

IN MEMORIAM

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ALAN WATSON (1933–2018)

It was with regret and sorrow that we received the news that Alan Watson (William Alexander Jardine Watson), Co-Editor-in-Chief of the *Annals of the Faculty of Law in Belgrade – Belgrade Law Review* since 2008, passed away on 7 November 2018.

One of the most celebrated legal scholars of the second half of 20th and early 21st century, renowned as an eminent comparative lawyer, legal historian, Roman law expert, a person with immense knowledge of many legal systems and many languages, died as the holder of the Ernest P. Rogers Chair at the University of Georgia School of Law. He also served as Professor of Civil Law in the University of Edinburgh from 1968 to 1980 and remained there as an Honorary Professor. He was holder of several honorary degrees, from the universities of Edinburgh, Glasgow, Palermo, Pretoria, Stockholm and Belgrade.

Alan Watson was born in Hamilton (Scotland) and was educated at the universities of Glasgow, Edinburgh and Oxford, at all of which he later taught. He used to proudly point out that in 1957, at the oral exam in civil law, the external examiner, renowned professor of Roman Law David Daube, asked him if he would like a job at Oxford, as his assistant. So he became a lecturer at Wadham Colleague, moving two years later, with tenure, to a Fellowship at Oriel, acquiring additionally position of the Head of Law Department. In 1965 he returned to the University of Glasgow as Douglas Professor of Civil Law and moved after three years to the University of Edinburgh. He was also engaged at the same time at

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Tulane University Law School in 1967, University of Virginia Law School in 1970–1974, and University of Cape Town in 1974–1975. In 1979 he continued his career at the University of Pennsylvania. Finally, partially for family reasons, he moved to the University of Georgia in 1989, as Professor of Law and Distinguished Research Professor.

He published many books and articles on Roman law, comparative law, Scottish, English and U.S. legal history, slave law in ancient Rome and the Americas, and law in the Gospels. He has been described as “the greatest man with texts since Irnerius in the 11th century”, “probably the greatest living scholar of Roman legal history”, and “the foremost scholar of comparative legal history in North America”. He gained world fame with his book *Legal Transplants: An Approach to Comparative Law*, as the inventor of the term and concept of legal transplants which became omnipresent in legal literature until today. His approach was severely criticized by Marxists, sociologists and many other scholars, particularly due to his thesis that law is on a large scale borrowed from a very different place and survived to a very different time. He admitted that economic development, social circumstances, religious outlook and other factors play a significant role in the evolution of law, but he constantly stressed that transplanting is the most fertile source of legal development. “Most changes in most legal systems are the result of borrowing.” All the more, he strongly promoted the idea that chance sometimes plays an important role in lawmaking processes through transplanting. Those almost heretical thoughts brought him a lot of antagonism, but his theory survived the test of time: it came to be one of the most widely adopted concepts in contemporary comparative law and it is still inevitable in explaining how law is changing. Today when a comparative lawyer or a legal historian says “legal transplants”, Alan Watson is the first association.

The second most important scholarly symbol connected to Alan Watson is the English translation of the *Digest of Justinian*, in two volumes, published by the University of Pennsylvania Press in 1985. It remained the most reliable edition of the *Digest* and the only complete translation in English of the most relevant Roman law source. Due to his organizational skills and excellent knowledge both of civil and common law, Watson was able to accomplish the complete undertaking and to revise the whole edition, being prepared to and capable of facing the tough problem of the different legal terminology of the two legal families.

Alan Watson was also General Editor of the prestigious *Spirit of the Laws* series of books, revealing the nature of legal systems throughout the world (The University of Georgia Press). The title of the series was evidently associated with Rudolf von Ihering’s *Geist des römischen Rechts* (1852 onwards) and with the notion of “spirit of the people” (*Volksgeist*), favored by the historical school of jurists and Karl Friedrich von Savigny.

The basic point of the series was not to study rules and institutions of a particular legal system but to understand the approaches and the values of those who created the law. Watson's leading idea was to disclose relationships between the laws in different legal systems and society, religion and moral perspectives, the degree of complexity and abstraction, attitudes towards possible sources of law (particularly to customary law), importance of authority, and values enshrined in law – all in line with his preferred legal transplants theory. He was himself the author of the first volume *The Spirit of Roman Law* while other books of the series include Chinese law, Biblical law, Talmudic law, canon law, common law, Hindu law, customary law, Japanese law, and international law. Watson's series denote an important landmark in comparative legal history and valuable heritage for future generations of scholars.

Of the several dozen books that he published, one is connected to the University of Belgrade School of Law which he visited quite often. Once he complained that he wrote a book on American legal education but that he could not find a publisher in the U.S. as the title and its content were quite provocative (very typical of Alan). The publishing house *Dosije*, hosted by the University of Belgrade School of Law, accepted his manuscript. The book appeared in 2005 with the title *The Shame of American Legal Education* (the second edition was published in the U.S.A. by *Vandeplas Publishing* in 2006). In that book Watson wrote a new blasphemy, so characteristic for his habitus: “American legal education is shamefully bad. Casebooks are endemic, especially in the first year, teaching by terror. Abridged cases are presented, shorn of context, with little support law. Students are to find legally appropriate responses, without being given the law, but professors are provided *gratis* with ‘Teachers Manuals’ that provide the acceptable answers! Tenure is granted mainly on two law review articles. The acceptable reviews are edited by students who have no expertise, and articles are almost always bloated, with any insight concealed. The articles, though, play almost no part in legal education. Much of importance is omitted from the standard curriculum: sources of law, relationship of law to society, and factors of legal development... But my purpose is not negative. I hope to achieve reform.” In the Epilogue of the 2005 edition he also wrote: “The present failings do not lie with the intellectual weaknesses or idleness of the students, but with the whole system of education. I state openly and without exaggeration my considered opinion that first-year law students at the University of Belgrade, where the law is an undergraduate degree, have more sophisticated understanding of the relationship of law to society, the historical underpinnings of the law, the impact of foreign law, and the operation of law in society, than have American law school graduates.”

During his frequent visits and lectures at the University of Belgrade Law School he became one of the most beloved foreign professors by the students, and the love was mutual. He had particular affinity for their vivid interactive communication, foreign language skill and their sense to interpret law in the social context. So he decided to create the *Alan Watson Foundation* to award papers written on the topics related to legal transplants at annual competitions (more information available at <http://awf.ius.bg.ac.rs/>). Additionally he developed many friendly relationships with students and his fellow law professors, and he became their advisor in many academic efforts. For his contribution to legal history, comparative law and other scholarly fields, as well as for his overall support to the School of Law in Belgrade, he received PhD *honoris causa* title from the University of Belgrade in 2008.

In 2008 Alan Watson accepted invitation to become Co-Editor-In-Chief of the *Annals of the Faculty of Law (Belgrade Law Review)* and he contributed a lot to its quality, including an article that he published here in Serbian, which became latter a part of books that he was preparing. He also became an honorary member of the *Forum Romanum*, the society of students and law professors who hold sessions every Friday evening at the University of Belgrade School of Law since 1970. Meetings are usually followed by lectures on different topics, mostly on legal history and history in general, comparative law and all legal disciplines, poetry, music, overall culture, sciences and all issues that might be of interest and useful for the *Forum Romanum* members. Alan Watson was our favorite guest who gave at least a dozen lectures there.

He shared in both the best and the worst moments of our lives, including challenges during the bombing and sanctions imposed to Serbia during 1999. His letters of encouragement, attempts to find ways around the sanctions to send us books, efforts to explain to his American friends why the bombing did not solve the problems, his immediate visit to Belgrade when the air-campaign was over, his support to renewal of intellectual and academic connections with many colleagues abroad made a deep mark on our relationships. This is why his photo found its place in the *Forum Romanum* room only a few days after he passed away, keeping the long-lasting memory of Alan Watson.

Alan will be remembered as one of the most popular and prominent scholars of Roman and comparative law, the originator of the notion of “legal transplants”, author of many significant books and studies, *doctor honoris causa* of the University of Belgrade, the founder of the *Alan Watson Foundation*, and for many other achievements. However, most of all he will be remembered by his Belgrade students and colleagues as an extremely warm person and a very loving friend. *Requiescat in pace.*