

No 8

was confirmed joint executor with his wife, and the office behoved to accrese to him after her decease. *See* APPENDIX.

*Fol. Dic. v. 1. p. 272.*

\* \* \* Kilkerran reports the same case :

WHERE a wife was confirmed executrix, and her husband for his interest, the husband, notwithstanding that adjection 'for his interest,' was found to be joint executor; and an objection made to an adjudication repelled, that the decree of constitution had been obtained only in name of the husband, in respect he being joint executor, and the wife dead, when the constitution was pursued, the whole office accresced to him.

THE LORDS having at first differed upon this, ordered an inquiry to be made into the practice of the Commissary Court; and it appearing that the practice uniformly was for the husband to give up the inventory in behalf of the wife, and she to be confirmed only, and not the husband, but only the powers of intronitting to be given to the wives and husbands for themselves and their interests, they found as above, the husband being in this case confirmed executor, though with the adjection of 'for his interest.'

*Kilkerran, (EXECUTOR) No 4. p. 172.*

### S E C T. III.

#### Duties of Executors.

1546.

*A. against B.*

No 9.

EXECUTORIS may not give, dispone, or make ony assignee to the guidis and geer of the deid, uthewayis than conform to the deidis latter will and testament.

*Balfour, (EXECUTOR) No 6. p. 220.*