but two examples among

¹For a recent overview with good bibliography, see Jörg Rüpke, *Domi Militiae: Die Religiöse Konstruktion des Krieges in Rom* (Stuttgart: Franz Steiner, 1990).
many, confirmed their powers *eo modo*. Nevertheless, we should cautiously accept Watson's premise, for the moment, in order to enjoy the illuminating consistency his arguments bring to an otherwise confusing body of evidence.

The book is attractively produced (and priced) by Johns Hopkins Press. Latin quotes are handily translated for the general reader, with the Latin given in footnotes for scholarly interest. Unfortunately, the same benefit is not extended to Greek sources, and there is a substantial amount from Polybius and Plutarch. This is a serious lacuna that is mystifying in an age when computer generated typesetting makes the inclusion of Greek a relatively simple affair. Watson's style and the book's editing have produced a work that is highly accessible. I found only one spelling error ("Levy" for "Livy", p. 29) and one typographical error (misplaced ending quotation mark near the middle of p. 32). Finally, despite the book's brevity, a topical index would have been helpful.

On the last page of the book (71), Watson throws a hand grenade into the fray—judiciously phrasing it as an "open question"—by linking the demise of fetial law (among equal Latin states) with Roman imperialism. Subsequent to their forays outside those states, the Romans had the gods on their side, while the opposition did not, thus making their expansion a rather easy—and easily justifiable—affair. This is an interesting and novel idea in an area that has attracted a great deal of scholarly attention, and it is not without counter arguments. Surely, Watson is rather provocative for introducing this in his concluding paragraph, and we should therefore demand reparations from him in the form of writing on the relationship between imperialism and fetials in the Republic.

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