

BENNETT v. STATE.

Opinion delivered December 24, 1904.

INDICTMENT—CLERICAL MISPRISION.—An indictment for larceny is not bad which charges that defendant “did unlawfully and feloniously take, steal and carry away one hog of the value of five dollars, the goods and chattels M.,” omitting the word *of* after the word *chattels*, as the omission is an obvious misprision, which does not destroy the meaning.

Appeal from Lafayette Circuit Court.

CHARLES W. SMITH, Judge.

Affirmed.

George W. Murphy, Attorney General, for appellee.

WOOD, J. The appellant was indicted and convicted of the crime of stealing a certain hog. The indictment charged that appellant “did unlawfully and feloniously take, steal and carry away one hog of the value of \$5, the goods and chattels Mose McGee,” etc. A demurrer was interposed and overruled. The indictment shows that between the word “chattels” and the words “Mose McGee,” there is a small blank space. The word “of” is omitted. But it is clear from the context what is meant, and the omission to write the word “of” or “property of” is a mere misprision. But the omission does not destroy the sense or meaning of the indictment. It is impossible to read the indictment without mentally supplying the omitted word, designating ownership in McGee. The demurrer was properly overruled.

It was not error to permit Mose McGee to testify as to his ownership of the hog. There was evidence legally sufficient to sustain the verdict, and no specific objection is made to the court’s charge, which we find to be correct.

Affirm.