warning must be given forty days before the Whitsunday preceding. It would be absurd to suppose, that the year within which the warning ought to be given, if such were limited by the statute, should be computed *retro* from the conventional term of removing, which might be at a great distance from the term of Whitsunday; and, indeed, at this rate, there might in some cases be no room for a warning at all.

"The Lords *repelled* the objection to the warning."

The following is Lord KILKERRAN's note of what passed on the Bench.

"E. was *at first of opinion*, that the words, *within the year*, in the Act of Parliament, were to be understood within the year of God. But upon an observation made by himself, that when this Act of Parliament was made, the year began on the 25th of March, as it is now in England, and was with us till the year 1600; but it might then have happened, as Whitsunday was then a moveable term, it might have happened that there were not forty days within the year of God preceding the Whitsunday, and therefore he dropped that notion.

"Before this observation had occurred, F. K. had argued, that, *within the year*, was within the twelve months; so much the words would bear, and had a reasonable meaning; for suppose a warning given two years before, it might be forgot, whereas, there would not be sense in the statute, if supposed to limit the words to the year of God, that a warning should not be good if given upon the last day of December, to remove at the Whitsunday following.

"D. A. Without entering into the dispute, whether the year of God or the twelve months was meant, insisted that *sive sic, sive secus*, the warning was void, for that it was not within a twelvemonth of the first term of removal.

"F. K. That the time from which the twelve months was to be computed, was not the term of removal, but the Whitsunday before which the warning was made; and so the far greater part of the Court thought; and, therefore, sustained the warning as above: but, upon farther reflection, F. K. after the matter was over, thought that the opinion of D. A. was the just construction of the Act of Parliament, and that the objection to the warning should have been sustained."

N. B.—This case is reported by Elchies, (*Removing*, No. 3.)

1739. *January* 18. ISABEL and SARAH M'KIES,—*Petitioners.*

"JANUARY 18, 1739, This bill, after the fact was explained by the Ordinary, the Lord ARNISTON, was refused. As to the particular facts, it is to no purpose here to note them.

"The only thing worth remarking is, that the Ordinary, and with him the Court, were of opinion, agreeable to what had been found in former cases, that where a disposition is challenged as granted, without an onerous cause, and that anterior bonds are produced for instructing thereof, there is no necessity also to instruct the onerous cause of such bonds; though, had these bonds been the deeds quarrelled, the onerous cause of them behoved to have been instructed."