

## ABSTRACTS OF RECENT AMERICAN DECISIONS.

*Reports of the Supreme Court of Appeals of Virginia.*<sup>1</sup>

1. A sells and conveys land to M, and takes bonds for the purchase money, retaining the vendor's lien; one of which bonds he assigns to R. M sells a part of the land to C, and before he conveys, it is agreed between M, C and R, that C shall execute his bond to R in lieu of the bond of M assigned to R by A, and that R shall retain his lien on the land. Before M conveys to C, C by a contract in writing sells the land to W, who pays a part of the purchase money to C without notice of R's lien. There is a conveyance by M to C, but no conveyance by C to W. R files a bill against C and W to subject the land to the satisfaction of his debt. *Held*, 1st. That R had a lien upon the land in the hands of C, as such was the intention of the parties. 2d. But though it is a general rule that between equities, equal in all other respects, the elder shall be preferred, yet R's lien being secret, and W having been permitted to take possession of the land, to hold it for a time, and make payments for it without notice, his equity shall be preferred; and the land shall only be liable to the extent of the purchase money unpaid at the time W received notice of R's lien. *Cox, &c., vs. Romine.*

2. In an action upon a bill of exchange, by the endorsee against the endorser, where it is proper to send the notice of protest by the mail, and it has not arrived at as early a day as in the regular course of the mail it might have come, if started at the proper time, the *onus* is upon the plaintiff to prove that it was put into the mail at the proper time. *Friend vs. Wilkinson & Hunt.*

3. In the first year of V's term of office as high sheriff, an execution goes into the hands of T, one of his deputies, who returns it levied on personal property, and not sold for want of bidders. V qualified the second year as high sheriff, and gave different sureties, and T again qualified as his deputy, and there was no order displacing him. At the end of the second year, another person qualified as high sheriff, and then the plaintiff in the execution caused a *venditioni exponas* to issue, directed to V, late high sheriff, which went into the hands of T, and was returned by him "satisfied." *Held*, 1st. T was the deputy of V, for the purposes of this execution, when he made the return of "satisfied," and the high sheriff and his sureties are responsible for his acts. 2d. The levy having been made during the first year of the high sheriff's term of office, the sureties of that year are responsible. *Tyree et al. vs. Wilson.*

<sup>1</sup>The Reporter has kindly furnished us with these abstracts. The cases themselves will be found in 9th Grattan's Reports.