

on a former trial, it is not a matter of great importance that they should not have had an opportunity of observing the demeanour of the witness.

Plaintiff sought to recover under the sue and labour clause an amount in excess of that payable for a total loss for the services of the master and crew who remained in and about the ship, and for the services of the special agent of the plaintiff.

*Held*, that the amount claimed for services of the master and crew while the vessel was in the hands of the underwriters did not come within the sue and labour clause and was not recoverable, and that plaintiff could not recover for services of his special agent who was acting adversely to the underwriters.

*R. E. Harris*, K.C., and *C. H. Cahan*, for plaintiff. *W. B. A. Ritchie*, K.C., for defendants.

Full Court.]

DOULL v. KEEFE.

[Feb. 4.

*Sheriff—Sale of land by, under judgment and execution—Adverse possession—Evidence of death of party—Failure to give—Objection to be taken specifically—O. 21, r. 5—Amendment—Registry of judgment—Effect of in respect to title—Statute of limitations.*

In an action brought by plaintiffs, trustees under the last will of D., to recover possession of a lot of land bought by plaintiff at sheriff's sale under execution on a judgment recovered by D. against M., defendant relied, among other defences, upon the ground that, at the time of the sale by the sheriff, he was in adverse possession of the land.

*Held*, that a sheriff selling under execution is not within the class of cases which apply to a person selling land held adversely by another. The objection was also taken that at the trial plaintiffs failed to give evidence of the death of D.

*Held*,—1. The objection was one which, under O. 21, r. 5, must be specifically taken.

2. The reception in evidence without objection of a certified copy of the will of D. was an implied admission of his death.

At the trial plaintiffs put in evidence a certified copy of the deed to M., the judgment debtor, without shewing that the original was not in plaintiffs' possession.

*Held*, that this was a matter as to which plaintiffs should be permitted to amend by filing the usual statutory affidavit.

*Held*, also, that defendant having failed on the only substantial question arising, his appeal should be dismissed with costs.

Per McDONALD, C.J.: The registry of the judgment obtained by D. had the same effect, so far as his time was concerned, as if he held a mortgage.

*Held*, also, that the judgment being registered, and securing the title,