

requires the contribution from each person to be in proportion to his actual worth in property, is, that the proportion must be according to his actual worth in such property as he has it in his power to make annually profitable; not in unproductive abstract naked rights of property, which may never be beneficial to him, and the title to which he cannot be compelled to litigate. *Devon-*

264 *sher v. Newenham*, 2 *Scho. & Lef.* 211. The * annual public taxes seem to have been thus assimilated to the annual interest of mortgages, and other real incumbrances, which must be kept down by the tenant for life in possession, upon the principle that the annual profits should alone bear the burthen not only of the annual interest of all mortgaged debts, but also of all other annual charges, as well public as private. And upon this principle, as it would seem, the collectors of the tax for some counties were authorized to sell timber suitable for cord-wood, or fence-rails, growing on land belonging to non-residents, to satisfy the taxes due thereon, 1826, ch. 170; 1827, ch. 110, 114. Hence as there is not, in such cases, any apportionment of the burthen of interest or taxes between the particular tenant and the remainderman or reversioner, the putting of a present value upon such estates is not called for, or ever made. But those legislative enactments which formerly, for the purposes of taxation, required a present value to be put upon estates for life, or during widowhood, and on terms for years, in such a variety of forms, and which must have been attended with much difficulty, to say nothing of the injustice of the operation of some of them, although now abrogated, are yet well worthy of attention in so far as they illustrate and afford evidence of the various bearings, and great importance of the matter now under consideration.

In England, as it would seem, few cases arise in which a widow may have a proportion, or the annual interest on a share of the purchase money of an estate awarded to her in lieu of her dower; and therefore, there is little or nothing to be found in the English books as to what should be considered as an equivalent for such a life estate. *Mole v. Smith*, 1 *Jac. & Walk.* 653. But here, where it so frequently becomes necessary, under the Act to Direct Descents, to have lands, of which partition cannot be made without disadvantage, sold in order to effect a division of the proceeds of sale among the heirs; and also to make sale of the real estates of deceased persons for the payment of their debts, it often happens, that a widow may be called on to allow the estate to be sold free of her claim to dower, and to accept an equivalent portion of the purchase money in lieu of it.

In these and a variety of similar cases where relief has been sought by means of special legislative enactments, it appears that what should be deemed the present value of a life interest in land,