

SPEARS *v.* STATE.

Opinion delivered February 1, 1902.

LARCENY—ALLEGATION OF OWNERSHIP—VARIANCE.—Proof that stolen property alleged to belong to Houston belonged to Hamilton makes a fatal variance.

Appeal from Poinsett Circuit Court.

FELIX G. TAYLOR, Judge.

Reversed.

*George W. Murphy, Attorney General*, for appellee.

BATTLE, J. William Spears was accused and convicted of larceny, committed by feloniously taking, stealing, and carrying away three hogs, the property of John Houston; and he appealed.

The evidence adduced at the trial showed that the three hogs alleged to have been stolen were the property of John F. Hamilton. The allegation in the indictment was that they belonged to John Houston. The ownership should have been proved as alleged. The variance is fatal. *Blankenship v. State*, 55 Ark. 244. In other respects the evidence of the defendant's guilt, as it appears in the record before us, is weak and unsatisfactory.

Reversed and remanded for a new trial.

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