

The Lords repelled the reasons, refused the bill, and sustained the Admiral's decret of modification ; for it was not proven that the ship was damnified by the weight of the lead ore, seeing it might arise from stress of weather, the striking on the anchor of other ships, or from inward latent defects.

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1710. *January 17.* MARJORY MONCRIEF, Lady Denmiln, Petitioner.

MARJORY Moncrief, Lady Denmiln, gave in a bill to the Lords, bearing, that Michael Balfour, her husband, went from his own house in March last, 1709, to visit some friends and for other business ; and, in his return home, he sent his servant an errand into the town of Coupar, and told him he would be at home before him ; and yet he has never yet returned to his house, notwithstanding all the search and inquiry made for him and the horse he rode on, and no account can hitherto be got what is become of him ; by which misfortune his creditors are falling upon his estate, and proceeding to diligence, which may encumber and embarrass his fortune, though it far exceed his debts, unless prevented : therefore craves, in this extraordinary case, the Lords may name a factor to uplift the rents, and out of it pay the current annualrents, and give an alimnt to her and her seven children.

There were many conjectures about him ; for some have been known to retire and go abroad upon melancholy and discontent ; others have been said to have been transported and carried away by spirits ; a third sort have given out they were lost, to cause their creditors compound ; as the old Lord Belhaven was said to be drowned in Solway sands, and so of Kirkton, yet both of them afterwards appeared. The most probable opinion was, that Denmiln and his horse had fallen, under night, into some deep coal pit, though those were also searched which lay in his way home.

The Lords thought that the case craved some pity and compassion, and that their interposing would come better if the creditors had applied ; yet they appointed a factor, to last only for the year 1710, to uplift and manage the rents for the creditors and relict, before which were expired they would be at more certainty whether he be dead or alive.

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1710. *January 19.* SIR PATRICK HOME of RENTON *against* The TENANTS of HEADCHESTER.

SIR Patrick Home of Renton, Advocate, having a roum called Forresterlands, lying within the barony of Old Cambus, belonging to Sir James Hall ; and his tenants claiming right to a cart-road through Sir James's ground, to bring home their peats, feal, and divot, out of the muir of Coldingham ; and the tenants of Headchester stopping their passage that way, and putting them to go another way far about, Mr John Home, the said Sir Patrick's eldest son, came, in November 1708, with some servants waiting on him, to force their carts' pas-