

crime was murder in the first degree; that the evidence was of that degree and no other; and that no question was raised as to the degree. It appears, therefore, with certainty, by the record, that the verdict of the defendant's guilt included the finding of C.'s guilt of the first degree.

IV. The defendant's non-acceptance of the invitation to accompany the jury a portion of the time on the view is no ground for reversing the judgment.

Exceptions overruled.

FOSTER, STANLEY, and CLARK, JJ., did not sit: the others concurred.

OSS�PEE v. GRANT.

When a book account is proved, and the accuracy of the book-keeper is involved, it is not error of law to allow other accounts in the same book to be introduced in impeachment of his accuracy; but how much time will be profitably and properly spent on the collateral inquiry is a question of fact to be determined at the trial term.

A fraudulent concealment of a cause of action to suspend the statute of limitations need not be proved in civil actions beyond reasonable doubt.

ASSUMPSIT, to recover \$536.78 and interest. Plea, general issue, and statute of limitations. Writ dated April 1, 1876. The plaintiff town had borrowed of the defendant \$500, which was repaid, and, as the plaintiffs claimed, was repaid by mistake a second time, March 10, 1865, with interest, which the defendant denied. The plaintiffs put in evidence the books of the town, kept by the treasurer, and called one Gilman as a witness, who testified that he found a deficiency upon the books of \$500 hired of the defendant, and not accounted for. Upon cross-examination, the defendant was not permitted to ask the witness if he discovered discrepancies in the treasurer's accounts with other persons; and the defendant excepted.

The plaintiffs claimed that the statute of limitations was suspended because the defendant fraudulently concealed the cause of action. The defendant excepted to the refusal of the court to charge that the plaintiffs must prove such concealment beyond a reasonable doubt. Verdict for the plaintiffs.

Worcester & Gafney, for the defendant.

Quarles and Copeland, for the plaintiffs.

BINGHAM, J. The question which the defendant desired to ask did not relate to errors in the account in controversy, but in other accounts. Its purpose was to test the correctness of the book-keeper. When a book account is proved, and the accuracy of the book-keeper is involved, it is not error of law to allow other accounts in the same book to be introduced in impeachment of his accuracy: but how much time will be profitably and properly spent on the collateral inquiry is a question of fact to be determined at the trial term.

The request for instructions was properly denied.

Judgment on the verdict.

SMITH, J., did not sit: the others concurred.

HALL & a., Assignees, v. PARIS & a.

59	71
68	385
59	71
674	293
74	348

Depositors in a savings-bank are stockholders, and not creditors, within the meaning of Gen. St., c. 152, ss. 1 and 17.

After the appointment of assignees of a savings-bank in process of liquidation, a depositor cannot set off his deposit in payment of a debt due from him to the bank.

Neither a pledge by the depositor of his deposit-book to the bank as collateral security for a debt due from him, nor an expectation, at the time the debt is created, that he will apply his deposit in payment, entitles the depositor to set off the deposit in payment of the debt.

An agreement with the bank by a depositor that his deposit shall be applied next quarter-day in payment of his indebtedness to the bank, made with the understanding that the application is then made, and nothing remains to be done in execution of the agreement, entitles the depositor to a set-off of his deposit against his debt to the bank.

A special deposit, made to be withdrawn upon call, may be set off against the depositor's debt to the bank.

IN EQUITY. The plaintiffs are assignees of the Carroll County Five Cents Savings-Bank, in process of liquidation. The defendants are depositors of the savings-bank, and severally indebted to it by promissory note, and claim the right to set off their deposits in payment of the notes, to which the plaintiffs object. Paris and some other defendants, at the time their debts were contracted, proposed to withdraw their deposits, and borrow a less sum of money than they did, but, by the advice of the treasurer, they let their deposits remain, borrowed the whole sum needed, gave their