

tion of a statute prohibiting the carrying of firearms concealed on or about the person, there must be proof that the firearm is carried in such a manner as to give no notice of its presence, and in such proximity of the accused as to be within his easy reach and under his control and we find the courts of Missouri lenient in determining what constitutes such proof. D. C. J. '28.

HOMESTEAD—OWNER OF A HOMESTEAD INTEREST IS NOT ENTITLED TO OIL PRODUCED FROM THE LAND.—A widow, having a homestead interest in land filed this action to restrain the appellee oil company taking oil from land under a lease executed by the children of the deceased. *Held*, that the widow was not entitled to oil produced or the proceeds thereof, nor to take over and operate the wells during the continuance of the homestead interest, in view of the fact that her right was merely to the use of the surface of the land. *Brandenburg v. Petroleum Exploration et al.*, (Ky. 1927) 291 S. W. 757.

It seems as if the entire decision is predicated upon the construction of the Kentucky Statutes (Sec.) 1707 which provides that homestead rights do not create an estate in land, but only give owner of homestead the right to occupy and use it, free from disturbance by heirs, creditors or others. This, however, is not the general law throughout the country. The courts of Missouri hold that an homestead interest is a life estate. In *West v. McMullen*, 112 Mo. 406, l. c. 411, the court said, "We think the statute vested in the widow and minor children, if any, an estate for her life, and during their minority, and not a mere right of occupancy. Decisions upon statutes essentially different from ours throw no light upon the question. But our own decisions and those of the Vermont courts and of New Hampshire, under the act of 1868, determine that the homestead is a life estate in land, and not a mere exemption dependent upon occupancy, and being a vested life estate, the widow may use or rent it out as she may see fit during her life. *Rockhey v. Rockhey*, 97 Mo. 76; *Freund v. McCall*, 73 Mo. 343; *Lake v. Page*, 63 N. H. 318; *Skouten v. Wood*, 57 Mo. 380; *Day v. Adams*, 42 Vt. 516. Again in *Bushnell v. Loomis*, 243 Mo. 371, l. c. 385, the court said, "Our own cases recognize that after the death of the husband and the right of homestead has thereby become consummate, then the wife's right rises to the dignity of an interest or estate in land. *West v. McMullen*, 112 Mo. l. c. 411, *Hufschmidt v. Gross*, 112 Mo. l. c. 656. . . . Homestead as well as dower are both life estates."

Some of the decisions in other states go further than the Mo. decisions. In the case of *Smith v. Shrieves*, 13 Nev. 303 the court in construing the homestead law of that state held that the surviving spouse had a fee simple estate. To the same effect are the following cases: *In re Bailard*, 178 Cal. 293, 173 P. 170; *Rawlins v. Dade Lumber Co.*, 80 Fla. 398, 86 S. 334 where the court was of the opinion that the surviving spouse took absolutely all the estate or interest that was vested in the deceased homesteader in the homestead property at the time of his death.

After a review of the various decisions of the different states the rule that should be followed in regard to the homestead laws is best stated in 29 Corpus Juris 783 wherein it is said, "The homestead interest depends entirely on organic or statutory provisions nothing like it being known at common law; and there can of course be no greater right in the homestead property than is created by these provisions. Because of the difference in the wording of the homestead laws in the various jurisdictions, the interest created thereby differs widely.

M. W. S. '29.

LOTTERIES—EFFECT ON COLLATERAL TRANSACTION—BAILMENT OF PRIZE BY WINNER.—Plaintiff held a ticket entitling its holder to participate in a drawing for