Education in law in the Scottish universities has a continuous history only from the early eighteenth century. In 1707, the regius professorship of public law and the law of nature and nations was founded in Edinburgh, to be followed in 1710 and 1722 by professorships in civil (Roman) and Scots law respectively. In the University of Glasgow, the regius professorship of civil law was established in late 1713 and first filled in 1714. These developments were not entirely novel. Throughout the seventeenth century, there had been regular, if unsuccessful, attempts to create university chairs in law. While the background to the foundation of the university chairs requires further careful study, we may note that, by at least around 1690, it was thought desirable to introduce the teaching of both civil and Scots law, though the notion of teaching both does go back at least as far as the *First Book of Discipline* of 1561. After the visitation of the University of Edinburgh that resulted from the political and religious settlements of 1688–89, it was proposed to establish a single professorship to teach both civil and Scots law. This proposal in the late seventeenth century is in line with general developments throughout Europe. Nothing, however, was done, probably because no person or body was willing to finance a chair.

In the absence of legal education in the universities, members of the bar started to teach law privately at the end of the seventeenth and the beginning of the eighteenth century. The first three known to have done so were Alexander Drummond in 1699, John Spottiswoode in 1702, and John Cuninghame (or Cunningham) in 1705. They all

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taught both civil and Scots law. Nothing is known of Drummond's teaching other than that he offered his services "to all persons who are desirous to be instructed in the knowledge of the Institutions and Pandects of the Civil Law, and the laws of this kingdom, or either of the two, or both," and that he claimed "by reason of a singular method... in teaching of the civil law... to perfit[e] [sic] and accomplish any of a middle capacity, more in a years time, then [sic] others have been by being abroad and out of the country 3 years." From surviving student notes (and, in Spottiswoode's case, his own records) we can tell that he and Cuninghame taught Scots law by dictating notes to students on Sir George Mackenzie's *Institutions of the Law of Scotland.* (Spottiswoode also gave classes on the style of writs and civil process.) These classes were taught in English. There is no information on Spottiswoode's lectures on Roman law, other than that they were based on Böckelmann's compend of Justinian's *Institutes,* but student notes survive from Cuninghame's classes, and he taught a course on the *Institutes* in Latin.

Throughout the first half of the eighteenth century in Scotland, the practice of teaching Roman law in Latin and Scots law in English seems to have been maintained. After 1750, however, there was a move away from teaching civil law in Latin at the University of Glasgow, for on March 5, 1768, the faculty of advocates and its dean deplored Professor John Millar's practice of lecturing in English on civil law. Millar, however, was following and extending an innovation of his predecessor in the chair. Thomas Reid, writing in the 1790s, obviously thought this change to teaching civil law in English was natural, and that what needed to be explained was why the practice of teaching it in Latin had lasted so late. His explanation was "want of competition," because there was only one professor teaching law in Glasgow. This seems insufficient, because Scots law was presumably taught in English, and it seems fair to assume that it would have been easier for the professor to teach in English as well as more attractive to the students. Given the dependency, praised by Adam Smith, of Scots professors on fees from students, it is possible, though far from certain, that once the class in civil law was taught in English in Glasgow, the professor of civil law in Edinburgh might feel pressure to do likewise. There was, however, more at stake than attracting students. Instead, a new method of teaching, influenced by new emphases in rhetoric in eighteenth-century Scotland, along with a new aim in teaching civil law, led some professors to lecture on civil law in English, rather than the traditional Latin.

This article will be in four parts. In the first I shall argue that the
Theories of Rhetoric and Choice of Language

Until the late 1750s, and certainly in the University of Edinburgh, the textbook used to teach Scots law was Sir George Mackenzie’s *Institutions of the Law of Scotland*, written in the vernacular. Forbes, the first regius professor in Glasgow, wrote in English his own textbook on Scots law after initially using Mackenzie’s *Institutions*. Furthermore, there is no hint that Spottiswoode, who seems in so many ways to have established the pattern for legal education in eighteenth-century Scotland, ever considered teaching Scots law in Latin. This might suggest that the decision to teach Scots law in English and civil law in Latin was a simple and unexamined one, relating to the materials used as the basis for classes. This would be wrong. At the start of the eighteenth century, Latin was the normal language of instruction in all subjects in the Scottish universities. Scots advocates were familiar, moreover, with the practice in the Netherlands, where the modern law was taught in Latin. In the University of Leiden, for example, Johannes Voet lectured in Latin to his class on *ius practicum* or *hodiernum*, though he used as his textbook Hugo Grotius’s *Inleidinge tot de Hollandsche Rechtsgeleerdheid*, written in Dutch. Though it is possible that the choice of the language for teaching may have been related to the languages in which were carried out the trials for admission as an advocate, there were other, deeper, reasons that underlay all these usages of English in connection with writing, examination, and teaching in Scots law: These were reasons derived from the study of rhetoric and eloquence that led to the use of the two different languages in teaching Scots law and civil law.

Sir George Mackenzie was the most erudite of the Restoration lawyers of Scotland. As dean of the faculty of advocates, he pursued policies that emphasized educational matters, and which did much to define the role of an advocate and the character of the bar. One of his interests was the study of rhetoric. He published two collections of...
pleadings, one in English, the other in Latin, both of which he prefaced with essays on the eloquence necessary for practice at the bar. In the English essay of 1672, in his arguments on the benefits to the advocate of the study of rhetoric, he showed himself aware that there were important issues at stake in choice of language. He argued, for example, that Scots was a better language for oral argument in court than English. Furthermore, he wrote that he “love[d] equally ill, to hear civil Law spoke to in the terms of a Stile-book, or accidental Latin, . . . as to hear the genuin words of our Municipal Law, forc’d to expresse the phrases of the Civil Law and Doctors.” The choice of language for teaching Scots and civil law was accordingly to be related to a sense of what was fit and suitable for communicating the concepts and ideas of the two different systems. It is difficult to know how widespread Mackenzie’s ideas on this were, but it is worth noting that this essay appeared in a new edition in 1704 and was included in the first volume of his collected Works in 1716.

For Mackenzie, “eloquence [was] that Art, by which the Orator at once convinces, and pleases his hearers.” This was a standard, indeed classic, view. Locke, for example, in 1690, condemned the study of rhetoric, stating that “all the Art of Rhetorick, besides Order and Clearness, all the artificial and figurative application of Words Eloquence hath invented, are for nothing else but to insinuate wrong Ideas, move the Passions, and thereby mislead the Judgment. . . . [I]n all Discourses that pretend to inform or instruct, [Oratory is] wholly to be avoided.” The aim of rhetoric was to persuade, whether this was viewed with favor, as by Mackenzie, or with hostility, as by Locke.

A major influence on Millar was Adam Smith, who, under the patronage of Lord Kames, had lectured privately on rhetoric in Edinburgh, probably over the years 1748 to 1751. After appointment as professor, first of logic, then of moral philosophy, in the University of Glasgow, he continued to give lectures on rhetoric and belles lettres, from which one set of student notes survives. W. S. Howell has convincingly argued that in these lectures Smith changed the focus of the study of rhetoric from persuasion to communication. In contrast, for example, with the opinion of Locke, and indeed all other classical definitions of rhetoric, there is the view of another Scot, George Campbell, principal of Marischall College, Aberdeen, who wrote that “[i]n speaking there is always some end proposed, or some effect which the speaker intends to produce in the hearer. The word eloquence in its greatest latitude denotes, ‘That art or talent by which the discourse is adapted to its end.’ ” Hugh Blair, the first regius professor of rhetoric and belles lettres at the University of Edinburgh (1762–84), in his
lectures (first printed in 1783), after rejecting the notion that eloquence is a trick of speech, or “[t]he art of varnishing weak arguments plausibly,” or pleasing speech, told his class:

To be truly eloquent, is to speak to the purpose. For the best definition which, I think, can be given of Eloquence, is, the Art of Speaking in such a manner as to attain the end for which we speak. Whenever a man speaks or writes, he is supposed, as a rational being, to have some end in view; either to inform, or to amuse, or to persuade, or, in some way or other, to act upon his fellow-creatures. He who speaks, or writes, in such a manner as to adapt all his words most effectually to that end, is the most eloquent man. Whatever then the subject be, there is room for Eloquence; in history, or even in philosophy, as well as in orations. The definition which I have given of Eloquence, comprehends all the different kinds of it; whether calculated to instruct, to persuade, or to please.37

This redefinition of rhetoric and eloquence greatly broadened its scope. As Howell has argued, all forms of discourse and communication, oral and written, popular and learned, came under the aegis of the new rhetoric.38 This would include university lectures, which would be comprehended in Blair’s category of eloquence calculated to instruct. Though there is no direct evidence, this new approach to rhetoric must have caused thoughtful professors to ponder the question: What is the best way to lecture to a class? A subsidiary question would have been: What is the appropriate language in which to lecture?

New Theories of Rhetoric and the Language of Lecturing

In the second half of the eighteenth century, there are indications of concern about the standard of knowledge of Latin among students. The faculty of advocates, who put considerable reliance on examination on Roman law in Latin for admission, expressed worry that there might be a decline in knowledge of Latin.39 It was suggested that Professor Dick, professor of civil law in the University of Edinburgh from 1755 to 1792, gave up teaching in Latin “because he found many of the students were little acquainted with the Latin language.”40 In 1779, obviously alluding to Professor Millar in Glasgow, Hugo Arnot wrote: “Indeed, nothing appears to us more incongruous than to prelect in English upon the Roman law, a practice which in some places is adopted. Some instances of gross ignorance in the Latin tongue have lately occurred, which make it to be dreaded that this key to science is too much neglected.”41 That there was a decline in Latin scholarship
in Scotland at this period has often been alleged; improving the standard of Latin and Greek played a large role in debates in the early nineteenth century over the reform of the Scottish universities. This is, however, scarcely conclusive. Ceasing to teach in Latin in the universities in itself would have promoted decline in Latin scholarship. It is necessary to look farther and investigate the methods and aims of teaching as they developed in the century, bearing in mind the development in theories of rhetoric.

At the start of the eighteenth century, the preferred method of teaching was to work through a textbook, summarizing individual passages, on which notes were then dictated by the professor. Fortunately, Alexander Bayne, the first professor of Scots law in the University of Edinburgh, carefully explained his method of teaching:

The text I choose is Sir George Mackenzie's Institutions... 'Tis wrote very much in the Spirit and Manner of a Text Book, short and concise, and full of Matter...

My first Business will be shortly to give you our Author's Meaning in other Words, and a little more copiously than it was proper for him to do, who meant only to deliver the Elements of our Law for others to comment upon. This being done, I retouch the same Matters in a more formal Discourse, and I add to them such other Matters as are coincident with the Subject of the Paragraph I'm upon, which are to be gathered partly from my Lord Stair's Institutions, partly from the later Decisions, and some of the other Authors upon our Law.

These coincident Matters are suppletory to our Text, and I give you References to the most material of them in short Notes which I dictate. It will be your Care, Gentlemen, to take down these Notes as accurately as you can, and to endeavour to make them your own..."44

The students were advised to make fair copies of their notes, consulting the cited Acts of Parliament, to help in memorizing the contents: memorizing the text and notes was emphasized. More advanced students, who were expected to attend the same lectures again, were advised to correct their notes, and consult the authorities to which they were referred. Bayne gave a great deal of further advice on private study, stressing that "it is not enough in the Study [of law] to know and comprehend the Rules and Principles of it; but we must be at pains to fix them on the Memory." These dictated notes were ultimately the basis of Bayne's published Notes.48

This was the common method of teaching at the start of the century. Spottiswoode said in 1702 that he "begun to teach the Scotch law & dictated to five young gentlemen the forme of Process" and in 1703 he "begun to dictate [his] stylebook." Professors also held "exami-
nations,” that is, quizzes for students on material already covered, to test their knowledge.51 The stress on dictation of notes for memorization was not unique to legal studies, but derived from the identification of intellectual ability with a retentive memory, and a view of education as the imparting of knowledge.52

It is this type of legal education which Lord Kames criticized in the preface to his Elucidations of 1777, when he wrote of studies in Roman law: “[N]othing is presented to the young gentlemen but naked facts. Nor are even those facts selected that are more immediately connected with modern law: all are stated indiscriminately. . . . They load the weak mind with a heap of uninteresting facts, without giving any exercise to the judgment. Is it surprising, that the Roman law, so taught, is held to be a dry and fatiguing study?”53 Kames is here especially concerned to argue on utilitarian grounds that only those parts of Roman law should be taught that relate to Scots law, and that the two should be constantly compared to allow the development of the reasoning faculty; but his point is more general. He wrote elsewhere that “[l]aw . . . [would become] then only a rational study, when it is traced historically, from its first rudiments among savages, through successive changes, to its highest improvements in a civilized society.”54 He complained that, on the contrary, “law, like geography, is taught as if it were a collection of facts merely: the memory is employed to the full, rarely the judgment.”55 The result is that “[o]ur law-students, trained to rely upon authority, seldom think of questioning what they read: they husband their reasoning faculty, as if it would rust by exercise.”56 The only professor Kames exempted from his criticism was Millar.57

Kames’s views on specifically legal education should be read in the context of his general opinions on the subject. In 1761, he published Introduction to the Art of Thinking, in the preface of which he criticized the current state of education: “Upon the revival of arts and sciences in Europe, the learned languages, being the only inlets to knowledge, occupied almost the whole time that commonly can be spared for education. These languages are and will always be extremely ornamental; but though they have become less essential to education than formerly, yet the same plan continues without much variation.”58 In contrast with the teaching of the ancient languages, the capacity for abstract reasoning in his view was not cultivated sufficiently carefully, and students were introduced too early and too quickly to logic and metaphysics after their preliminary studies and without adequate preparation. His book aimed, through a discussion of human nature, to develop and improve the faculty of abstracting generals from particulars,
and hence the ability to reason. The underlying idea obviously was to encourage those working through the book to formulate general principles from rules Kames gave and situations he depicted. In his general attitudes to education, there is an emphasis on developing the reasoning ability and on lessening the significance of ancient languages. Kames’s other treatise on education is devoted to the development of sensibility rather than of reasoning; but it is worth noting his view that, for formal, disciplined instruction to be worthwhile, the pupils must be of an age to understand why it is necessary, for, “[t]o torment young creatures with Latin before that time, is likely to make them abhor it.” In the preface to his *Elucidations*, Kames considered the purpose of legal education. He stated that “[i]n other sciences reason begins to make a figure: Why should it be excluded from the science of law?” In legal studies, however, “the exercise of reasoning [was not] promoted in any degree by public professors.” He connected improvement in legal education in this respect with improvement in the laws: “Were law taught as a rational science, its principles unfolded, and its connection with manners and politics, it would prove an enticing study to every person who has an appetite for knowledge. We might hope to see our lawyers soaring above their predecessors; and giving splendor to their country, by purifying and improving its laws.”

Above all, as David Lieberman has pointed out, the modernization of Scots law through the activities of lawyers and judges was of central importance to Kames. Legal education that promoted reasoning and judgment rather than authority and memorization was to bring this about.

In the University of Glasgow, one key figure started to lecture to some of his classes in English, and in a more extemporary fashion. This was Frances Hutcheson, professor of moral philosophy (1729–46). He was specially noted for his skills in capturing his students’ attention by teaching in a lively, interesting way. Alexander Carlyle, for example, who attended Hutcheson’s class, stated that Hutcheson “delivered his lectures without notes, walking backwards and forwards in the area of his room. As his elocution was good, and his voice and manner pleasing, he raised the attention of his hearers at all times.”

Adam Smith, a pupil of Hutcheson, lectured in a similar fashion, and of him Millar stated that “[i]n delivering his lectures, he trusted almost entirely to extemporary elocution. His manner, though not graceful, was plain and unaffected: and, as he seemed to be always interested in the subject, he never failed to interest his hearers.” There is evidence to suggest that Smith preferred his students not to take verbatim notes in his class, probably expecting them to write them up later, because
this involved greater intellectual engagement on their part. A reminis-
cence of Smith's lectures, probably written in 1808, does suggest,
however, that he subsequently gave up extemporary lecturing. However
this may be, it is obvious that the more spontaneous method of teaching
was thought desirable. This attempt by Hutcheson and Smith to catch
more firmly the attention of students was inevitably linked to rejecting
Latin as the language of instruction, as it is difficult to imagine that
extemporary lecturing would have been possible in Latin.

Millar's biographer Craig later wrote: "By degrees, it was discovered
that every man will express his ideas with the greatest clearness and
force in that language in which he is accustomed to think; and that an
audience must lose much of the substance of a lecture, when part of
the attention is necessarily occupied in estimating the exact import of
the words." George Jardine, professor of logic and rhetoric, commented
that "[n]othing, certainly, can more retard the progress of science, and
particularly of elegant literature, than the practice of teaching in a
foreign language." While Kames commented succinctly that "[i]t is
amusing to observe how well an argument passes in Latin, that would
make but a shabby figure in English." Latin might have served when
students were expected to memorize dictated notes, but now the
emphasis was on developing their reasoning powers, which teaching in
Latin would retard.

Given these views on the desirability of making teaching more
spontaneous, and those on the general effectiveness of communicating
in the native tongue of the teacher and students, the choice of English
rather than Latin cannot simply be explained as reaction to a decline
in the standard of Latin: It could be viewed as something desirable in
itself.

From Latin to English in Roman Law

In the University of Glasgow, Francis Hutcheson and then Adam
Smith used English as the language of instruction in classes in moral
philosophy. In the appendix generally attributed to Thomas Reid,
published in 1799 in the Statistical Account of Scotland, the author
wrote of law teaching in Glasgow:

[T]he custom of lecturing in Latin was longer retained in this, than in
other sciences. The predecessor of the present professor was the first
who prelected on Justinian's Institutes in English; and this example has,
for many years, been followed in the prelections upon the Pandects. It
may be mentioned, as a strong instance of prepossession in favour of
Millar, who was professor until 1801, presumably provided this information, so it is likely to be reliable, especially since the account was probably written in 1794. In the past, however, there has been some confusion over the sequence of events and identity of the original innovator. Millar's predecessor was Hercules Lindesay, who held the chair from 1750 to 1761. It is to Lindesay that we must impute the original change in Glasgow, though we lack evidence as to why he made it. Millar's innovation that attracted the criticism of the faculty of advocates appears to have been to extend this practice to the course on the Digest.

According to Hugo Arnot, Dick, the professor of civil law in Edinburgh, still lectured in Latin as late as 1779, the only professor in the university still to do so. In 1826, Professor Irving reported that Dick started to lecture in English around 1786. This is corroborated to some extent by the exclusion of Arnot's remark about Dick from the reissue of his work in 1788. Talking of the 1760s, a student of Dick's reminisced in 1815: "The lectures and examinations of Professor Dick were in Latin and we of course spoke to each other in Latin when conversing on law. This practice our professor shortly after this period gave up." Other than the statement already noted that Dick was influenced in this decision by declining standards of Latin among his students, there is no evidence as to his reasons for making this change: He may simply have been following the trend or been influenced by the views of the period. He may even have been compelled by a desire to attract students, once the professor in Glasgow started to teach in English, in order to maintain his income. Walter Scott's description of Dick as having "never been fit for the situation" might suggest that drawing students had always been for him a problem.

Irving also reported that his own immediate predecessor in the chair of civil law in Edinburgh, John Wilde, who held the chair from 1792 to 1800, lectured in English. This is inaccurate. Wilde taught his class on the Institutes in English and that on the Digest in Latin. Latin was thus the medium of instruction in Edinburgh in one class as late as 1800. It is instructive to compare Millar's and Wilde's methods of instruction and attitudes to civil law for insights into the reasons underlying their choice of language.

Craig devoted considerable attention to describing Millar's techniques of instruction: "He was not merely desirous to convey to his students
just views and accurate information; but he was anxious to convey them in the manner most likely to seize the attention, and to produce habits of original thought and philosophical investigation; thus rendering Lectures, formerly considered as useful only to lawyers, the most important schools of general education.”

He further stated:

Mr. Millar never wrote his Lectures; but was accustomed to speak from notes, containing his arrangement, his chief topics, and some of his principal facts and illustrations. For the transitions from one part of his subject to another, the occasional allusions, the smaller embellishments, and the whole of the expression, he trusted to that extemporaneous eloquence, which seldom fails a speaker deeply interested in his subject. In some branches of science, where the utmost precision of language is requisite to avoid obscurity or error, such a mode of lecturing may be attended with much difficulty, and several disadvantages: But in Morals, in Jurisprudence, in Law, and in Politics, if the Professor make himself completely master of the different topics he is to illustrate, if he possess ideas clear and defined, with tolerable facility in expressing them, the little inelegancies into which he may occasionally be betrayed, the slight hesitation which he may not always escape, will be much more than compensated by the fulness of his illustrations, the energy of his manner, and that interest which is excited, both in the hearer and speaker, by extemporaneous eloquence.

The more spontaneous style also permitted the greater and more immediate responsiveness to the reaction of auditors to the lectures for which Millar was especially noted.

Millar delivered the usual two courses on civil law: one on the Institutes, the other on the Digest. In both, he used the textbooks of Heineccius, standard ones of the day. Millar’s lectures on the Institutes were divided into two courses, in the first of which he worked carefully through most of Heineccius’s relevant volume. The nature of the second course was quite different. One set of student notes of Millar’s lectures reports him as describing it thus: “In our Second [course] we Shall Consider it [i.e., the civil law], and the Laws of other nations Comparatively, & Endeavour to Investigate the principles on which they jointly Depend, & So Reduce them to General Rules.” It could be described as a course of comparative historical jurisprudence. The broad, far-ranging nature of this course can be seen, not only from student notes, but also from Craig’s description of it. It was evidently strongly influenced by Adam Smith’s lectures on jurisprudence, both in its structure and underlying philosophy. Craig described it as a “course of Lectures in which [Millar] treated of such general principles of Law as pervade the codes of all nations, and have
their origin in those sentiments of justice which are imprinted on the human heart. In one set of student notes dated from 1778, the premises underlying Millar’s second course on the Institutes are reported:

It shall now be our chief [sic] employment to enquire into the principles of the Roman Law, and to compare them with those of other countries. The aim of Students of Roman Law at this period, ought to be not merely to know what was the Roman System. That would be of little consequence of itself. . . . It has however a regard paid it as the system of Lawiers and Judges of great experience, and of a country which subsisted for such a long tract of time, and where we may consequently expect to find the rules of Jurisprudence of the most perfect kind. As however in the most perfect of all human Systems, there are numberless imperfections and Blemishes, it will certainly be proper in those who study the Roman Law at this period, to enquire into the justice or propriety of these regulations. This can only be done by comparing it with the Laws of other countries, and with our own natural feelings of right and wrong. This is certainly a very usefull exercise, as it enlarges our experience.

Millar thus viewed detailed knowledge of Roman law in itself as of little significance. His aim in this course was rather to instruct students in the science of legislation. In this, as Haakonssen has admirably demonstrated, he was very much the heir of Smith. Millar derived the rules of justice from the moral sentiments of humankind, whereby actions were approved on the grounds of their utility and propriety. When rules of justice were infringed, the person wronged felt resentment and the spectators felt indignation. Law originated in the interference of spectators in a dispute between individuals to assist the person with whose motives they sympathized—not only disinterestedly to prevent an injustice, but also out of self-interest as they themselves might some day be in a similar situation. Rules of law varied, however, from place to place and time to time, according to the nature, circumstances, and history of different societies. Furthermore, long-established customs were not easily given up, so that, if they were defective, this was not easily perceived. Millar’s jurisprudence was thus not only descriptive but provided a means of assessing existing systems of law and, in Craig’s phrase, directed “[the enlightened Legislator] in the noble, but arduous, attempt, to purify and improve the laws of his country.” The historical and social aspect of Millar’s jurisprudence prevented “inconsiderate innovation, and indiscriminate reform” by showing that “no institutions, however just in themselves, can be either expedient or permanent, if inconsistent with established ranks, manners, and opin-
Millar drew on these ideas in his lectures on Scots law, using his philosophy of law to explain, for example, Scots criminal law. Millar’s law lectures thus aimed at developing law students’ critical and reasoning powers, and it is worth recalling Craig’s remark that Millar’s style of teaching (as well as content) was calculated to achieve this. It is therefore hardly surprising that Kames exempted Millar from criticism.

John Wilde, who in Edinburgh reverted to teaching the class on the Digest in Latin, approached Roman law in a different way. He was strongly conscious, however, of Millar’s practice, for he told his students in his first class in 1792 that he would continue Dick’s practice of using Heineccius’s textbooks, though he was “not certain but a method might be derived better in the arrangement,” adding that “[t]here is another method followed by another Gentleman who has long delivered Lectures on the Roman Law in another University and whose example very naturally leads to imitation.” Wilde’s initial major innovation was to start his class on the Institutes with a series of lectures on the history of the civil law. He did so in the belief, first, that the best way to understand civil law was to approach it historically, and secondly, that students would thereby gain knowledge of the “policy of the Roman people.” In explaining this second advantage of the historical approach, Wilde mounted what seems to be an attack on overly conjectural history and abstract theorizing about politics:

The science of law and government can only be studied, by what has taken place among embodied communities of men; whose history affords the lessons and maxims, which a severe and abstract philosophy may then, with safety, examine and search; and may compound into the original principles of government. . . . While if, on the other hand, these principles are taken up and explained, upon the fancied inventions of theorists; who either do not know or disdain historical wisdom; it then requires nothing more than a small portion of acuteness . . . to maintain, and render sufficiently plausible, any set of opinions whatever; and if, by art or by accident, power is given or obtained, to make the weakest, or most frivolous, of these opinions, the engine of overturning or erecting empires.

Rather than a criticism of Millar, these remarks are strongly colored by experience of the French Revolution (which Wilde had come to abhor). He did carefully distinguish his approach to civil law from that of Millar (whom he never specifically names). Wilde stated that he would “not go an inch beyond the territories of the Roman law.” Obviously alluding to Millar, he said: “It has frequently been esteemed . . . a necessary part of lectures on the civil law, to give an
account of what is called the progress of law; or, in other words, a view of the beginnings and progression of society; or, in other language still, an history of man; or sometimes also an history of government. Such subjects are great and vast and comprehensive indeed; and of as much dignity as can belong to any human study.” He complained, however, that “men very little qualified for the task” had undertaken such instruction (though he carefully stated that he did not know this to be the case for those holding university chairs). He added: “But whatever be the dignity and grandeur of the subject, or whatever the abilities of men, it is, without question, a matter which does not belong to the duty of a professor of Civil law.” As this could appear to be a direct criticism of Millar, Wilde quickly qualified his comment by adding that such an approach was “not only warranted, but of necessity” when “a law college is employed as a sort of general institution, in science, history, and philosophy; delivered under the general name of LAW. . . But this is not the case with me. There are other institutions in this university, where that knowledge may be amply acquired. My duty is to instruct you only . . . in the principles of the Roman law.” Though he thus gave an institutional reason for not following Millar’s example, he nonetheless warned that “this sort of instruction . . . unless when both delivered and heard with great science, and also great sobriety, is very dangerous ground to tread upon.” He concluded his remarks on Millar’s approach to civil law:

I shall give you no sort of dissertation whatever either about the origin of human society, or of its various establishments; neither of the men in the woods, or of the men in cities and nations. But I certainly should not fulfil my duty . . . if I were not to give you an account of the origin and establishments of the Roman law: of the Roman law, on the great and universal system of private rights; BUT mingling it with no general theories of policy and government; which do not belong to me (in the arrangements of study in this university) nor to my office at all.

It would be interesting to know the tone in which this lecture was read; and though Wilde is careful never to criticise Millar directly, it is difficult not to see these remarks as a strong rejection of the latter’s approach. Furthermore, in the preface to his Elucidations, Kames had stressed that those parts of Roman law should be taught that had direct relevance for Scots law. Wilde vehemently disagreed, telling his class that to ignore any part of Roman law would cease to make the study a liberal one, would deprive it of the very utility Kames emphasized, and would also prevent the system as a whole from being understood.

With Wilde’s stress on Roman law for its own sake, and his rejection
of using it to teach the science of legislation, went an emphasis on instruction in Latin. He discussed the choice of language in his first lecture in 1792. He stated that some had recommended him to teach in Latin and others in English. English was recommended, because if he taught in Latin, “considering the little knowledge of the Latin language at present in this Country,” there would be a small attendance and those who came would derive little profit from the class. Wilde himself favored teaching in Latin, considering it “exceedingly preposterous and absurd” to lecture on Roman law in English when all the commentaries were in Latin. He told the class: “I have come to the resolution of Lecturing in lattin [sic] upon the Pandects and of giving the Course of the institutes in English; at least for this season.” He maintained this practice in subsequent sessions. He added:

The Lectures on the Pandects will be altogether taken up with explaining the mere principles of the Roman Law; strictly and without deviating into any sort of collateral enquiry. Constant references will be made to the approved Commentators on that Digest. Of consequence the one half or indeed the greater part of these Lectures must consist of lattin; and in such a course no person can expect to reap any sort of advantage without being tollerably familiar with the Roman tongue. Besides the interlarding (where there is so great a proportion of lattin) of English along with it would only make a sort of distasteful jargon pleasant neither to you nor to me. Accordingly the Lectures on the Pandects are to be in lattin.

In the more elementary course on the Institutes, he considered “this employment of English to have been a happy measure indeed if by means of it any zeal shall be kindled for the general study of a law which both as a liberal science and a matter of much professional importance deserves to be very generally studied indeed.” But in the course on the Digest, because, in contrast to Millar, Wilde intended to focus purely on technical Roman law, “strictly and without deviating into any sort of collateral enquiry,” Latin was to be the language of instruction for reasons of convenience and taste.

In the introductory lecture to his course on the Digest, Wilde explained further his adoption of Latin. He was aware that there were many, “not wholly ignorant” (nec prorsus indoctos), who had decided, and others who had proclaimed, that lectures in Latin were more difficult to understand than in fact was the case. On the contrary, said Wilde, experience daily taught that a sufficiently attentive person could understand lectures in Latin. He alluded to the aesthetic and practical point he raised in the lecture to the class on the Institutes, noting that, while sentences read out (in Latin) could be grasped and remembered,
this was more difficult than understanding and remembering the meaning of a continuous speech, because when the lecturer mixed languages the words were apt to fall on less attentive ears.\textsuperscript{125} He added: "In fact, by virtue of the most acute and attentive intellectual engagement which a continuous discourse demands and, at the same time, produces, it soon comes about that the lecture which is delivered has been adequately perceived by a person scarcely versed in Latin, and unquestionably understood to a large extent."\textsuperscript{126} In other words, use of Latin in a continuous discourse promoted understanding and concentration. Even, Wilde continued, were a student not adequately versed in Latin, by being forced to listen he would benefit "by learning not only the Civil law but Latin. Having learned Latin, he will also be even more learned in Civil law."\textsuperscript{127} The two would reinforce one another and deepen a student's knowledge of both. The road to knowledge might be difficult, but the labor was worthwhile, and the association of the science of law with letters was delightful.\textsuperscript{128}

By thus linking letters and civil law, Wilde to some extent associated himself with the school of humanist jurists for whom civil law was not just a practical study but a liberal and elegant science. This in many ways explains his historical approach. Indeed, he identified himself sufficiently with the elegant school to say of one of its leaders, Cujas, "[H]e appears to have taught the way I would wish alone to teach the higher parts," and he recommended Cujas's palingenetic work to his students.\textsuperscript{129} Furthermore, in his \textit{Preliminary Lecture}, he called for the restoration of civil law "to what it was, long before the compilations of Justinian; when Papinian, Paulus, and Ulpian, were the living oracles of this law; and while it still spoke in the writings of the jurisconsults of old, in the science, and with the vigour, of the republic."\textsuperscript{130}

Wilde has completely rejected Millar's approach. Though study of civil law did indeed have important practical aims in Scotland, it was nonetheless also to be an elegant and liberal study, joining letters with law, complete in itself. Above all, it was not the means to teach the science of legislation. Profound knowledge required Latin, and this consideration, along with matters of taste, required the advanced course on the \textit{Digest} to be taught in Latin. Millar's use of the course to teach students to reason critically about law made use of Latin unimportant. Furthermore, his conversational, extemporary style of lecturing, which was designed to capture the attention of the class, made use of Latin impossible. Wilde, however, considered that the very use of Latin engaged the students intellectually, as they were required to concentrate carefully on the lecture.
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Conclusion

It is obvious that throughout the later eighteenth century there was a general move in Scotland toward teaching in English rather than Latin. This suggests that, although some professors may well have merely followed an existing trend, Millar’s adoption, and extension, of Lindesay’s innovation of teaching civil law in Latin was not simply related to developments in that discipline. Whereas in the early eighteenth century lectures had taken the form of traditional dictates on a set textbook, the new theories of rhetoric of the Scottish Enlightenment promoted reflection on the purpose of a lecture and the best mode of fulfilling that purpose. Traditional methods could be tested by these new standards and found wanting. This sheds light both on Millar’s continuation and extension of Lindesay’s innovation of lecturing in English and on his style of extemporary lecturing from notes rather than a full text. Instruction could be seen arguably to be best carried out in the students’ own language in a lively and interesting manner.

The utilitarian philosophy (if not in a Benthamite sense) of many thinkers in Scotland in the eighteenth century would reinforce this trend. In strong contrast to the views of Wilde, Millar and some others saw civil law as in itself not of particular importance; and the only use Millar made of Latin in instruction was the practical one of examining his students in it, since they would be examined in Latin on civil law in the trials for admission to the faculty of advocates. It is worth noting in this respect that, whereas the faculty of advocates had once emphasized learning in civil law almost to the exclusion of anything else, by the time Millar taught, for essentially utilitarian reasons, a greater emphasis was being placed on learning in Scots law.

Millar was remembered as a particularly inspiring teacher. In his obituary in the Scots Magazine, the anonymous author discussed Millar’s teaching skills: “Few lecturers have possessed, in a more eminent degree, the talents of arresting attention and commanding assent. He never wrote out his lectures, but spoke them from notes which contained his arrangements and facts, trusting for the greater part of his illustrations, and the whole of his language, to his power of speaking; and, though occasionally he might be at a loss for a word, he, by this means, was enabled to give to his manner and expression, an interest, a warmth, an energy, far preferable to the more polished graces of studied composition.” In the Edinburgh Review, Francis Jeffrey twice made similar remarks about Millar’s success in teaching, which he linked to Millar’s vivacious conversational style. Neither Smith, nor Campbell, nor Blair appear to have left any opinions on university lecturing from...
the perspective afforded by their rhetorical theories (the last two focussing on the topics of eloquence at the bar, in political debate, and in sermons),\textsuperscript{137} though Professor Ross has argued that Smith followed his rhetorical precepts in his writings.\textsuperscript{138} The near-universal praise of Millar's qualities as a teacher, and the close correspondence of his style of teaching with that of his mentor and colleague, Adam Smith, allow us to infer that Millar's style of lecturing was that which was preferred by the proponents of the new rhetoric. It was a style best suited to himself, his subject, and his auditors, even though Smith himself may have given up the extemporary style of lecturing,\textsuperscript{139} and, according to Carlyle, Blair was no orator other than in the pulpit.\textsuperscript{140} It is worth noting Dugald Stewart's comment that Smith "had sent [his cousin, David Douglas] to study law at Glasgow, under the care of Mr. Millar; — the strongest proof he could give . . . of the esteem in which he held the abilities of that eminent Professor."\textsuperscript{141} In discussing sermons, Blair made the following remarks: "No discourse, which is designed to be persuasive, can have the same force when read, as when spoken. . . . What is gained hereby in point of correctness, is not equal, I apprehend, to what is lost in point of persuasion and force. They, whose memories are not able to retain the whole of a discourse, might aid themselves considerably by short notes lying before them, which would allow them to preserve, in a great measure, the freedom and ease of one who speaks."\textsuperscript{142} This advice is strongly reminiscent of the description given of Millar's lectures.

Millar taught civil law in English because he considered that, where lectures were given in Latin, the language tended to obfuscate the meaning, placing an unnecessary barrier in the way of student understanding. Furthermore, his reliance on a relatively spontaneous style of lecturing led him to favor classes in English. As well as these issues of teaching technique, the substance of his course, with its more broadly defined content, and its utilitarian goal of increasing students' comparative understanding of law and the science of legislation in general, may well have also led him to teach in English rather than Latin to avoid possible restrictions of vocabulary. That this choice of English as the language of instruction was by no means inevitable is demonstrated by Arnot's disapproval and the faculty of advocates' attempt to make Millar revert to teaching in Latin. There were respectable views opposite to those of Millar. As late as the 1790s, Wilde was to return to teaching one of his courses in Latin because he rejected Millar's approach to civil law. For Wilde, Latin was still the best medium of instruction in civil law. Millar, when he decided to adopt and extend Lindesay's innovation, was not simply following an ineluctable trend; his choice
of extempore lectures in English reflects his reaction to the new theories in Enlightenment Scotland that had redefined the study of rhetoric as the study of the best means of communicating information. This choice allowed him better to use his class of civil law to teach students to reason critically about law and to be aware of the relationship of law to society. This ultimately would further the objective of improvement in the laws. Many of his pupils and followers were indeed to become noted reformers.143

NOTES

This article has a long and somewhat complicated genesis and my debts are correspondingly great. Parts of it are derived from a paper, “The Vocation of the Age for Roman Law,” read to the British Legal History Conference in Canterbury in July, 1985, other parts are derived from two related papers, one entitled “The Language of Law Teaching in Eighteenth-Century Scotland” read to a dining club, “The Other Society” in Edinburgh in 1987, the other entitled “La langue d’enseignement du droit en Ecosse au 18e siècle” read at the Journées Internationales d’Histoire du Droit at Louvain in May 1988. A more final version was delivered as a lecture in the College of Law, Syracuse University in 1989. I am grateful for the comments and criticisms I received on all these occasions. I benefitted from the comments of the following individuals: Beverley Brown, David Garland, Michael Hoeflich, Jim Kainen, Neil MacCormick, Hector MacQueen, John Robertson, David Sellar, and Alan Watson. I am only too aware that I have not always followed the advice I received.

2. J. Coutts, A History of the University of Glasgow from its Foundation in 1451 to 1909 (Glasgow, 1909), 193–94.
5. A. Bower, The History of the University of Edinburgh: Chiefly Compiled from


8. For Drummond: D. Irving, Lives of the Scottish Writers, 2 vols. (Edinburgh, 1839), 2:220–21 n. 3; for Spottiswoode (or Spotswood): see National Library of Scotland, MS 2934 fol. 129r and J. W. Cairns, “John Spotswood, Professor of Law: A Preliminary Sketch” (forthcoming); for Cuninghame (or Cunningham), see A Discourse by Mr. John Cuningham Advocate, At the Beginning of his Lessons upon the Scots Law (Edinburgh, 1705). In Joannis Cuninghamii J. Cti. oratio inauguralis recitata Edinburgi; cum primum jus civile docere coepit (Edinburgh, n.d.), 7, Cuninghame states that Drummond was the first, Spottiswoode the second, and himself the third to undertake the teaching of Civil law in Scotland. There is evidence of other private teachers, though we have no information about them. There is no indication that Alexander Cunningham ever taught, despite the licence and salary, and it is surely significant that Cuninghame excluded him from his list of teachers of civil law.


11. See National Library of Scotland, MS 2934, fol. 129r–129v; J. Spottiswood, The Form of Process before the Lords of Council and Session . . . Written for the Use of the Students in Spottiswood’s College of Law (Edinburgh, 1711); idem, An Introduction to the Knowledge of the Stile of Writs . . . Written for Use of the Students in Spottiswood’s College of Law, and now Publish’d for the Common Good (Edinburgh, 1708); see also idem, A Discourse Shewing the Necessary Qualifications of a Student of the Laws: And what is Propos’d in the Colleges of Law, History & Philology, Establish’d at Edinburgh. Deliver’d at the Commencement of the College of Law: VI. November MDCCIV (Edinburgh, 1704), 11.

12. See National Library of Scotland, MS 2934, fol. 150v; J. G. Böckelmann, Compendium Institutionum Justiniani sive elementa juris civilis (Leiden, 1679 and many other editions).

13. National Library of Scotland, MSS 17807, 17808, 17809 (scattered through these are notes, parts in some confusion, taken by Andrew Fletcher, Lord Milton in
1709–10); Adv. MSS 80.6.11–12 are notes on the first and third books of the Institutes which comparison with Lord Milton’s notes shows probably to have been from Cuninghame’s class, though not catalogued as such, and certainly not identical to Milton’s notes.


16. See text infra at notes 74–85.


21. Most of the surviving papers relating to his private “Colleges” (in the sense of lecture courses) are in National Library of Scotland, MSS 2934 and 2937; among various memoranda and notes he never discusses the point.


23. Feenstra, “Scottish-Dutch Legal Relations,” replaces all previous studies.


25. At the start of the eighteenth century it was possible to be admitted to the faculty of advocates either by trial on civil law alone or by trial on Scots law alone:
see Cairns, “The Formation of the Scottish Legal Mind,” 255–57. Advocates entered, with only a few exceptions, by trial on civil law: J. S. Shaw, The Management of Scottish Society 1707–1764: Power, Nobles, Lawyers, Edinburgh Agents and English Influences (Edinburgh, 1983), 27. While there is no doubt that the trials in civil law were conducted in Latin, there is no definite evidence that those on Scots law were conducted in English; but the wording of the Act of Sederunt of 25 June 1692 which governed the procedure would suggest that English was used: The Acts of Sederunt of the Lords of Council and Session, from the 15th of January 1553, to the 11th of July 1790 (Edinburgh, 1790), 200; see also Pinkerton, Minute Book 1:117 (23 July 1692). Though the argument is rather circular, it is worth pointing out that Spottiswoode organized his courses in a way reflecting the Act of Sederunt, and taught in English: see Spotiswood, Discourse, 11; and National Library of Scotland, MS 2934, fols. 122r and 129r. See Cairns, “John Spotswood, Professor of Law.”


27. G. Mackenzie, Pleadings, In some remarkable Cases, Before the Supreme Courts of Scotland, Since the Year, 1661. To which, the Decisions are subjourn’d (Edinburgh, 1672); idem, Idea eloquentiae forensis hodiernae: una cum actione forensi ex unaquaque juris parte (Edinburgh, 1681).


29. Ibid., 16.

30. See The Works of that Eminent and Learned Lawyer, Sir George Mackenzie of Rosehaugh, Advocate to King Charles II. and King James VII. With Many learned Treatises of His, never before printed, 2 vols. (Edinburgh, 1716, 1722), 1:9–102 (Treatises on the Laws of Scotland). Mackenzie’s Pleadings was also issued with a 1673 title-page; but Ferguson, “A Bibliography of the Works of Sir George Mackenzie,” 21, points out that this is the same edition as that with the 1672 title-page. Mackenzie’s Idea eloquentiae was published in an English translation by Robert Hepburn (Edinburgh, 1711), as well as being printed in Works 1:103–38 (Treatises on the Laws of Scotland).

31. Mackenzie, Pleadings, 1.


34. Smith, Lectures in Rhetoric; see ibid., 9–23 (Bryce’s introduction); R. H. Campbell and A. S. Skinner, Adam Smith (London and Sydney, 1982), 66–79.


37. H. Blair, Lectures on Rhetoric and Belles Lettres, 2 vols. (London, 1783), 2:2 (lecture XXV); on Blair and his milieu, see the outstanding work of R. Sher, Church and University in the Scottish Enlightenment: The Moderate Literati of Edinburgh (Edinburgh, 1985); Howell, Eighteenth-Century British Logic, 647–71. Blair had lectured


46. Ibid., 172.

47. Ibid., 173. See generally ibid., 173–86.

48. A. Bayne, *Notes, for the Use of the Students of the Municipal Law in the University of Edinburgh: Being a Supplement to Sir George Mackenzie's Institutions* (Edinburgh, 1731), ii.


51. See Alexander Bayne, *Professor of Municipal Law, To the Gentlemen who have attended his college of Prelections*, printed sheet dated 12 Apr. 1725 (National Library of Scotland, Pressmark S.302.b.1 no. 53); Bayne, *Discourse*, 172; Arnot, *History of Edinburgh*, 399, noted that Dick “daily examine[d] his students upon the subject of his former lecture.”


55. Ibid., [v]–vi.


57. Ibid., ix n.

58. H. Home, Lord Kames, *Introduction to the Art of Thinking. Enlarged with additional Maxims and Illustrations*, 2d ed. (Edinburgh, 1764), [v].

59. Ibid., [v]–vii.


62. Ibid., viii.

63. Ibid., xiii.

64. D. Lieberman, “The legal needs of a commercial society: The jurisprudence of

65. W. R. Scott, Adam Smith as Student and Professor (Glasgow, 1937), 47 suggests that Tytler, Memoirs 1:15–18 sets out a “manifesto” that gives Kames’s views on legal education; Campbell and Skinner, Adam Smith, 29 quote part of the same passage as Kames’s views. These seem to me to be clearly Tytler’s views, though we may speculate that Kames might have endorsed them.


68. Stewart, Account of the life and writings of Adam Smith, 275; letter of Wodrow to Buchan, quoted in Campbell and Skinner, Adam Smith, 41.

69. Smith, Lectures in Rhetoric, 3–4 (Bryce’s introduction); Millar noted that Smith gave students permission to take notes in the lectures on Rhetoric: Stewart, Account of the life and writings of Adam Smith, 277.

70. Letter of Wodrow to Buchan, quoted in Campbell and Skinner, Adam Smith, 41.

71. J. Craig, Account of the life and Writings of John Millar, Esq., prefixed to J. Millar, The Origin of the distinction of Ranks: Or, An Inquiry into the Circumstances which give rise to Influence and Authority, in the different Members of Society, 4th ed. (Edinburgh, 1806), xii.

72. G. Jardine, Outlines of Philosophical Education, Illustrated by the Method of Teaching the Logic Class in the University of Glasgow, 2d ed. (Glasgow, 1825), 21.


75. See Reid, Works 2:721 (note by Hamilton).

76. Coutts, History of the University of Glasgow, 234, states that Hercules Lindsay is said to have started the practice, but that credit is often given to Millar as the initiator. Others state that Lindsay was the innovator, and either imply or state explicitly that the faculty of advocates complained about him: L. Stephen, “John Millar,” in Dictionary of National Biography, ed. S. Lee, 22 vols. and supplements (London, 1908–9), 13:402; D. Murray, Memories of the Old College of Glasgow: Some Chapters in the History of the University (Glasgow, 1927), 220; A. D. Gibb, “Law” in Fortuna Domus: A Series of Lectures Delivered in the University of Glasgow in Commemoration of the Fifth Centenary of its Foundation, ed. J. B. Neilson (Glasgow, 1952), 162; J. D. Mackie, The University of Glasgow 1451–1951: A Short History (Glasgow, 1954), 233. Grant, Story of the University of Edinburgh 2:365, simply states that Millar started lecturing in English in 1768. The confusion seems to stem from Craig’s statement, in Account of the life and writings of John Millar, xiii, that “so wedded were the older members of the profession to this practice [of lecturing in Latin], that, when Mr. Lindsay [sic] (Mr. Millar’s immediate predecessor) began to deliver lectures on the Institutes of Justinian, in English, the Faculty of Advocates made formal application to the University, requesting that the practice of teaching the Civil Law in Latin might be restored. Mr. Lindsay . . . refused to yield to this interference;
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and Mr. Millar, from the moment he was appointed to the Chair adopted the English language in all the courses of lectures which he delivered.” Relying on, but misrepresenting the statement in Sinclair, “Statistical Account,” 40, Bower, History of the University of Edinburgh 2:119, wrote: “Professor Millar’s predecessor was the first in the university of Glasgow who prelected in English on the Justinian code; and so tenacious are we of ancient usages, that we are informed, ‘the Faculty of Advocates made application to the university, requesting that the old practice of teaching the civil law in Latin might be restored.’

77. See Coutts, History of the University of Glasgow, 234.
81. Found quoted in Furber, Henry Dundas, 3.
82. Ibid.
84. 1837 Parliamentary Papers 35:179.
85. See J. Wilde, Preliminary Lecture to the Course of Lectures on the Institutions of Justinian. Together with an Introductory Discourse (Edinburgh, 1794), v–vi; National Library of Scotland, Adv. MSS 81.8.3–21 are Wilde’s own notes for his lectures; MSS 81.8.18–21 are on the Digest and are in Latin. Further fragments of Wilde’s lectures may be found in Edinburgh University Library, MS La. II. 475 (this consists of many bundles of loose papers, which are not foliated, so no precise references are possible).
86. Craig, Account of the life and writings of John Millar, xii.
87. Ibid., xiv–xv.
89. Craig, Account of the life and writings of John Millar, xix–xx.
90. See ibid., xx for Millar’s course on the Institutes; for his course on the Digest, see Glasgow University Library, MSS Muray 93–95 where study of the paragraph numbers cited shows that the text used is that of Heineccius. The two works are: J. G. Heineccius, Elementa juris civilis secundum ordinem Institutionum (Amsterdam, 1725) and idem, Elementa juris civilis secundum ordinem Pandectarum (Amsterdam, 1727). There were many subsequent editions of these popular works, which were also used by Dick and Wilde in Edinburgh: Arnot, History of Edinburgh, 398; and the paragraph reference numbers and occasional remarks scattered through Wilde’s lectures: Wilde, Preliminary Lecture, see especially the Institutes in National Library of Scotland, Adv. MS 81.8.7, fols. 66–68, and in Wilde’s introductory lecture on the Digest, Adv. MS 81.8.18, fol. 8r where he said: “Necesser et ut elementa juris civilis secundum ordinem Pandectarum a Heineccio conscripta huc cras vobiscum adportetis.” (“It will be necessary that you should bring with you to this place tomorrow the Elements of the Civil Law in the Order of the Pandects written by Heineccius.”) I hope to discuss elsewhere the significance of the choice of textbooks and the use made of them.
91. National Library of Scotland, MS 2743, fol. 8r.
92. The following MSS contain both courses: National Library of Scotland, Adv. MS 28.6.8; National Library of Scotland, MS 3930; Glasgow University Library, MSS Murray 78–82; Glasgow University Library, MSS Murray 96–98; Glasgow University Library MSS Gen. 812–14; the following contain the second course only: National
Library of Scotland, Adv. MSS 20.4.7–8; Edinburgh University Library, MSS Dc. 2.45–46; Glasgow University Library, MS Murray 332; Glasgow University Library, MS Hamilton 117; the following contain the first course only: National Library of Scotland, MS 7243; Glasgow University Library, MS Murray 77 (note that not all of these are complete).


95. Craig, Account of the life and writings of John Millar, xx.
100. Ibid., xxxv–xxxix.
101. Ibid., xl–xlii.
102. See Cairns, “John Millar’s Lectures.”
103. Craig, Account of the life and writings of John Millar, xii.
104. Kames, Elucidations, ix n.
107. Wilde, Preliminary Lecture, 64–74.
108. Ibid., 74–76.
109. J. Wilde, An Address to the Lately Formed Society of the Friends of the People (Edinburgh, 1793), ix, noted his initial approval of the Revolution: the whole work testifies to his abhorrence of it and to the influence of Burke’s thought. Wilde, Preliminary Lecture, ix–lxxix, is largely devoted to the state of France and the justice of war against that country. See also idem, Sequel to an Address to the Lately Formed Society of the Friends of the People (Edinburgh and London, 1797).
110. Wilde, Preliminary Lecture, 58.
111. Ibid., 59–60.
112. Ibid., 60.
113. Ibid.
114. Ibid., 61–62.
115. Ibid., 62.
116. Ibid., 63–64.
117. The printed Preliminary Lecture, is stated by Wilde (at v) to be drawn from the ones delivered to his class. Comparison with the three introductory lectures in
Adv. MS 81.8.3 confirms this. See this MS at fols. 24r–28r for his rejection (in 1792) of Millar's approach and at fols. 28r–39r for the advantage of the historical approach. The “Introductory Discourse” was written for the publication and not read to the class; a draft is found in Edinburgh University Library, MS La. II. 475.

118. Kames, Elucidations, viii–ix.


121. Ibid., fol. 21r.

122. Ibid., fol. 82r (third version of introductory lecture, Nov. 1793); and see Wilde, Preliminary Lecture, vi. For the Latin lectures on the Digest, see National Library of Scotland, Adv. MSS 81.8.18–21.


124. Ibid., fol. 23r.

125. National Library of Scotland, Adv. MS 81.8.18, fols. 3r and 4r.

126. Ibid., fol. 4r: “In acerrima vero et attentissima cogitatione, quam sermo perpetuus postulat simul gignitque, brevi fit ut literas latinas vel parum callenti, quae habetur oratio satis sit perspecta, maximaque ex parte intelligatur.”

127. Ibid.: “non jus modo civile verum et ipsas Latinas literas docendo. Latine doctus et juris civilis quoque doctior erit.”

128. Ibid., fol. 3v.

129. National Library of Scotland, Adv. MS 81.8.3, fol. 114r (this is a displaced folio from a later lecture).


131. Consider Arnot, History of Edinburgh, 39: “Mr. Dick is now [1779] the only professor in the College who prelects in Latin.”


135. “Character of the Late Professor Millar,” Scots Magazine 63 (1801): 527 (I suspect the obituarist to have been Craig; but I have been unable to verify this).


137. Campbell, Philosophy of Rhetoric 1:207; Blair, Lectures on Rhetoric 2:47 (Lecture XXVII); cf. Smith, Lectures in Rhetoric, 128.


139. Letter of Wodrow to Buchan, quoted in Campbell and Skinner, Adam Smith, 41.

140. Carlyle, Autobiography, 469.

141. Stewart, Account of the life and writings of Adam Smith, 332; see also J. Rae, Life of Adam Smith, (introduction by J. Viner) (New York, 1965), 53, who states that Smith sent his cousin to study at Glasgow because of his high opinion of Millar’s
“unique powers as a stimulating teacher.” He cites no source, but the remark is probably derived from Stewart’s account.