

Alan Watson 1933–2018

O. F. Robinson*

Professor Robinson writes on the death of Alan Watson, Distinguished Research Professor and holder of the Ernest P. Rogers Chair at the University of Georgia School of Law.

Alan Watson (William Alexander Jardine Watson) was born October 27, 1933, at Hamilton, near Glasgow, into a working class background where poverty was real — it was 1933 — but, typically for Scotland, poverty did not exclude respect for the intellectual side of life. Alan acquired a deep interest in literature and politics from his father, an unskilled railwayman, whom he loved dearly. He had tuberculosis in his childhood, which kept him out of school for a year (and may also have helped to save him from National Service later). This, however, provided him with opportunities; as he convalesced he roamed the Clyde valley and immersed himself in its natural history. He enjoyed country pursuits, bird-watching, fishing, shooting, as well as walking, all his life.

From Hamilton Academy he went to the University of Glasgow to read Arts, graduating in 1954 with an Ordinary degree as was normal for those days. Then he took his law degree in 1957 while at the same time serving an apprenticeship — as, again, was normal in those days — with Alexander Stone, solicitor. Alan chose not to qualify as a legal professional, although entitled to, but preferred to pursue the academic life. In this he was encouraged by J. A. C. (Tony) Thomas, the then Douglas Professor of Civil Law at Glasgow, whose external examiner was David Daube, a Jewish refugee and one of the leading legal scholars who fled Nazi Germany. Daube was Regius Professor of Civil Law at Oxford and he was impressed by the young Watson. Hence Alan went to Oxford in 1957 with a lectureship at Wadham College, obtaining a Fellowship at Oriel College in 1959, and he achieved his D.Phil. in 1960. Its topic was the contract of mandate, and it was published as a book by the Clarendon Press in 1961.¹

* Douglas Professor of Roman Law Emeritus, University of Glasgow.

¹ *Contract of Mandate in Roman Law* (Oxford 1961).

Daube was Alan's mentor, his *Doktorvater*, his inspiration. Roman law in the mid-twentieth century was dominated by German scholarship, predominantly dogmatic as epitomized by Max Kaser, and focussed on the internal development of the Roman texts, and the majestic construct of the classical law expounded by Ulpian and passed on by Justinian. Daube was interested in (Jewish) Biblical as well as Roman law, and also in comparative law. Daube had a far more questioning approach than his contemporaries, one much more likely to seek the back story. So it was that Alan set out at the start of his career to explore the nature of pre-classical law, Roman law in its truly creative period before the formalization of the Praetor's Edict. He wrote five books between 1965 and 1974 on the law of the later Roman Republic, investigating the relatively few texts of that period.² He also wrote books on the Rome of the Twelve Tables, finding in the archaic period hints of what was to come.³

Oxford was fun, but Alan found himself drawn back to Scotland and to a chair; he was appointed Douglas Professor of Civil Law at Glasgow in 1965. Then the lure of the capital took him to the chair of Civil Law in Edinburgh in 1968. *Legal Transplants* was published in 1974,⁴ *The Nature of Law* in 1977;⁵ he was moving away from Roman law as the only subject really worthy of study. Frustration at the British government's lack of support, and particularly funding, for universities led him to the University of Pennsylvania in 1979. But there were problems there with what he saw as the university's disregard of animal welfare in its laboratories, and the climate was harsh. He married his second wife, Camilla, whose family came from South Carolina, in 1986, and they both moved to the law faculty in the University of Georgia at Athens, where he remained for the rest of his career, though he was never tempted to forsake his British citizenship.

His wedding was celebrated not only in the United States but also with a grand party at Kilfinan in *Ecosse profonde*. In 1984 he

² *The Law of Obligations in the Later Roman Republic* (Oxford 1965); *The Law of Persons in the Later Roman Republic* (Oxford 1967); *The Law of Property in the Later Roman Republic* (Oxford 1968); *The Law of Succession in the Later Roman Republic* (Oxford 1971); *Law Making in the Later Roman Republic* (Oxford 1974).

³ *Rome of the XII Tables: Persons and Property* (Princeton 1975), and, later, *International Law in Archaic Rome: War and Religion* (Baltimore 1993).

⁴ *Legal Transplants: An Approach to Comparative Law* (Charlottesville, VA 1974), 2nd ed. (Athens, GA 1993).

⁵ Edinburgh 1977.

had bought an old mill in this Argyll village in order to keep in touch with his roots. For many years he spent much of the vacations there, enjoying country pursuits, and a lively range of friendships. It was based on his experiences there that he wrote one of his most insightful articles, pointing out that few real-life transactions actually conform to legal structures.⁶

Alan revelled in the wider set of interests made possible by more research time. He developed (with a second edition in 1993 of *Legal Transplants*) the thesis that met, and still meets, much opposition: that law was often transplanted wholesale, as in Turkey or Japan, not because it sprang from a common *Volksgeist* or sociology, but for convenience. Only in his wilder moments did he deny there was normally some connection between law and history, law and culture, but he held that it was not necessary, and he could illustrate his point on the autonomy of law neatly from Roman examples, such as the *SC Silanianum* of AD 10.⁷ A linked area of interest, rather more obvious in Georgia than Philadelphia or Edinburgh, was the law of slavery. *Roman Slave Law*,⁸ published in 1987, was rapidly followed by *Slave Law in the Americas*⁹ in 1989. The Romans had used their slaves to the fullest capacity of their intelligence; it made them more valuable. Alan shows how most modern European societies tried to keep slaves illiterate, for fear of their getting insufficiently respectful. A little later, partly arising from his observations on southern church-going, he went on to write on the life and teaching of Jesus; his treatment was sometimes upsetting to students used to a literal interpretation of the Bible. Five books, including *The Trial of Stephen*, were published between 1995 and 1998.¹⁰ These revealed Alan's intimate knowledge of the texts he worked on, and his ideas were always plausible, if not always convincing. He continued writing, albeit somewhat less profusely; if the quantity declined, the quality did not.

⁶ "Artificiality, Reality and Roman Contract Law," *TRG*, 57 (1989), 147–56.

⁷ See *Roman Law and Comparative Law* (Athens, GA 1991), 102–103 (the *SC* subjected the slaves of a murdered owner to torture and execution, thus encouraging them to protect their owner, but by juristic interpretation slaves merely held in usufruct — equally within the purposes of the *SC* — were not tortured or executed if the usufructuary were killed).

⁸ Baltimore 1987.

⁹ Athens, GA 1989.

¹⁰ *Jesus and the Jews: The Pharisaic Tradition in John* (Athens, GA 1995); *The Trial of Jesus* (Athens, GA 1995); *Jesus and the Law* (Athens, GA 1996); *The Trial of Stephen: The First Christian Martyr* (Athens, GA 1996); *Jesus: A Profile* (Athens, GA. 1998).

How can one sum up Alan? A master of many languages, gifted with a magnificent memory, huge energy, unceasing curiosity, and refusal to accept established beliefs just because they were established. There was always a sparkling flood of new ideas, not all credible, but better exposed in the academic marketplace than uncommunicated. He was a superb teacher, with a real interest in his students. It was a great loss to the world of scholarship when a sudden and severe illness in 2011 put an end to his active career, but he never ceased to love and read his books, and to enjoy walking the dog. I am assured that he very much enjoyed his eighty-fifth birthday, a couple of weeks before his death.

I must end with a very personal note. Alan was *il mio padrone*. Out of the blue, more or less, he invited me to Glasgow to become his Assistant (the last year such a post was possible) because he had developed a course in Roman public law and needed someone to teach it, whereas I, married with two children, despite my Ph.D. needed in those days to convince the academic world that I was employable. There were arguments and love for the next half a century.
