

CASES

ARGUED AND DETERMINED IN THE

COURT OF KING'S BENCH

YORK, &c.

SHUTER & WILKINS against MARSH & UX
EXECUTRIX.

1824

November 24.

In this case process had been taken out against the husband and wife as Executrix, but the husband only had been served in time, the process having been served upon the wife after the return.

Where husband and wife Executrix are sued, service of process upon the husband only is sufficient as well as in other cases.

Washburn moved to set the proceedings aside on the ground of irregularity. He contended that though in ordinary cases, service upon the husband alone, was sufficient, yet that where the wife was sued as Executrix, it was necessary she should be served also.

That the plaintiff having undertaken to serve the process upon the wife, should have served it in time.