to twenty-one years, has been interpreted by the Attorney-General to prohibit issuance of a license to a female under twenty-one without parental consent.) May, MARRIAGE LAWS AND DECISIONS IN THE UNITED STATES (1929) 233. There has been no court interpretation of the effect of the 1921 amendment on the marriage of a minor solemnized on the strength of a license procured without parental consent by fraud or misrepresentation. It appears that the statute requiring parental consent is merely directory, and the amendment does not affect the validity of such a marriage.

T. G. J., '31.

OIL AND GAS—POWER OF CITY TO REGULATE DRILLING OF WELLS.—An ordinance of the City of Oxford, Kansas, prohibits the drilling of a well for oil or gas in certain districts of the city, except by permit issued by the governing body, which is directed to issue only one permit in each block in the restricted area. The property owners in such blocks are given the right to share in the proceeds of that well by contributing to the operating expenses in proportion to the amount of land owned, if they have not leased their oil right to the company securing the permit. By the ordinance wells cannot be drilled within a certain distance from streets or railways, and must be properly walled in when near a residence or business building. A penalty is provided for drilling without a permit and for violations of other clauses of the ordinance. Two cases which arose under this ordinance upon an application for an injunction to restrain the city from enforcing it, were united on appeal to the Circuit Court of Appeals, *Marrs v. City of Oxford* and *Ramsey v. City of Oxford* (C. C. A. 8, 1929), 32 F. (2d) 134. The ordinance was held constitutional as within the police power, since the object was clearly to protect the public safety and convenience of the town's inhabitants. The police power extends not only to the protection of the public safety, health, and morals, but to the protection of common convenience, prosperity, and welfare. *State v. Wilson* (1917), 101 Kan. 789, 168 Pac. 679. See also *Crowley v. Christenson* (1890), 137 U. S. 86. The court also rejected the contention that the ordinance forced property holders into a partnership with the company securing the permit.

The ordinance was well within the power granted to the town in R. S. Kan. (1923) secs. 15-401, 15-440; Kan. Laws 1925 c. 100; Kan. Laws 1927 c. 110, which provided that any city of the second or third class might pass such laws as it deemed expedient for good government, for the benefit of trade and commerce, for zoning the city for the erection of buildings, and for the general welfare of the city.

To support its decision the court quoted from *Ohio Oil Co. v. Indiana* (1899), 177 U. S. 190, to the effect that though property in oil and gas is in the first taker, there is a co-equal right in surface owners to take from a common source. Consequently, legislative power may be exerted "to protect all collective owners, by securing a just distribution, to arise from enjoyment by them, of their privilege to reduce to possession, and to reach a like end of preventing waste."

There are other cases in which the right to take oil and gas has been restricted, as in *Winkler v. Anderson* (1919), 104 Kan. 1, 177 Pac. 521, which held a statute prohibiting drilling within a certain distance from any railroad, to be a reasonable use of the police power. In another case, *Oxford Oil Co. v. Atlantic Producing Co.* (C. C. A. 5, 1927), 22 F. (2d) 597, the Texas Railroad Commission under authority of the legislature prohibited drilling of wells close to property lines or to completed wells. The court held the regulation reasonable, since "the right to regulate the drilling of wells for oil and gas in order to conserve the rights of adjoining owners is too well-settled to admit serious controversy." A statute limiting the production of gas to twenty per cent of the open flow of the well was held constitutional as within the police power to conserve natural resources. "The state has the power to regulate production to complete restriction or suppression." *Herkness v. Irion* (D. C. E. D. La., 1927), 11 F. (2d) 386.

Although these cases are decided on the principle of police power, we find dicta in each that there is a community right in adjoining land owners in oil and gas which can constitutionally be protected by legislation independently of restriction under police power. The ordinance in the principal case allows compensation for the restriction, a concession unusual in police measures. The limitations imposed by the Texas Commission make it practically impossible to take oil except that which is beneath the driller's own land. The validity of such restrictions also suggests the modes of regulation which might at least partially solve the problem of overproduction and waste in the oil industry. H. V. C., '31.

SUNDAY LAWS—CONSTRUCTION AS JURY QUESTION.—Is a motion picture show to be considered an opera house, the operation of which on Sunday is an indictable offense under Code Pub. Gen. Laws Md. (1924) art. 27, sec. 485? This is the question which was presented for determination by the jury in *Callan v. State* (Md. 1929), 144 Atl. 350. The court in leaving this issue to the discretion of the jury said: "It was for the jury to say what the Legislature in using the language employed in this Statute intended to prevent, and having determined the legislative intent, they were then required to say whether or not the act of Callan was a violation of the Statute." The jury found the defendant guilty.

It is a fundamental doctrine that the proper construction of a statute is a question of law for the court and should not be submitted to the jury. *Boston v. Boston Elevator Ry. Co.* (1913), 213 Mass. 407, 100 N. E. 1134; *Booth Fisheries Co. v. Kendall* (1924), 111 Ore. 377, 227 Pac. 99; *Sunday Telegram Co. v. Board of Superiors of Albany County* (1929), 233 N. Y. S. 110. This rule has been followed in the majority of cases involving the construction of a so-called Sunday Statute. *Hegman v. State* (1921), 88 Tex. Cr. R. 548, 227 S. W. 954 and *City of Clinton v. Wilson* (1913), 257 Ill. 580, 101 N. E. 192 present typical situations. The former held that the question of whether a moving picture theater constitutes a theater or