

April Term, 1762.

1762.

Present WILLIAM ALLEN, Chief Justice.  
WILLIAM COLEMAN, Justice.

*The Lessee of* JOSEPH and JAMES HEWES *versus*  
ANDREW M'DOWELL.

ON a Question, whether the original private Book of Memorandums of the Secretary of the Land Office, respecting the Description of the Land originally applied for, should be given in Evidence, it was urged that this Book, containing the original Entries from which the Minutes of Property are formed, is the best Evidence and therefore ought to be admitted. THE COURT said it was a Matter of Consequence; and recommended it to the Council of the other Side to consent to the Book's being given in Evidence; which was accordingly done, and no Determination given by the Court.

Same Cause.

THE Court said, that the Copy of a Warrant of Survey under the Surveyor General's Hand, and containing his Direction to the Deputy Surveyor to make the Survey, has always been given in Evidence:—And such a Copy was now ruled to be admitted, and was read to the Jury.

THE KING *versus* JOHN LUKENS.

INDICTMENT for a Nuisance.—Mr. *Dickenson*, for the Defendant, moved that a Prosecutor should be indorsed on the Indictment, agreeably to the Act of Assembly, \* before the Defendant should be put to plead.—Mr. *Chevi*, Attorney General, urged that such a Construction ought to be put on the Act as that public Justice may not be eluded; and that there should be no Necessity to indorse a Prosecutor, unless it be proved that there is some person active in carrying on a Prosecution; because, if it took its rise from the Grand Jury, or a Justice of the Peace, no Person could be indorsed; and Offenders of the highest Nature would escape being brought to Justice.

BY THE COURT. It often happens that all the Witnesses necessary to support a public Prosecution are brought unwillingly to give Evidence; and the Act could never intend there should be a Prosecutor

\* 4. Ann. c. 27. See 1 State Laws 49.

1752

cutor indorsed, unless there was really a Prosecutor existing, for the Words in the Act are, *the Prosecutor*. And as no Person in the present Case is proved to be active in carrying on the Prosecution, the Defendant must plead to the Indictment without any Indorsement.

It was then moved, that the Defendant himself might be sworn to prove the Person prosecuting; but denied by the Court, who said it must be proved by indifferent Witnesses.

September Term, 1762.

NIXON and HARPER *versus* LONG and PLUMSTEAD.

THE Protest of a Master of a Ship, allowed to be given in Evidence.

April Term, 1763.

WILLIAM ALLEN. Chief Justice.  
WILLIAM COLEMAN, Justice.

*The Lessee of FOTHERGILL and others versus*  
CHRISTIAN STOVER.

A Letter from *James Steel*, Receiver General and Secretary of the Land Office, to the Surveyor General's Deputy in *Chester County* in these Words, "Friend *Isaac Taylor*, Philadelphia, 3d 2m  
" 1719.—*James Logan* has agreed that the Bearer hereof *William Willis* shall have 500 Acres of Land at *Conestogoe*. Please to survey  
" it to him and the Warrant shall be ready.—Thy loving Friend,  
" *James*