

Answered, The party was warned either personally, or at their dwelling-house, and a copy was left on the ground of the lands, and this being real *contra fundum* was enough. THE LORDS, on report, found it sufficient.

No 72.

Fol. Dic. v. 2. p. 337. Fountainhall, v. 1. p. 434.

* * * Harcarse reports this case :

It being *alleged* against a warning made in July 1684, for removing at Whitsunday 1685, That the warning was not lawful, not being made within the year of the term of removing, and also made 40 days before the said term, and so disconform to the order appointed by act 39th, Parl. 6. Queen Mary;

Answered; The meaning is, that warning should be used within a year or twelve months of the term of removing, and not that both should be in the same year of God.

THE LORDS repelled the defender's allegiance as frivolous and captious.

Harcarse, (REMOVING.) No 842. p. 241.

1692. December 22.

Mr PATRICK COUPER, Minister at Anstruther, *against* Mr ANDREW BRUCE, late Minister there.

THE LORDS found there needed not formal warnings for minister's manse, but a summary removing; and that the manse followed the right of the church, and the stipend, and that Couper having right to the one, behoved also to have possession of the other; though Mr Bruce had a depending appeal before the General Assembly, and an act of Privy Council for a conference with the ministers of that presbytery, anent the right of that church, and they filled it *medio tempore*; for they *alleged*, It was *extra territorium* to the Privy Council to meddle with planting of ministers. And, as to the first, the President asserted, that these church appeals were not of a suspensive nature, so as to bind up the presbytery's hands from filling the church, if the presbytery from whom the appeal was interjected thought it frivolous, and if they took their hazard of the synod, or General Assembly's censure, if they should afterwards find the presbytery had proceeded rashly, in rejecting the appeal; but this frustrates the appeal, and makes the inferior court still judge.

No 73.

The manse follows the church and stipend, so the entrant may remove the possessor summarily without warning.

Fol. Dic. v. 2. p. 336. Fountainhall, v. 1. p. 537.