

At common law, the ownership of all the land in the country is vested in the Crown. No other than the Crown can own land. However, other persons may be tenants of land and have rights in the land which protect even against the Crown. There were different methods of land holding, or tenures. The doctrine of estates developed as a consequence of the doctrine of tenure. Since a tenant was not regarded as owning the land itself, it was necessary to determine what it was that he did own. Before the introduction of the 1926 property legislation, there existed 4 estates in land.

The first type is the fee simple absolute in possession. On the death intestate of a tenant in fee simple the land passed or devolved upon his heir. The heir was ascertained by applying the canons of descent. If there was no heir the land was then passed to the superior feudal lord in a process known as escheat. The law then recognized the right of a fee simple owner to transfer or convey his property.

The second type is the fee tail. A fee tail resembled a fee simple in that upon the death of the tenant the land devolved upon his heir, but the fee tail differs in that the heir had to be found amongst the descendants of the original tenant in tail.

The third type is the terms of years absolute. This is the estate enjoyed by a tenant under a lease. The tenant is entitled to exclusive possession of the land for a certain period of time, in return for usually paying rent.

The last type is the life estate. In a life estate, the land is granted to a person for his life and his estate then determines upon his death. The estate is not one of inheritance.

After 1925, by section 1(1) of the LPA 1925, only 2 estates can subsist as legal estates. They are the fee simple absolute in possession and the term of years absolute.