

Jefferson County Circuit Court
Case Files - Civil

Box 20 Folder 7

November 1867

O'Fallon, John

vs.

Green, Michael W.

Trover

2 horses, mule, wagon, harnesses;
\$300 damages; depositions

John O'Halloran Plaintiff
Against
Michael W. Green, Deft. } In the Jefferson Cir-
cuit Court-
Nov. Term 1867.

Plaintiff states that heretofore to wit on or about the 25th day of April 1865, he made a contract with Moody & Twining (a firm composed of C. D. Moody & William Twining) by which said Moody & Twining received from Plaintiff one parcel more of the value of two hundred dollars, one ~~brown~~ parcel more of the value of one hundred dollars, one Brown horse mule of the value of two hundred dollars, one horse wagon of the value of ~~seventy five~~ dollars, one set of harness of the value of twenty five dollars, but it was distinctly understood between said Plaintiff and Moody & Twining ^{that} the said property was to remain the property of Plaintiff until paid for at the above rates, but when paid for then the same should vest in said Moody & Twining. Plaintiff further states that afterwards viz: in April 1866, said defendant obtained from said Moody & Twining the possession of said property and has since converted it to his own use; That at the time defendant received said property from

said Moody & Swining the purchase money for the same had not been paid by the latter or by any one: that at the time defendant received said property and converted the same to his own use he well knew the conditions and terms upon which said Moody & Swining held the same: that it belonged to Plaintiff and that Moody & Swining had not paid for it.

Plaintiff therefore asks Judgment for six hundred dollars for the value of said property and three hundred dollars damages for the conversion thereof by defendant as aforesaid and for other proper relief.

John L. Thomey
Atty for Plaintiff.

John Statten

or

M. H. Green

Editor

in Dover,

I filed with Mr. J.

Chas. Henry Old

By Ed. Thorne Sept 11



THE STATE OF MISSOURI, }
COUNTY OF JEFFERSON. } SS.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson—Greeting:

We command you, that you summon *Michael W. Green*

if he be found in your County, that
he be and appear before the Hon. Judge of our Circuit Court, on the
first day of the next term thereof, to be begun and held at the town of Hillsboro,
within and for the County of Jefferson, on the *first* Monday ~~after the~~
~~fourth Monday~~ of *November* next, then and there to answer unto

John O. Fallon

upon *his* original petition, a copy whereof is hereunto annexed and
accompanies this writ, and have you then there this writ.

Witness, ELIAS F. HONEY, Clerk of our said Circuit Court,
with the seal thereof hereunto affixed, at office in Hillsboro, this
Tenth day of *October* A.D. 1867

Elias Honey

Clerk Circuit Court.

By *Asimus Sept*

25712

2564

JEFFERSON CIRCUIT COURT.

November Term, 1867

John O. Patton,

vs

M. W. Green

(original)

John Williams
Sheriff fee \$1.00

Sent to Cecil

I executed this Writ in Jefferson County Mo on the
14th day of Oct 1867 By Delivering to
M. W. Green a true copy of this Writ and
Petition as furnished By the Clerk
John Williams
Sheriff

John D. Fallon vs } In the Jefferson
Michael W. Green Deft } Circuit Court
Nov Term 1867.

Defendant for answer to the petition of the plaintiff in the above entitled cause states, that, he has no knowledge or information sufficient to form a belief as to whether on or about the 25th day of April 1865 the said plaintiff made a contract with Moody & Livingston, by which said Moody & Livingston received from the plaintiff one sound mare of the value of two hundred dollars, one sound mare of the value of one hundred dollars, one Brown horse mule of the value of two hundred dollars, one horse wagon of the value of seventy five dollars, and one set of harness of the value of twenty five dollars, and denies all knowledge or information sufficient to form a belief, as to whether it was distinctly understood between the said plaintiff and said Moody & Livingston that said property was to remain the property of plaintiff until paid for at the above rates.

Defendant admits that he obtained the possession of the property in petition mentioned from Moody & Livingston, at or about the time stated in petition, by purchase from said

Moody & Loring for a valuable consideration and without any notice of any claim which said plaintiff had to said property.

Defendant denies that the purchase money for said property had not been paid, by Moody & Loring, denies, that when he purchased the property from Moody & Loring and consented the same to his own use, he knew the conditions and terms upon which said Moody & Loring held the same, denies that it belonged to the plaintiff and that said Moody & Loring had not paid for it.

Defendant for further answer says that at the time he purchased the property as aforesaid of Moody & Loring, the said Moody and Loring had been in the possession thereof for a long time prior thereto, and was in such possession at the time defendant purchased the same, that said defendant had no knowledge of any claim to said property by said plaintiff, and says that he is a purchaser thereof, for value and without notice.

Defendant denies, that the property and for is now or was at the time spoken in petition in April 1866 of the value stated in petition.

P. Pipkin atty
for deft.

John D. Allen

W. W. Brown

Left answer

Child drew 84809
S. F. Downey 1889

John O'Sullivan & Michael

vs

Michael W Green defendant

On the circuit
{ County of Jeff-
erson (Ky)

Plaintiff

To Michael W Green. You
are hereby notified that deposition of witnesses
to be read in evidence in the above cause
on the part of the Plaintiff will be taken
at the office of John O'Sullivan Notary
Public No 415 Chestnut Street, between
4 & 5th streets in the City of St Louis
Monday in the 18th day of May 1868
between the hours of 8 o'clock A.M. &
6 P.M. of that day & not completed in
that day they will be continued from day to day
at the same place & between the same
hours till completed

John O'Sullivan

Fees
Justice for affidavit - 25-

Fees -
For service of notice - 50-
" mileage - 90
\$ 140-

John O'Fallon

vs
W W Green

State of Missouri
Jefferson County - ss -
Personally appeared before
me, the undersigned Justice
of the Peace, in and for said
County, Wm H. Nicols, who
being sworn, says: that he
received a copy of the within
notice on the Defendant,
Mr. W. Greene at his store in
the town of Sulphur Springs in
said County, he reading to and
leaving the same with him,
on this the 14th day of May, 1868.
Sworn to and subscribed
before me this 14th of May
1868.

W. M. Parker } W. H. Nicols

Justice of the Peace

Depositions of witnesses produced sworn and examined on the 18th day of May in the year of our Lord 1868 between the hours of eight o'clock in the forenoon and six o'clock in the afternoon of that day at the Office of John M. Fallon Notary Public No 415 Chestnut Street in the City and County of Morris and State of Missouri before me the undersigned a Notary Public within and for said County in a certain Cause now pending in the Circuit Court of the County of Jefferson in the State of Missouri between John O Fallon Plaintiff and M. W. Green defendants on the part of the Plaintiff

John M. Fallon,
Notary Public,
for St Louis Co. Mo.

William Swining of lawful age being produced sworn and examined on the part of the plaintiff deposed and saith

I reside in the County of Morris just outside of the City line in St Louis Township - I know the parties to this case - the Plaintiff is John O. Fallon and the defendant is M. W. Green.

I was living in Jefferson County in eighteen hundred and sixty-five I was doing business in Jefferson County about two years ago - The firm was Wm Swining and Company - The firm was

myself and my son Edward H
Drivins originally composed the
company - we bought some
mules and horses, that is we
the company, we bought some
cattle, some cows - there was
a quantity of Corn in the stacks
we bought also of John O'Fallon - I
never saw the Corn I do not
know whether it was all in
the field or not when we bought
it - some of it might have been
husked and gathered - I do not
recollect the amounts I agreed
to give Mr O'Fallon for these
various things - I don't know
the aggregate amounts - I never
paid Mr O'Fallon in full for
the various things that we bought
- we gave several notes as
a consideration for the things
- we did not pay anything
down - The arrangement between
us and Mr O'Fallon to secure
the purchase money was - we
were to give Mr O'Fallon - I think
it was a Bill of Sale - a Deed
of Trust or something of that
kind to secure the purchase
money - we never gave the
Bill of Sale or Deed of Trust
or whatever it was to secure
said purchase money - the
Bill of Sale or Deed of Trust

was to be on the Live Stock
and I think the Bill of Sale was
to embrace the wagon also but
my memory is not distinct
on that point - It would be
very much of a guess with me to
tell how much the purchase
money was - I think it was
fifteen hundred dollars for
which we were to give a Bill
of Sale - The reason why a
Bill of Sale was not given to
Mr O'Halloran was - Mr O'Halloran
said he was to leave for the South
in the afternoon and he was to
have seen me in the afternoon
- for some reason I did not see
him - either he did not come
or I was out - I can't tell - I sup-
pose he went to the South - it
was said he was gone South -
at least I did not see him
for several months after
words - The arrangement
between Mr O'Halloran and us was
- at least I regarded that he had
the right to the property until
it was secured by a deed
of Trust - He ^{had} foregone
our notes for it yet I ~~thought~~ re-
garded him as having a lien
upon it - and that we would
not have felt or liberty to sell
the property without applying

the payments to three notes - ~~at~~
the time

Qu

State further as the time of the
Contract of Sale of said property
is was a part of the Contract
for you to give Mr O Fuller
a Bill of Sale on this paper
to secure the purchase
money?

Ans

Yes Sir, that is as I understood
it - that is according to my
recollection -

Qu

State whether or no the title in
this property would vest ^{absolutely} in you
before your making the Bill
of Sale to secure the purchase
money according to your terms?

(Objection - it is a question of
law and not of fact to put to
the witness)

Ans

I have ~~stated~~ ^{already} stated all I know
about this - we gave the notes
- I signed the notes and we
took the property and we
were ready at any time to
execute the Bill of Sale
when called upon, I believe
I have stated all I know about
it -

Cross-examination

At the time we purchased this
stock we were a partnership -
ship doing business - I think
we were then a partnership

doing business - we were doing
the partnership business of
manufacturing slaves making
at the time we were partners.
I believe we had about fifty
thousand dollars of capital
in our partnership business -
At the time we made this
purchase I ~~don't~~ know from Mr
O Fallon I don't know that
we had any liabilities - our note
a endorsement at that time I should
regard as good for one or two thou-
sand dollars - there was no
writing or agreement of any
kind entered ~~into~~ between
us and Mr O Fallon in reference
to the purchase of the Cattle
and stock & Corn a few months
before - the notes that we
gave for the Cattle and stock
were partnership notes they
were signed Wm Jennings &
Co - we executed and made
those notes after the purchase
- and after we had taken
possession of the property -
- I don't know - I don't recollect
- I can't recollect about that
we took possession of the
Cattle and every thing we pur-
chased and removed it from
the possession of Mr O Fallon
the plaintiff -

- I cant tell how long this property was in my possession - I should suppose about six months - it might not have been so much as that - I am not certain whether it was a Bill of Sale or a Deed of Trust that we were to give Mr & Fallon - but I think it was a Bill of Sale - we never made out a Deed of Trust or Bill of Sale or any thing of the kind - we never were asked to do so - I did not sell this stock to Mr Green - And I had no negotiations about it - Mr Woody and my son were authorized to act for me in the matter there - they had authority to act - that is to sell - I dont know whether they sold the cattle or not - they were authorized to transact all my business there - the general understanding was that they were to wind up the business - I was living in St Louis at the time -

Am

Mr Woody & your son had authority to dispose of the cattle and mules to any person that they saw fit to wind up the affairs -

Am

There was nothing said about it - there was no prohibition of them selling these cattle to Mr Green or any other person - that was not

^{& Hides & live Stock}
I supposed the cattle ^{was} ~~was~~ ^{back} to Mr O'Fallon
on the ~~same~~ ^{same} ~~settlement~~ ^{settlement}
in my mind & I trusted all to
their judgment in disposing of
cattle and everything to wind up
the business - I have had a final
settlement with Mr O'Fallon
and there is no indebtedness be-
tween us at the present time -
- we have his receipts in full
and the notes have all been paid
and returned - they were con-
sidered to my son - and my son
handed me the notes and the
receipts -

Re-examination

I think Mr O'Fallon was absent
all the time I had possession of
the property - I don't know about
it - I am not positive - I believe
he did not get back until our
affairs were complicated -
I subscribed & am William Twining
to be for me this 18th day
of May A.D. 1868

John M. Bullin Notary Public
Charles D. Moody of lawful age being
produced sworn and examined on the part
of the plaintiff deposed and said -
I was a member of the firm of Twi-
ning and Company - there were va-
rious interviews between members
of the Company and Mr O'Fallon
in regard to this purchase of the
rules, cattle & stock from Mr O'
Fallon - I mean stock generally

negotiations included which resulted finally in the purchase of the same and the giving of these notes spoken of by the other witness - there was a great deal of talk about it and it finally resulted in the purchase and the giving of these notes by Mr William Jennings in St Louis. ~~Of course~~ I don't think I was present at the time of the actual execution of the note - in fact I know I was not - of course I don't know what Mr Jennings said to Mr O'Fallon at this time - but I always concluded from the conversation and the sum of the business and from all sources that there was to be given a Chattel Mortgage (objection ^{as to the testimony} to the mode of mode of the witness getting his knowledge with reference to the Chattel Mortgage) It was always my intention so far as I was concerned to give something in the nature of a Chattel mortgage to Mr O'Fallon - but it was never given - it was never given though some inadvertence - I don't know why - several months afterwards the concern became embarrassed and the Creditors were pressing us from all quarters - and among others Mr Green came out one day and asked if he could not settle his claim some way or another

I told him if it were possible we would certainly do it and he asked if we could not let him have some property in payment - we discussed various items of property that might be taken in payment and among others there were mules which are in captivity and ^{one} wagon and a mare and one double harness and in this connection Mr Green was told that it was intended that Mr O Fallon should have a Chattel Mortgage or something of the kind on this property - it being property purchased of Mr O Fallon & which had not been paid for in full - I think Mr Green asked me whether this Chattel Mortgage had ever been executed I told him no as I understood it - he then said he would take the mules wagon, harness and mare in payment of his claim as I recollect it. The payment of his claim in ~~stores~~ or property of the kind was discussed at the time and Mr Green preferred to take the stock after discussing the matter some time - he did take it and receipted his bill in addition to this stock in order to make out the accounts ~~then~~ in full a small lot of wool of

of some kind was told him to fill out
his account - I explained to Mr Green
the Circumstances and the reasons - &
we received the property at various
times and got the property some at one
time and some at another - I don't know
whether Mr O Fallon was present or not
when we got the property - It was
well understood among all parties that
Mr O Fallon was to have a Chattel mort-
gage upon that property - I think
I informed Mr Green - I am quite
sure that I did, of the Agreement
between the parties with reference
to a Chattel Mortgage when he came
to collect his Claim - I did not see
Mr O Fallon anywhere at the time
he was to receive the Chattel
mortgage until after Mr Green
had got the Cotton & Mules and
property in controversy - It was
reported in the neighborhood that
Mr O Fallon had gone South - At
the final settlement with Mr O Fallon
he gave the firm of Wm. Fanning & Com-
pany a receipt in full of all indebted-
ness whatever but reserved some kind
of rights I don't know whether it was in-
voluntarily or not to proceed against any person

he ~~did~~ ^{was} not on account of any claim
he ~~might~~ ^{supposed} he might
have - in the first place Mr O'
Fallon claimed a lien on all pro-
perty manufactured down there such
as the stoves, cordwood and also up-
on this property that had been taken
by Mr Green in payment and while he
released us in full from all claims
he did not wish to be prevented from
pursuing these claims above re-
ferred to - The firm of Wm Irving
& Company always believed that
the payments that they had made
to Mr O'Fallon for the purchase and
the property - that they had released
and turned over to him full dis-
charged all their indebtedness

Q Explain at the time you made this settle-
ment with O'Fallon that O'Fallon reser-
ved the right to sue Green for the
property in controversy?

(Objected to as a question of law)

A He reserved the right -
Q State whether or not it was under-
stood between you and O'Fallon in this
settlement ^{that he} did not receive the
purchase money from you for
the property that Mr Green had bought

of him or in other words, now it was ex-
pressly understood that O Fallon did
not receive consideration of the settle-
ment alluded to from Trining and
Company for the mules horse and
wagon in question heretofore alluded
to - O Fallon reserving the right to look
to the property for his payment -

Ans

We took the ground that all the property
surrendered to Mr O Fallon paid all
the indebtedness to him including
this, and therefore as the time I
did not single out a portion of
the property as a payment ^{in a particular part} of the
O Fallon's claim but just supposed
that the property surrendered went
to the pay of all the indebtedness
Mr O Fallon spoke of various
persons he wished to reserve the
right to sue and we told him we
did not desire to do anything to
prevent him - Mr Green was
one of the parties he desired to sue
for the property in controversy - Mr
O Fallon said he intended to sue
Mr Green -

Q

State what Mr O Fallon told you
at the time of this settlement for the
reason of going to ~~sue~~ Mr Green

Ans

for the property ~~in~~ controversy?
I don't know without it was the
reason that he wanted to make
~~as~~ much as possible out of the
assets of the Concern - he claimed
more than ~~the~~ ^{the} acknowledged
was due him - ~~there was~~ - Mr John
S Thomas and myself, Mr O Fallon
Mr ~~Dr~~ Edward Twining and Mr Evans
and several others were present
at the conversation

+ Examination

I am one of the Firm of Twining
& Co - we had full control of
the property that was bought of Mr
O Fallon the proper person contro-
versy on this side - we had no
restrictions upon us in our rights
to sell this property - I had as
much right to sell it as Mr
Wm Twining had - I can say
~~that~~ whether any member of our
firm offered to give Mr O Fallon
a deed or trust or other personal
security - or for or myself
is concerned I had a talk
with Mr O Fallon prior to the
actual purchase I proposed
either personal security or the

notes given a Chattel Mortgage back upon the property. At the time we sold the property in controversy to Mr Green we were indebted to him -

In ~~you~~ Do you and did you at the time consider the sale of this property to Mr Green a straightforward and legitimate transaction? (objected to ^{and because of legal point} blending)

Ans I certainly did or else I would not have done it - The property sold to Mr Green was for a debt we owed Mr Green - after we sold this property to Mr Green we had the use of the mare for two or three weeks this was by the terms of the purchase - during that time of two or three weeks I drove her to St Louis where she died while in my possession - she had never been actually delivered to Mr Green - I think Mr Green got possession of the mare at ~~the time~~ before the expiration of these two or three weeks spoken of - but as to the mare I don't know - Mr Green was never paid for

the more the more already spoken
of this deed within ^{the said} ~~and~~ in three
weeks while in my possession

Re-remembrance

By the terms of the agreement
I was to have the more for two
a three weeks after I sold her
to Mr Green - I regarded her
as Mr Green's more - there
was no personal security or
an agreement given on those
notes - I would not consider
it a fair transaction without ap-
prizing ~~Mr O Fallon~~ Mr Green of
the existence of Mr O Fallon's lien,
At the time of the sale to Mr Green
Mr Wm Frazier was in St Louis
and knew nothing about it until
after the property was delivered -
subscribed and Charles D. Mandy
sworn to before me

this 18th day of May A.D. 1861

John M. Fulton

Notary Public

State of Missouri

County of St Louis

Be it re-
membered that I John M. Fulton
Notary Public within and for St Louis

County Missouri duly Commissioned
and acting as such do hereby certify
that in pursuance of the annexed no-
tice came before me at my office No
415 Chestnut Street in the City and County
of St Louis and State aforesaid, Wm. Lin-
sing and Charles D. Moody who
were by me severally sworn to testify
the whole truth of their knowledge tou-
ching the matter in controversy afore-
said, that they were examined and
their examination reduced to writ-
ing and subscribed by them respec-
tively in my presence on the day
and between the hours and at the
place aforesaid viz at the office of
John M. Fulton Notary Public
No 415 Chestnut Street in the
City and County of St Louis Missouri
In testimony whereof I have
hereunto set my hand and af-
fixed my Notarial Seal of
office this 18th day of May A.D.
1868
John M. Fulton
Notary Public
for St Louis County
Missouri



John O'Hallon

cc
W. M. Green
Depositions for
Blunty

Received per mail. opened
and filed May 19 1868
E. J. Hoarey Rec. order

Notary's fee Charles Hallam
~~and to Hoarey~~

John O'Fallon } In the Circuit
or } Court Jefferson
N. W. Gunn } County Mo.

Defendant for answer
assure D plaintiffs Petition
states that he has no knowledge
or information sufficient to form
a belief as to whether on or about
the 25th day of April 1865 the
said plaintiff made a contract
with Mowry and Twining by which
they received from the plaintiff
the property in petition mentioned
and described.

He denies all knowledge or information as to whether said property was to remain the property of plaintiff until paid for at the ~~above~~ rates stated in said petition.

Defendant admits that he obtained the possession of the property mentioned except one seal mare from Woody and Manning. He says that he bought them in good faith without any knowledge or notice of plaintiffs.

claims to the same and paid a
valuable consideration therefor

The money spoken of by the
plaintiff and not received by
this defendant was also bought
and paid for, but was never
taken into possession, and died
soon after and before she
was ever delivered

For further answer defendant
states that said property claimed by
the plaintiff had been fully paid
for by said ~~defendant~~ Moody and
Twining before the institution of
this suit, and the notes given
for the same surrendered to the
said Moody and Twining -

Defendant further says that said
property had been in the possession
of said Moody and Twining for
a long time prior to defendant's
purchase of the same, that
said plaintiff never claimed the
same and that they were sold
to defendant without any notice
of said claim. and for further
answer defendant deems that the
property is of the value stated

in plaintiffs petition and having
fully answered acts judgment for
costs.

P. Pipkin atty for
defendant.

Mr. J. H. Adams

"

Mr. J. H. Adams

Amended Answer

Filed May 20th 1888.
D. J. H. Adams, Jr.

COUNTY OF JEFFERSON,

The State of Missouri,

To

John Burgess Jr.

YOU ARE HEREBY COMMANDED, That setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the *fourth*

at Hillsboro, then and there to testify, and the truth to say in a

certain matter of controversy, now pending in our said Court, wherein

John Burgess Jr.

Plaintiff, and

W. H. Greene & Co.

Defendant, on the part of

no wise to fail.

Blanchard

and herein you are in

WITNESS, ELIAS F. HONEY, Clerk of our said

Court, with the seal thereof hereto affixed, at office,

this *26* day of *May* A. D. 186*8*

Elias F. Honey Clerk.

Ey Anne Dyer

SUBPOENA.

To Jefferson Circuit Court.

Meg Term, 1868

John C. Fallon
vs

Chas W Green

for Plaintiff

James Byrness

John Williams
Sheriff fee

50

Presented the within in Jefferson County Mo on the
1st day of May 1868 and James Byrness by
deed the same to him
John Williams Sheriff

Challenger Seen -

John Challenger shown says. That M. & J. came
2 years ago. I let M. & J. have one cow & one
mule. one brown horse mule, the cow & mare,
one pr. double harness & one wagon. Agreed
to give me bill of sale or else give personal security.
Personal security not given. I was to keep property & have
for. Next month. Returned found M. & J. had
disposed of the property in question to Allen - gave
the man \$500 - more \$100. - \$75 for
wagon. Farmer \$25; M & J never paid
me for the mule & set \$300 on the goods.

1
If the Jury believe from the
evidence that Spallan has been
justly paid by Mrs. and
Twining or had a settlement
with them in respect to
a then undrawn payment of his
claim for the purchase money
of the property in question,
they will find for defendant.

2 If the my sister the man send
for you never decline to be seen
by, mostly and turning half their
us their perfecter, then I mean
is not right for her, although
the my sister she mean
longer by said I mean

If the Jury believe from the evidence that O'Hallow was to retain the title to the property in controversy until Moody & Stirling paid for the same, then O'Hallow had a right to relinquish his right to the notes taken for the purchase of said property without relinquishing his right to the property, provided the Jury further find that O'Hallow expressly reserved his right to the property in the hands of Green at the time he surrendered said notes.

O'Halloran Green

The Court instructs the Jury that if they believe from the evidence that Plaintiff's lot merely & lawfully have possession of the property in controversy when the Appraisers' conditions that the title to the same should remain in the Plaintiff's till the property was paid for and that Moody & Downing have not paid for the same, then the Jury will find for the Plaintiff, although they may further find that Defendant had no notice of Plaintiff's claim at the time he received the property.

If the Jury believe from the evidence that Moody and Irving bought the property of Osallon and agreed to give a deed of trust or mortgage on the same for the purchase money, and that afterwards they sold the same to Green and he had notice of the agreement made with Moody and Irving, ~~at the time of the purchase~~ and that before said purchase by Green or before this suit was brought said Moody and Irving had paid up in full for said property and had a settlement in full of all demands they will find for defendant.

Defence

The court instructs the jury that if they believe from the evidence that O'Halloran was to retain ~~the~~ the title to the property in controversy until paid for - that Moody & Swining afterwards broke up - then the fact that O'Halloran delivered ~~up~~ the notes taken for the property to Moody & Swining will not preclude Plaintiff from recovering for the value of the ~~Plaintiff's~~ property converted to his own use by defendant - unless they further find that O'Halloran at the time he surrendered said note agreed to relinquish his right to the property in controversy.

D. D. Allen
no
green

Prohuchina
Refused

Chiles May 20/68
D. J. Henry D.

2 If the jury believe from the evidence that O'Halloran
let Morphy & Johnson leave the property in their possession
was to obtain a lien upon the same for the purchase
money; that said Morphy & Johnson sold said
property to Defendant & that Defendant knew
of Plaintiff's lien, ^{at the time he bought} then the verdict should be for
the Plaintiff for the value of the property.

Refused

of the Jury advise that the
 property was taken in the
 possession of Swing & Moody,
 under an agreement that Moody
 & Swing should give a bill of
 sale or deed of land, and that
 while said Moody & Swing were
 in possession they sold the
 same to Edwin Whitcomb Swing,
 having any thousands of the
 claims of Attallah they
 were paid for debt and

Refused

The jury find for defendant

James Strickland -

- for man

John O'Sullivan, } May 20th 1868, Fudgh for defh
 M W Greene } 185-10 555- Dec 1868,
 Honey Clerk, cop let, ⁴⁰/₁₀₀ cas ⁵⁰/₁₀₀ writ & cop ¹¹⁰/₁₀₀ lock ¹⁰/₁₀₀ 2,10
 files ⁶⁰/₁₀₀ Sawtooth ²⁰/₁₀₀ Rep ³⁵/₁₀₀ cont. ²⁵/₁₀₀ amens ans 1,60
 appo ¹⁰/₁₀₀ Juny ¹⁰⁰/₁₀₀ fudgh, ⁵⁰/₁₀₀ verlich, ¹⁵/₁₀₀ org ²⁰/₁₀₀ Indenes, ³⁰/₁₀₀ oaths ¹⁵/₁₀₀ 2,40
 making cash ⁴⁰/₁₀₀ F B ¹⁰/₁₀₀ cas ⁵⁰/₁₀₀ appo ¹⁰/₁₀₀ 2 spw ²⁵/₁₀₀ 1,60

John Williams Shff serv defh, \$1,00
 3 spw 1,50
 Juny 1,00
 calls, 1,50 3,65

James Burgess, 2-36, 4,88
 Jacob Hager, 2-36, 4,88
 Richard Whaling, 1-36, 3,88 13,64
 Juny Dec 12,00
 Carling Dep, 12,00
 Horace M Parker, 35
 W H Nichols serv notice ⁵⁰/₁₀₀ mileage 90 1,40

Juny Dec 12



Hallam,
Wm B. Greene

Per 1211