In that case, in the Court of Queen's Bench, 22 U. C. 584, Draper, C. J. referring to the Assessment Act, when pronouncing the judgment of the court says: "We must confess, we more readily concur with what was said in *Doe* v. *Reaumore*, 3 O. S. 247, the operation of this statute is to work a forfeiture; an accumulated penalty is imposed for an alleged default and to satisfy the assessment charged together with this penalty, the land of a proprietor may be sold, though he may be in a distant part of the world and unconscious of the proceedings. To support a sale made under such circumstances. *it must be shewn that those facts existed which are alleged to have created the forfeiture, and which are necessary to warrant the sale.*" In *Payne* v. *Goodyear*, 26 U. C. p. 451, Draper, C. J. says: "The primary, it may be said *the sole*, object of the Legislature, in authorising the sale of land for arrears of taxes, *was the collection of the tax.* The statutes were not passed to take away lands from their legal owners; but to compel those owners who neglected to pay their taxes, and from whom payment could not be enforced by the other methods authorised, to pay, by the sale of a sufficient portion of their lands;" and again at p. 452, the *power* to sell land *was created in order to collect the tax.* In *Connor* v. *Douglas*, in the Court of Appeal, 15 Gr. at p. 463, Richards, then C. J. of the Court of Common Pleas (the Court of Appeal then consisting of all the Judges of the Superior Courts), referring to the above language of the court in *Doe* v. *Reaumore*, draws a distinction between matters of procedure and other matters thus: he says: "The judges could not have intended their language to apply to a mere defective or informal advertising of the land"— "the language referred to," quoting *Doe* v. *Reaumore* as above, he goes on to say, "may well apply to all these matters creating a charge on the property; fixing, as it were, the burden on it, and rendering it liable to be sold, when the charge has once been fixed on the land, *and the period* has elapsed after which it may be sold; then the subsequent matters as to how it may be sold, the manner of selling, advertising, &c., to a certain extent cease to be mandatory, and are in fact but the mode pointed out by the statute *how* the property is to be sold, *which by all the requirements of law,* before the officer was directed to sell it, had been made liable to sale." and referring to the judgment of the Court of Common Pleas in the then recent case of *Cotter* v. *Sutherland*, he says at p. 464, "I think the language used by my brother Adam Wilson, in *Cotter* v. *Sutherland*, in the Common Pleas, is correct, and may be properly applied and laid down *as the rule* in those cases, viz.: We should require strict proof that the tax has been lawfully made, but in promoting its collection, we should not surround the procedure with too unnecessary or unreasonable rigour;" and again he says: "I would refer to the language used by the learned judge from pages 405 to 408 inclusive; the conclusion aimed at is that, under these Acts, there are certain things which must be strictly adopted, otherwise the whole proceeding following them must be void—there must have been an assessment in fact—and made by the properly authorised body—the writ must be directed to the sheriff and be returnable at the time named." And again, these are essential "elements in the constitution of any valid tax sale—there must be charges rightly created on the land—there must be a power rightly conferred upon the sheriff to sell it—the sale must not be without some reasonable and sufficient notice, nor sooner than he is authorised to sell; nor otherwise than by public auction." The learned Chief Justice then, while concurring in the above language, guards himself from being supposed to hold that there may not be in some instances, some other ingredients required, than those stated, to make the sale valid. Draper, C. J. with whom Mowat, V. C. concurred, repeated his opinion that the Tax Sale Acts are to be treated as penal in their character, leading to forfeiture, and that therefore they should be construed strictly. We have in this judgment an affirmation by the Court of Appeal of the views expressed by the Court of Common Pleas, in *Cotter* v. *Sutherland*, with the single exception that whereas the Court of Common Pleas did not incline to regard the Tax Sale Acts as of a penal character, the Court of Appeal seemed to regard them in that light. However, Mr. Justice Wilson delivering the judgment of the Court of Common Pleas, in *Cotter* v. *Sutherland*, 18 C. P. Ap. 389, affirms the law imperatively to be that the owner must be a defaulter for the prescribed period of years before his land can be sold. He regards the lawful imposition of the tax as creating a judgment debt, to satisfy which alone the law authorises a sale. In either view of the statute, namely, whether it be regarded as penal or as creating a debt in the nature of a judgment, the Acts sanction no sale, except to realize arrears of taxes actually imposed, some portion of which has been suffered to remain in arrear for the prescribed period. We have here then the clearest judicial enunciation of the scope object and intent of those Acts.

In *Hamilton* v. *Eggleton*, 22 C. P. 536, the Court of Common Pleas held that sec. 155, of 32nd Vict. ch. 36, which is identical with sec. 156, of the Assessment Act of 1866,