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ENGLISH LEGAL SYSTEM

Second Edition

Mark Thomas & Claire McGourlay

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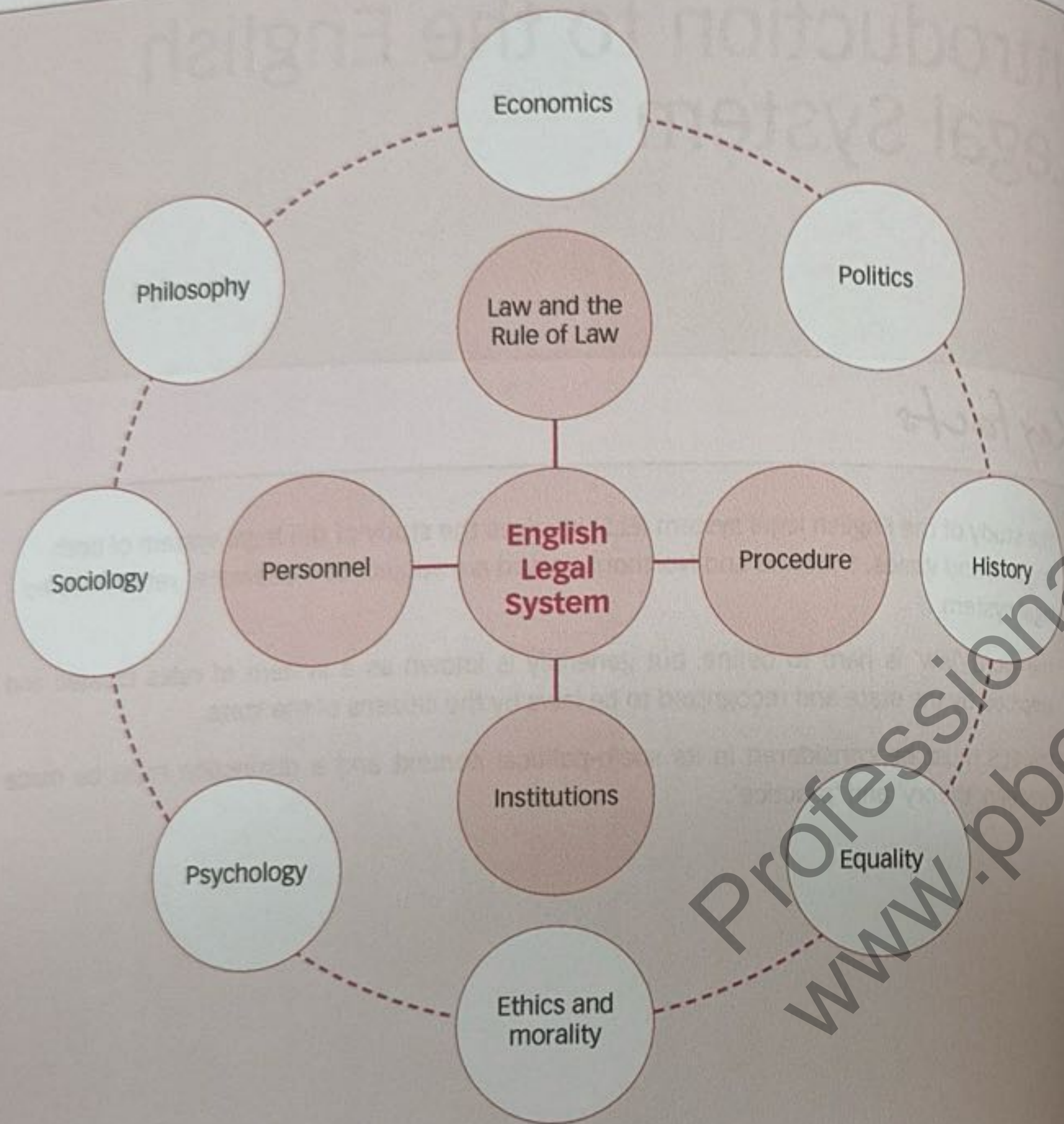
Introduction to the English Legal System

Key facts

- The study of the English legal system (ELS) involves the study of the legal system of both England and Wales. Scotland and Northern Ireland are subject to a separate, yet connected legal system.
- The word 'law' is hard to define, but generally is known as a system of rules created and enforced by the state and recognized to be laws by the citizens of the state.
- The ELS must be considered in its socio-political context and a distinction must be made between 'theory' and 'practice'.

Chapter overview

Dynamism of the English legal system



Introduction to the study of the English legal system

The knowledge that you will gain from studying this subject will prepare you for the challenges ahead of you throughout the rest of your degree. This text is not designed to teach you 'how' to study the English legal system (ELS); for that you will have to seek out another book, for example James Holland and Julian Webb, *Learning Legal Rules* (10th edn, Oxford University Press 2019). Rather, this text is designed to give you an insight into the operation of the ELS.

In this text you will learn of the core elements of the ELS, from the institutions of the legal system, including Parliament and the courts, through to the personnel of the legal system, namely legal and lay professionals. Although entitled the *English Legal System*, this text will also consider European and international law and the effect they have on our domestic system.

The study of the ELS is often overlooked by students, with the occasional eye roll at the mention of 'learning' the ELS. Indeed, many students who have studied law at A-level often balk at the idea of 'doing it all again'. Don't be fooled, however. There is much in the ELS that students do not know; they think they know it all until questioned as to how precedent operates or how solicitors can appear in the appellate courts, for example.

This text provides a detailed yet concise account of the core principles you need to be aware of when studying the ELS. We recommend that you use this text alongside an up-to-date textbook on the ELS, many of which are published by Oxford University Press.

"Glanville Williams, in his text *Learning the Law* (12th edn, Sweet & Maxwell 2002), stated:"

Law is the cement of society and also an essential medium of change. Knowledge of law increases one's understanding of public affairs. Its study promotes accuracy of expression, facility in argument and skill in interpreting the written word, as well as some understanding of social values.

The English legal system

As a starting point it is worth emphasizing that our ELS can helpfully be divided into three distinct elements. Ironically, those are:

- English;
- legal; and
- system.

It is not as simple as it first appears, however, and each of these elements will now be considered in greater detail.

'English'

For the purposes of this text we are concerned with English law.

England

England is a constituent element of the 'United Kingdom of Great Britain and Northern Ireland' alongside Wales, Scotland, and Northern Ireland. So why is it that you are studying the 'English' legal system and not the 'United Kingdom' legal system?

The answer boils down to a single word that many of you may be familiar with: devolution. We shall be considering this term in greater detail later; however, in brief, the UK is divided into the above four constituent 'countries'. These four countries are subjected to the laws of the United Kingdom; however, each individual constituent has devolved powers (i.e. powers given to them from another body; similar in concept to delegated powers) allowing them to legislate in particular areas. Where a conflict between laws of the UK and laws of the constituent country arises, the UK law takes precedence.

As a cross-border comparison, observe the United States of America (USA), which has a 'federal' law covering all 50 states of the USA, such as the **US Constitution (1787)**, and 'state law', which grants certain devolved powers for each individual state, for example the death penalty (which is lawful in 32 states). Likewise, in the USA, where a conflict arises between federal and state law, federal law takes priority as a result of the 'Supremacy Clause' (**US Constitution (1787), Article IV**).

Wales

Wales, as a result of the **Laws in Wales Acts 1535 and 1542**, does not have a separate legal system but rather is an 'annex' to English law. This means that the laws of England apply equally to Wales. As a result, therefore, it is technically incorrect to speak of the laws of England. Rather, we should speak of the laws of England and Wales. Created by the **Government of Wales Act 1998**, and amended by the **Government of Wales Act 2006**, the National Assembly acts as the devolved government for Wales. Following the **Wales Act 2017**, Wales now operates under a 'reserved powers' model. This model, the same adopted by Scotland, defines the powers under the control of Westminster, with everything else assumed to be within the power of the Welsh Assembly. The former model adopted by Wales, the 'conferred powers' model, operated on the alternate basis (i.e. that the powers of the Assembly were defined with everything else being assumed to fall within the powers of Westminster).

Scotland

The **Act of Union** in 1707 (composed of two Acts: the **Union with Scotland Act 1706** passed by the Parliament of England and the **Union with England Act 1707** passed by the Parliament of Scotland) joined England and Scotland together to form the United Kingdom of Great Britain. The Act had the effect of dissolving the Parliaments of both England and Scotland in order to create a single Parliament of the United Kingdom (the same Parliament that stands today).

Unlike Wales, however, Scotland holds its own legal system distinct to that of the ELS, known as Scots law. What this means is that Scotland is responsible for the creation and implementation of law in its own country. This is done through the Scottish Parliament, as established by the **Scotland Act 1998**. This does not mean that an Act of the UK Parliament

does not apply to Scotland; but rather, that there is no assumption that such a law applies to Scotland. This is part of the reserved powers model indicated in relation to our discussion of Wales. Scotland adopted this model in the **Scotland Act 1998**.

Northern Ireland

The final constituent of the UK is Northern Ireland, which came to join the UK in 1920 after the **Government of Ireland Act 1920** split the country in two. The partition came about largely because of religious reasons and some tension remains in today's UK regarding the unification of Ireland as a distinct country. Like Scotland, Northern Ireland retained its separate legal status, ensuring that it may pass its own form of legislation alongside that of the UK Parliament. The Northern Ireland Assembly was established as a result of the Belfast Agreement on 10 April 1998, which was subsequently given legal force through the **Northern Ireland Act 1998**. Power is shared in Northern Ireland between the Democratic Unionist Party and Sinn Féin; the two parties forming the Northern Ireland Assembly, based in Stormont.

Looking for extra marks?

Demonstrate that you are aware of the difficulties faced by the Northern Ireland Assembly. In January 2017, the DUP/Sinn Féin-led power-sharing coalition collapsed due to rows over a green energy scheme. As a result of this, Northern Ireland had no devolved government; the Northern Ireland Assembly being suspended. On 11 January 2020, the DUP and Sinn Féin re-entered devolved government after both parties supported a deal to restore the political institution in Stormont.

The United Kingdom and 'extent'

As stated earlier, the laws of England and Wales are distinct from those of Scotland and Northern Ireland; however, this does not mean that the UK cannot pass laws that affect either of these two distinct jurisdictions. When Parliament passes an **Act of Parliament** (see Chapter 3), it must declare the 'extent' to which the Act of Parliament applies.

If the Act is silent as to its extent, then it is presumed the Act will only apply in England and Wales. However, if the Act states that it extends, or a particular provision extends, to Scotland or Northern Ireland, then they must obey and follow that law. This is what is known as parliamentary supremacy (see Chapter 3) and unless Scotland or Northern Ireland achieve independence, they will remain subject to the laws of the UK when expressly prescribed to them.

Devolution and independence

The effect of devolution (i.e. the decentralization of power) from the UK to Scotland, Wales, and Northern Ireland does not affect this supremacy. It has been argued for some time that devolution of power has not gone far enough in allowing Scotland or Northern Ireland to govern themselves. Figures 1.1–1.3 provide an overview of the history of devolution in Scotland, Wales, and Northern Ireland.

In 2014, Scotland held a referendum with the question asked: 'Should Scotland be an independent country?' The turnout was high, with over 3,500,000 votes being cast (the residents

of England, Wales, and Northern Ireland were not entitled to vote). With a majority of 55.2 per cent (2,001,926 votes), the 'No' campaign won the referendum, resulting in Scotland's continued unification with England, Wales, and Northern Ireland. Although calls for a border poll (similar to a referendum) have been made in the Assembly post-Brexit, there is, as yet, no serious talk of an independence referendum for Northern Ireland or Wales. For more detail, see Colin Faragher, *Public Law Concentrate* (6th edn, Oxford University Press 2019).

Figure 1.1 Devolution—Scotland

The **Scotland Act 2012** amended the 1998 Act and legally renamed the Scottish Executive as the 'Scottish Government' and devolved further powers to Scotland.

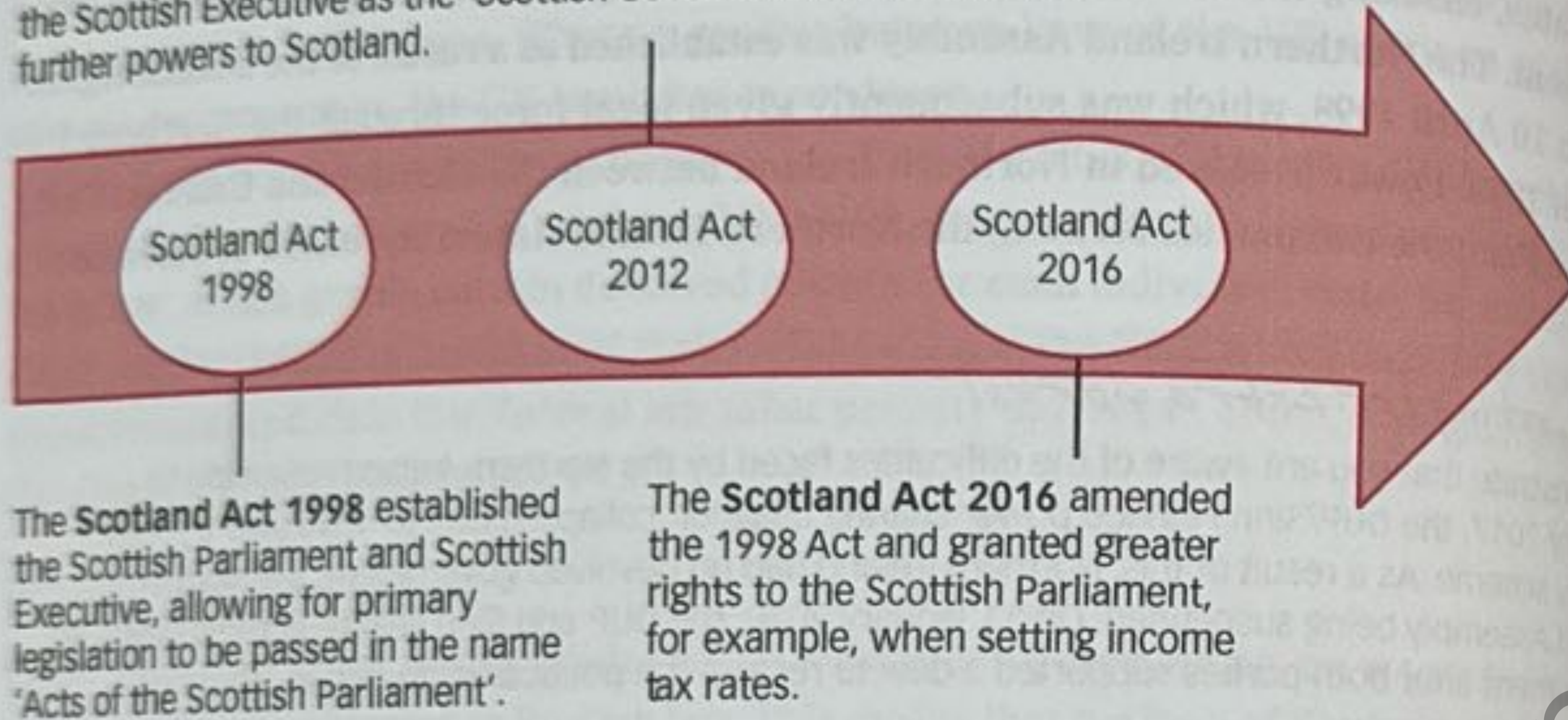


Figure 1.2 Devolution—Wales

The **Government of Wales Act 2006** amended the 1998 Act and clarified the roles of the existing institutions by formally splitting the two Assemblies. The National Assembly gained powers to enact primary legislation for Wales in 'defined' areas.

The **Wales Act 2017** amended the 2006 Act and devolved further powers to Wales.

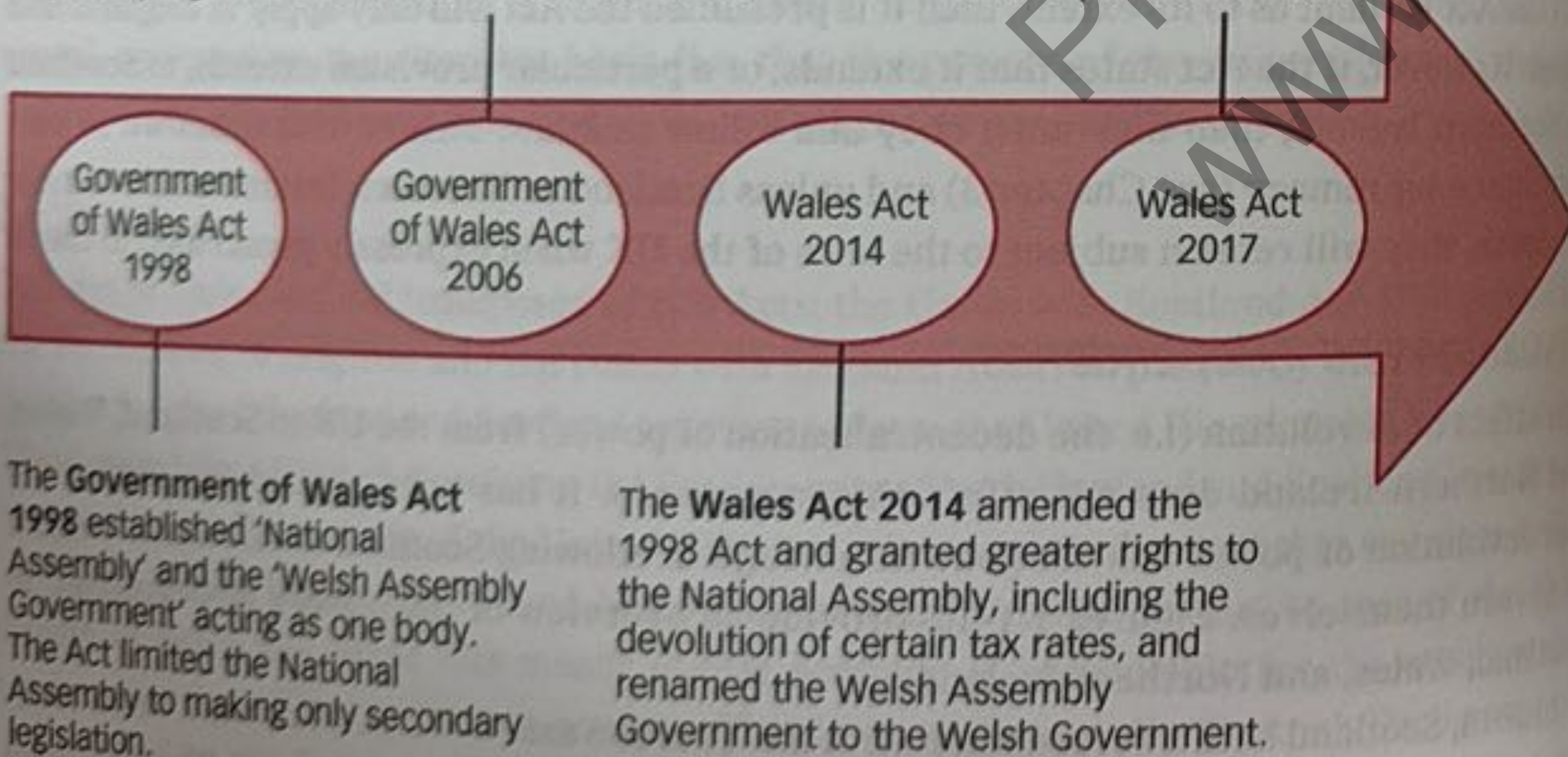
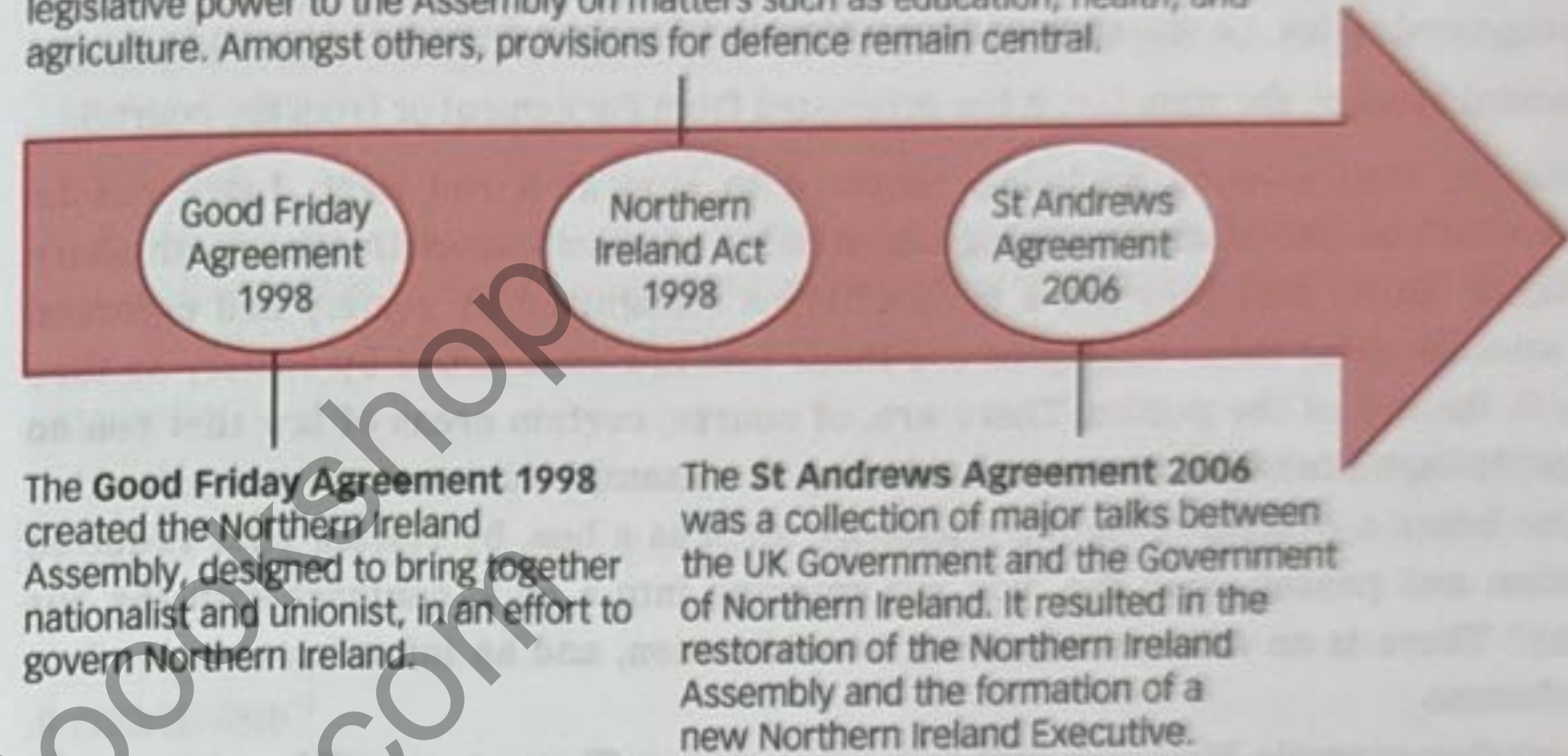


Figure 1.3 Devolution—Northern Ireland

The **Northern Ireland Act 1998** set in motion the majority of agreements reached in the Good Friday Agreement. It had the effect of devolving full legislative power to the Assembly on matters such as education, health, and agriculture. Amongst others, provisions for defence remain central.



Looking for extra marks?

It is essential that throughout your studies you are as up to date as possible on events that may affect English law. Be sure to keep an eye on the possibility of a second Scottish Referendum (especially after the UK's decision to leave the EU, known as Brexit). When writing an essay-style answer, try to include comments by such persons as Nicola Sturgeon (First Minister for Scotland), who commented that a second referendum was 'on the table' as a result of Brexit. On 28 March 2017, the Scottish Parliament voted (by 69 to 59 votes) in favour of a call for a second independence referendum. However, the then Prime Minister, Theresa May, stated that it was 'not the time' for another referendum; focus should be on negotiating the UK's departure from the EU. In December 2019, following the election victory of the Conservative Party, Nicola Sturgeon made a new request for an independence referendum. On 15 January 2020, Nicola Sturgeon wrote a letter to the Prime Minister, Boris Johnson, requesting a new independent vote. The Prime Minister refused this request and it appears that he will continue to refuse to allow a further referendum.

'Legal'

What is law?

Some of the most common definitions of law include:

- a statement of rules created and recognized by the state;
- a body of rules that govern citizens of the state in relationship with other citizens and with the state;
- a set of rules founded on principles of justice and morality.

The English legal system

What we understand law to mean are all three of the above bulleted statements in combination with each other. We consider that the fundamental aspect of a law, as opposed to a mere rule or guideline, is that it is:

- (i) recognized as law, i.e. the state and the citizens of the state treat it as law; and
- (ii) handed down by the state (i.e. it has originated from Parliament or from the courts).

Laws can be simple—such as being required to stop at a red light. Laws can be complex—such as the rules governing the division of assets upon divorce. Both share the common factor that they are a body of rules recognized by society and enforced by the state. Both of these examples are those that are understood by society as they feature in the eye of the public. There are, of course, certain areas of law that you no doubt go through life without even considering. For example, did you ever consider that when you board a system of public transport, such as a bus, by stating your required destination and paying your fee, you are entering into a legal contract with the bus company? There is an offer, acceptance, consideration, and an intention to enter into legal relations.

Take another example. Have you ever seen a sign stating, 'Trespassers will be prosecuted'? Interestingly, this is an inaccurate statement of law, as generally trespass is not a criminal wrong, but rather, a civil wrong. Therefore, trespassers cannot be 'prosecuted' as such, but they can be 'sued' by the owner of the private property on which they are trespassing. Obviously, should an individual steal, cause injury, or damage property whilst trespassing, they may be subject to prosecution (for burglary—s9 Theft Act 1968); however, the simple act of trespassing without consent is not a criminal offence for which one may be subject to prosecution. There are exceptions to this general rule, of course, such as trespass on a railway line, but this only goes to demonstrate the potentially complex nature of law as a subject.

What these examples hopefully show is that the law surrounds us; it guides us and directs how certain activities are conducted.

Revision tip

These examples are hopefully useful to you; however, your knowledge will improve if you can go out and find your own examples of law affecting daily life. By finding your own examples, your knowledge of the law will deepen and your practical application of the law will strengthen. We shall give you a few to consider for yourself:

- signs that exclude liability for harm to persons or damage to property;
- the legal consequence of a 'zebra crossing' on drivers—must they stop?
- a supermarket sign offering goods at a price different to that stated on the packaging;
- the legality of a pub serving a pint of Carling® lager in a Fosters® glass.

The English legal system

Looking for extra marks?

There are numerous theories that revolve around the idea of 'law', including concepts of positivism and natural law; however, these concepts are outside the scope of this work. Nevertheless, it may assist your understanding of what you think the law is by considering these theories. We have given you two examples.

POSITIVISM:

- **John Austin** (a nineteenth-century English jurist) described law as 'A rule laid down for the guidance of an intelligent being by an intelligent being having power over him.' He also defined it as 'A body of rules fixed and enforced by a sovereign political authority.'

MARXISM:

- **Karl Marx (1848)** described law as a 'tool of oppression used by capitalists to control the proletariat.'

A moral law?

As stated earlier, law can be described as 'A set of rules founded on principles of justice and morality'. Does that mean, therefore, that all laws are morally correct? There are many reasons why all laws cannot be morally correct. Here are two:

- Morality is subjective and what amounts to morally correct and incorrect conduct is a matter personal to the individual.
- Morality governs the idea of behaviour that is 'right' and 'wrong'. Who, however, decides what is right and wrong morally? Is it not the case that this group/society will change with the passage of time, meaning that morality will change also?

Let us give you a few examples:

- Until the introduction of the **Sexual Offences Act 1967**, homosexual activities between two consenting individuals over the age of 21 were unlawful.
- Abortion, where medically certified, has been legal since the **Abortion Act 1967**; however, it is still regarded by much of the population as morally wrong.
- There is no requirement for a man to stop and assist another who is dying in the street. In the terms of the law, there is no 'Good Samaritan' law. Morally, however, there may be a duty to act.

Whether law and morality should coincide and interact is outside the scope of this text; however, it is still useful to understand how morals may affect the operation or function of the law. For more information on law and morality, see the infamous debates between Lord Devlin and Professor H.L.A. Hart (the Hart v Devlin debates: Patrick Devlin, *The Enforcement of Morals* (Oxford University Press 1965) and H.L.A. Hart, *Law, Liberty and Morality* (Oxford University Press 1963) and *The Morality of the Criminal Law* (Oxford University Press 1964)).

Legal personalities

When we speak of the operation of the law, we must bear in mind that law only has effect on so-called 'legal personalities'. Only legal persons may sue or be sued or have criminal offences committed against them or by them. Legal persons may come in two forms:

- a natural person, i.e. a human being; and
- an artificial person, i.e. a company.

To give an example, take the criminal offence of murder. According to Sir Edward Coke CJ, murder is 'the unlawful killing of a human being, under the Queen's Peace, with malice aforethought, express or implied' [modified to reflect modern terminology]. A question that has come before the courts on a number of occasions is whether a foetus is a 'human being' in the eyes of the law. According to *R v Enoch (1833)*, in order to be classed as a human being, a child must have 'an existence independent of its mother' and must be 'wholly expelled' from the mother's body (*R v Poulton (1832)*). Therefore, a 'child in waiting' (yet to be born) does not have the same rights as a child in being.

This can be contrasted with the position where a baby has been injured whilst in the womb and dies once it has been born. According to the court in *AG's Ref (No. 3 of 1994) (1997)*, this will amount to murder, so long as the defendant has the requisite intention, as the child is considered a person in being (a living person) once born, regardless of how short that life may turn out to be.

You may say that this means that criminals cannot be liable in such situations. Indeed, a foetus is not considered a person in being and thus no criminal offence can be committed against it. However, the mother remains a person in being and thus has a number of rights. For example, should a defendant stab his pregnant girlfriend in the stomach, causing an abortion, this may amount to an offence under the *Offences Against the Person Act 1861*.

The point is that only legal personalities have obligations under the law and benefit from use of the law in times of need. For a more detailed discussion on legal personalities, particularly artificial persons, see Lee Roach, *Company Law Concentrate* (5th edn, Oxford University Press 2018).

Rule of Law

The Rule of Law is a fundamental concept in most modern societies. It prescribes a collection of characteristics that must be secured for the functioning of a civilized state. A useful definition comes from John Finnis, *Natural Law and Natural Rights* (Clarendon Press 1980), who defines the Rule of Law as 'the name commonly given to the state of affairs in which a legal system is legally in good shape'.

The Rule of Law is too complex and broad a subject to be considered in any detail in this text. We advise seeking a constitutional law textbook which will explain the term with authority in much greater detail. You may wish to consult Lord Bingham's text, *The Rule of Law* (Penguin 2011).

Revision tip

The Rule of Law is an established concept in England and Wales and requires capital letters for both 'Rule' and 'Law'. Making this mistake in an examination under timed conditions may be forgiven by examiners; however, this mistake should be avoidable in an assessed piece of coursework.

According to Lord Bingham (2011), the 'core concept' of the Rule of Law is that 'all persons and authorities within the state, whether public or private, should be bound by and entitled to the benefit of laws publicly and prospectively promulgated and publicly administered in the courts.' This statement can be divided into eight core characteristics, or, as Lord Bingham cites, 'sub-rules'.

You might think at this stage that the Rule of Law is merely a fanciful concept that one can only hope the law lives up to. Or, as Lord Bingham notes, you may throw your hands into the air and 'accept that the Rule of Law is too uncertain and subjective an expression to be meaningful'.

Although it remains true that the Rule of Law is an ideal legal system that should be looked up to, it has made its way into the operation of our English legal system. The main source of this statement is the *Constitutional Reform Act (CRA) 2005*, which provides in s1 that 'This Act does not adversely affect—(a) the existing constitutional principle of the Rule of Law, or (b) the Lord Chancellor's existing constitutional role in relation to that principle.' This constitutional role is found in s6A *Promissory Oaths Act 1868* (as amended by s17 *CRA 2005*) as requiring the Lord Chancellor, upon taking office, to swear an oath to 'respect the Rule of Law'.

The Rule of Law is now present in statutory form and thus must be adhered to by the courts. It no longer remains a fanciful ideal to aspire to, but rather is a legal obligation on the part of the courts, as led by the Lord Chancellor.

Table 1.1 describes the 'core characteristics' of the Rule of Law as stated by Lord Bingham.

A valuable summation of the Rule of Law was provided by Lord Denning in *Gouriet v Union of Post Office Workers and Others (1977)*, where he stated, 'Be you ever so high, the law is above you.'

Table 1.1 Characteristics of the Rule of Law

Characteristic	Explanation
Accessibility	The law must be accessible and so far as possible intelligible, clear, and predictable.
Law, not discretion	Questions of legal right and liability should ordinarily be resolved by application of the law and not the exercise of discretion.
Equality	Laws of the land should apply equally to all, save to the extent that objective differences justify differentiation.

Characteristic	Explanation
Human rights	The law must afford adequate protection of fundamental human rights.
Resolution of disputes	Means must be provided for resolving, without prohibitive cost or inordinate delay, bona fide disputes which the parties themselves are unable to resolve.
Reasonable use of ministerial power	Ministers and public officers must exercise the powers conferred on them reasonably, in good faith, for the purpose for which the powers were conferred, and without exceeding the limits of such powers.
Fair procedures	The adjudicative procedures provided by the state should be fair.
International obligations	The state must comply with its obligations in international law.

Functions of law

The functions of law, also known as the purposes of law, are full and varied. Some commentators rank certain functions above others, whilst other commentators argue that the functions act in conjunction to provide for a consistent and clear approach. Some of the main functions of the law can be listed as:

- protection of individual rights and liberties;
- maintenance of public order;
- the conferral of obligations;
- the regulation of economic activities; and
- the regulation of human behaviour and relationships.

Looking for extra marks?

When you discuss the 'functions' of law, be sure to provide examples to accompany the statement.

For example, if you are discussing the regulation of economic activities, you could discuss the creation of regulatory bodies such as the Financial Services Authority (FSA), which was responsible for ensuring banks and other organizations follow set standards of activity in order to protect consumers from 'bad deals'. (Note: as a result of the **Financial Services Act 2012**, the FSA was disbanded and in its place the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA) were created.)

Classification of law

As will be explained in greater detail throughout different chapters in this text, law may be classified into various different types of law. These types of law will determine how a particular area of law is governed, the procedure adopted within that type of law, and the personnel involved in that type of law. Table 1.2 details the three broad classifications of law.

Table 1.2 Classifying laws

Public vs private law <i>(see Chapter 2 for more information)</i>	
<p>Public These are matters between the state and the individual (i.e. the citizen of the state). They cover such matters as criminal law and constitutional law.</p>	<p>Private These are matters between two individuals with minimal involvement from the state. They cover such matters as personal injury (tort generally) and breach of contract, and many others.</p>
Criminal vs civil law <i>(see Chapter 2 for more information)</i>	
<p>Criminal These are matters (generally) between two or more individuals with the involvement of the state in bringing a 'prosecution' on behalf of the Crown (i.e. the Monarch) where a criminal offence has been committed. Criminal offences range from offences against the person and property, to offences against the state.</p>	<p>Civil These are generally matters involving two or more individuals with no involvement from the state concerning a civil wrong. The civil wrong may be a breach of contract or liability arising out of the tort of trespass. There are, of course, civil matters that can involve the state, including such cases as judicial review.</p>
Substantive vs procedural law	
<p>Substantive This concerns the actual law itself. For example, the offence of murder is a matter of substantive law. The substantive law informs us that to be guilty of murder there has to be an 'unlawful killing'. The substantive law will operate within the framework of the procedural law.</p>	<p>Procedural This concerns the practical application and operation of the substantive law; for example, the powers of the police in arresting a suspect accused of murder or the admissibility of witness testimony to support a defence of loss of self-control.</p>

'System'

A system can best be described as the manner by which the law operates. There are numerous different legal systems across the globe and each concern the administration/operation of the laws of the land. England and Wales operate under a 'common law' system. The phrase 'common law' is, however, used in a number of different contexts and can be confusing from the outset. Table 1.3 details the varying types of system that you will come across throughout your degree and distinguishes the different uses of 'common law'.

Other legal systems

Table 1.3 Classifying legal systems

Common law vs civil law (see Chapter 4 for more information)	
<p>Common law A system of rules determined by binding judicial precedent. Common law systems exist alongside legislation and are used to interpret the legislation accordingly. The UK (not just England and Wales) is a common law system.</p>	<p>Civil law A system of rules that does not involve the use of binding judicial precedent. Civil systems rely upon established 'codes' to act as their law. France and Germany are civil law systems (also known as 'continental' systems).</p>
Common law vs equity (see Chapter 4 for more information)	
<p>Common law Decisions of the common law are based upon the law as it stands. Even if a decision appears harsh, the common law operates to follow the letter of the law.</p>	<p>Equity Equity attempts to reduce the harshness of the operation of the common law, with equality and fairness being the determinative factors in decision making. The UK operates a unified system of common law and equity (following the Judicature Acts of 1873–75).</p>
Adversarial system vs inquisitorial system	
<p>Adversarial This system is based on an apparent 'contest' between the two or more opposing sides, with an independent judge acting as an umpire. The judge's role is to ensure that both sides follow procedural rules and should not undertake an investigation of the case him or herself. Adversarial systems allow for the parties to call, examine, and challenge witnesses. A key element is the principle of orality, namely that evidence should be presented by way of live oral testimony. The United Kingdom and the majority of common law systems operate under an adversarial system.</p>	<p>Inquisitorial This system is based more upon an investigation conducted by an independent judge, who will ask questions of witnesses in the hope of finding the truth. The roles of counsel and the judge are essentially reversed in that counsel will act as umpire, ensuring that the judge follows the correct procedural rules. The majority of civil law systems, including France and Germany, operate an inquisitorial approach.</p>

Other legal systems

This text is concerned with the English legal system; therefore, if you wish to consider other legal systems, please consult an appropriate textbook, many of which may be examined on the Oxford University Press website under 'Systems of Law'.

However, it is important to understand how other systems of law affect our own English system of law. Specifically, our current membership in the **European Union (EU)** and our signatory status in the **European Convention on Human Rights (ECHR)** are considered in Chapter 5 of this text.

Dynamism

Dynamism

The ELS must be considered contextually. What this means is that you must maintain a practical and real-world approach to the study of the ELS. This is what we mean by 'dynamism'. Refer back to the chapter overview diagram.

Inner circle

You will see that the inner circles form the core elements that make up the ELS. The ELS is composed of four essential elements, highlighted in bold below. How each element will be considered throughout this text is detailed beneath each element:

- **Law:**
 - legislation; case law; EU law.
- **Procedure:**
 - criminal; civil; funding the ELS.
- **Institutions:**
 - courts; officers of the law.
- **Personnel:**
 - legal professionals; judiciary; laypersons.

Outer circle

The outer circle is what we refer to as the 'dynamism' of the ELS. Essentially, the ELS operates in a legal-political and legal-sociological context. This dynamism is reflective of the purpose of law and explains why and how the law operates in a certain context. We call this exercise 'joining up the dots' and it requires you to make the subtle distinction between 'theory' and 'practice'. Understanding this dynamism will stand you in good stead throughout your degree when you are required to take a contextual approach to your other modules of study.

Table 1.4 will help explain this dynamism further. The following example further illustrates dynamism within the ELS.

As a result of the decisions of *Lawrence* (1972) and *Gomez* (1993), it has been argued that the definition of 'appropriation' in the law of theft has been so 'overextended' that any interaction with property now amounts to an appropriation. This has led David Ormerod and Karl Laird, *Smith, Hogan, & Ormerod's Criminal Law* (15th edn, Oxford University Press 2018) to write that 'any acts which would normally be regarded as merely "preparatory acts" now amount to an appropriation'. What this means is that if D touches a bottle of wine in a supermarket and they have the dishonest intention to permanently deprive the store of that wine, they are liable for the offence of theft. They need not leave the store or attempt to conceal