(Cal. Sup.) 284 P. 491; cf. Brasfield v. United States, 272 U. S. 448, 47 S. Ct. 135, 71 L. Ed. 345. In this respect a summary denial of the right of cross-examination is distinguishable from the erroneous admission of harmless testimony. Nailor v. Williams, supra.

The present case, after the witness for the prosecution had testified to uncorroborated conversations of the defendant of a damag-

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ing character, was a proper one for *searching cross-examination. The question, "Where do you live?" was not only an appropriate preliminary to the cross-examination of the witness, but on its face, without any such declaration of purpose as was made by counsel here, was an essential step in identifying the witness with his environment, to which cross-examination may always be directed. State v. Pugsley, 75 Iowa, 742, 38 N. W. 498; State v. Fong Loon, 29 Idaho, 248, 255ff., 158 P. 233, L. R. A. 1916F, 1198; Wallace v. State, supra; Wilbur v. Flood, supra; 5 Jones, Evidence (2d Ed.) § 2366.

But counsel for the defense went further, and in the ensuing colloquy with the court urged, as an additional reason why the question should be allowed, not a substitute reason, as the court below assumed, that he was informed that the witness was then in court in custody of the federal authorities, and that that fact could be brought out on cross-examination to show whatever bias or prejudice the witness might have. The purpose obviously was not, as the trial court seemed to think, to discredit the witness by showing that he was charged with crime, but to show by such facts as proper cross-examination might develop, that his testimony was biased because given under promise or expectation of immunity, or under the coercive effect of his detention by officers of the United States, which was conducting the present prosecution. King v. United States, supra; Farkas v. United States, supra, and cases cited; People v. Becker, supra; State v. Ritz, 65 Mont. 180, and cases cited on page 188, 211 P. 298; Rex v. Watson, 32 How. St. Tr. 284. Nor is it material, as the Court of Appeals said, whether the witness was in custody because of his participation in the transactions for which petitioner was indicted. Even if the witness were charged with some other offense by the prosecuting authorities, petitioner was entitled to show by cross examination that his testimony was affected by fear or favor growing out of his detention. See Farkas v. United States, supra; People v. Dillwood, 4 Cal. Unrep. 973, 39 P. 438.

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[5, 6] *The extent of cross-examination with respect to an appropriate subject of inquiry is within the sound discretion of the trial court. It may exercise a reasonable judgment in determining when the subject is exhausted. Storm v. United States, 94 U. S. 76, 85, 24 L. Ed. 42; Rea v. Missouri, 17 Wall. 532, 542–543, 21 L. Ed. 707; Blitz v. United States, 153 U. S. 308, 312, 14 S. Ct. 924, 38 L. Ed. 725. But no obligation is imposed on the court, such as that suggested below, to protect a witness from being discredited on cross-examination, short of an attempted invasion of his constitutional protection from self incrimination, properly invoked. There is a duty to protect him from questions which go beyond the bonds of proper cross-examination merely to harass, annoy or humiliate him. President, etc., of Third Great Western Turnpike Road Co. v. Loomis, 32 N. Y. 127, 132, 88 Am. Dec. 311; Wallace v. State, supra; 5 Jones, Evidence (2d Ed.) § 2316. But no such case is presented here. The trial court cut off in limine all inquiry on a subject with respect to which the defense was entitled to a reasonable cross examination. This was an abuse of discretion and prejudicial error. Tla-kooyel-lee v. United States, supra; Nailor v. Williams, supra; King v. United States, supra; People v. Moore, supra; cf. People v. Becker, supra. Other grounds for reversal were set up in the petition for certiorari, but we do not find it necessary to pass upon them.

Reversed.

(282 U. S. 716)

UNITED STATES v. SPRAGUE et al.

No. 606.

Argued Jan. 21, 1931.

Decided Feb. 24, 1931.

1. **Constitutional law** ⇐14.

Words and phrases in Federal Constitution were used in normal or ordinary, as distinguished from technical, meaning.

2. **Constitutional law** ⇐14.

Where intention of words and phrases used in Constitution is clear, there is no room for construction and no excuse for interpolation.

3. **Constitutional law** ⇐10.

Choice of mode of submitting constitutional amendments rests solely in discretion of Congress (Const. art. 5).

4. **Constitutional law** ⇐10.

In determining whether proposed constitutional amendment affecting rights of citizens should be submitted to state Legislatures or state conventions, weight is to be given to fact that other amendments touching rights of citizens have been adopted by action of state Legislatures.

5. Constitutional law ⇐10.

Eighteenth Amendment *held* by lawful proposal and ratification to have become part of Constitution (Const. art. 5, Amend. 10).

It was contended that ratification should have been by convention rather than by state legislatures, in view of fact that amendment affected liberty of citizens; however, plain language of Const. art. 5 delegates power to Congress to select mode of ratification, and the Tenth Amendment, reserving powers not delegated to states respectively, or to the people, added nothing to the instrument as originally ratified and had no limited and special operation upon people's delegation by article 5 of certain functions to Congress.

Appeal from the United States District Court for the District of New Jersey.

Prosecution by the United States against William H. Sprague and another. From an order of the District Court [44 F.(2d) 967] quashing the indictment, the United States appeals.

Reversed.

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*Messrs. Thomas D. Thacher, Sol. Gen., of Washington, D. C., G. A. Youngquist, Asst. Atty. Gen., and Robert P. Reeder, John J. Byrne, Mahlon D. Kiefer, and Erwin N. Griswold, all of Washington, D. C., for the United States.

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*Messrs. Julius Henry Cohen and Selden Bacon, both of New York City, for appellees.

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*Mr. Justice ROBERTS delivered the opinion of the Court.

The United States prosecutes this appeal from an order of the District Court (U. S. C. tit. 18, § 682; tit. 28, § 345 [18 USCA § 682; 28 USCA § 345]), quashing an indictment which charged appellees with unlawful transportation and possession of intoxicating liquors in violation of section 3 of title 2 of the National Prohibition Act (U. S. C. tit. 27, § 12 [27 USCA § 12]).

That court held that the Eighteenth Amendment by authority of which the statute was enacted has not been ratified so as to become part of the Constitution.

The appellees contended in the court below, and here, that notwithstanding the plain language of article 5, conferring upon the Congress the choice of method of ratification, as between action by legislatures and by conventions, this Amendment could only be ratified by the latter.

They say that it was the intent of its framers, and the Constitution must, therefore, be taken impliedly to require, that proposed amendments conferring on the United States new direct powers over individuals shall be ratified in conventions; and that the Eighteenth is of this character. They reach this conclusion from the fact that the framers thought that ratification of the Constitution must be by the people in convention assembled and not by legislatures, as the latter were incompetent to surrender the personal

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liberties of the people to the new na*tional government. From this and other considerations, hereinafter noticed, they ask us to hold that article 5 means something different from what it plainly says.

In addition they urge, that if there be any doubt as to the correctness of their construction of article 5, the Tenth Amendment removes it.

The District Court refused to follow this reasoning. It quashed the indictment, not as a result of analysis of article 5 and Amendment 10, but by resorting to "political science," the "political thought" of the times, and a "scientific approach to the problem of government." These, it thought, compelled it to declare the convention method requisite for ratification of an amendment such as the Eighteenth. The appellees do not attempt to justify the lower court's action by the reasons it states, but by resubmitting to us those urged upon that court and by it rejected.

The United States asserts that article 5 is clear in statement and in meaning, contains no ambiguity, and calls for no resort to rules of construction. A mere reading demonstrates that this is true. It provides two methods for proposing amendments. Congress may propose them by a vote of two-thirds of both houses; or, on the application of the legislatures of two-thirds of the States, must call a convention to propose them. Amendments proposed in either way become a part of the Constitution, "when ratified by the Legislatures of three-fourths of the several States or by Conventions in three-fourths thereof, *as the one or the other Mode of Ratification may be proposed by the Congress.* * * *"

The choice, therefore, of the mode of ratification, lies in the sole discretion of Congress. Appellees, however, point out that amendments may be of different kinds, as e. g., mere changes in the character of federal means or machinery, on the one hand, and matters affecting the liberty of the citi-

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zen on the other. They say that the *framers of the Constitution expected the former sort might be ratified by legislatures, since the States as entities would be wholly competent to agree to such alterations, whereas they intended that the latter must be referred to the people because not only of lack of power in the legislatures to ratify, but also because

of doubt as to their truly representing the people. Counsel advert to the debates in the convention which had to do with the submission of the draft of the Constitution to the legislatures or to conventions, and show that the latter procedure was overwhelmingly adopted. They refer to many expressions in contemporary political literature and in the opinions of this court to the effect that the Constitution derives its sanctions from the people and from the people alone. In spite of the lack of substantial evidence as to the reasons for the changes in statement of article 5 from its proposal until it took final form in the finished draft, they seek to import into the language of the article dealing with amendments, the views of the convention with respect to the proper method of ratification of the instrument as a whole. They say that if the legislatures were considered incompetent to surrender the people's liberties when the ratification of the Constitution itself was involved, a fortiori they are incompetent now to make a further grant. Thus, however clear the phraseology of article 5, they urge we ought to insert into it a limitation on the discretion conferred on the Congress, so that it will read, "as the one or the other mode of ratification may be proposed by the Congress, as may be appropriate in view of the purpose of the proposed amendment." This can not be done.

[1, 2] The Constitution was written to be understood by the voters; its words and phrases were used in their normal and ordinary as distinguished from technical meaning; where the intention is clear there is no room for construction and no excuse for interpolation or addition. Martin *v. Hunter's Lessee, *732 1 Wheat. 304, 4 L. Ed. 97; Gibbons v. Ogden, 9 Wheat. 1, 6 L. Ed. 23; Brown v. Maryland, 12 Wheat. 419, 6 L. Ed. 678; Craig v. Missouri, 4 Pet. 410, 7 L. Ed. 903; Tennessee v. Whitworth, 117 U. S. 139, 6 S. Ct. 649, 29 L. Ed. 833; Lake County v. Rollins, 130 U. S. 662, 9 S. Ct. 651, 32 L. Ed. 1060; Hodges v. United States, 203 U. S. 1, 27 S. Ct. 6, 51 L. Ed. 65; Edwards v. Cuba R. Co., 268 U. S. 628, 45 S. Ct. 614, 69 L. Ed. 1124; The Pocket Veto Case, 279 U. S. 655, 49 S. Ct. 463, 73 L. Ed. 894; Story on the Constitution (5th Ed.) § 451; Cooley's Constitutional Limitations (2d Ed.) pp. 61, 70.

If the framers of the instrument had any thought that amendments differing in purpose should be ratified in different ways, nothing would have been simpler than so to phrase article 5 as to exclude implication or speculation. The fact that an instrument drawn with such meticulous care and by men who so well understood how to make language fit their thought does not contain any such limiting phrase affecting the exercise of discretion by the Congress in choosing one or the other alternative mode of ratification is persuasive evidence that no qualification was intended.

[3] This Court has repeatedly and consistently declared that the choice of mode rests solely in the discretion of Congress. Dodge v. Woolsey, 18 How. 331, 348, 15 L. Ed. 401; Hawke v. Smith (No. 1), 253 U. S. 221, 40 S. Ct. 495, 64 L. Ed. 871, 10 A. L. R. 1504; Dillon v. Gloss, 256 U. S. 368, 41 S. Ct. 510, 65 L. Ed. 994; National Prohibition Cases, 253 U. S. 350, 40 S. Ct. 486, 488, 64 L. Ed. 946. Appellees urge that what was said on the subject in the first three cases cited is dictum. And they argue that although in the last mentioned it was said the "Amendment, *by lawful proposal and ratification*, has become a part of the Constitution," the proposition they now present was not before the Court. While the language used in the earlier cases was not in the strict sense necessary to a decision, it is evident that article 5 was carefully examined and that the Court's statements with respect to the power of Congress in proposing the mode of ratifi*cation were not idly or lightly made. *733 In the National Prohibition Cases, as shown by the briefs, the contentions now argued were made—the only difference between the presentation there and here being one of form rather than of substance.

The Tenth Amendment provides:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Appellees assert this language demonstrates that the people reserved to themselves powers over their own personal liberty, and that the legislatures are not competent to enlarge the powers of the federal government in that behalf. They deduce from this that the people never delegated to the Congress the unrestricted power of choosing the mode of ratification of a proposed amendment. But the argument is a complete non sequitur. The fifth article does not purport to delegate any governmental power to the United States, nor to withhold any from it. On the contrary, as pointed out in Hawke v. Smith (No. 1), supra, that article is a grant of authority by the people to Congress, and not to the United States. It was submitted as part of the original draft of the Constitution to the people in conventions assembled. They deliberately made the grant of power to Congress in respect to the choice of the mode of ratification of amendments. Unless and until that Article be changed by amendment, Congress must function as the delegated agent of the people in the choice of the method of ratification.

The Tenth Amendment was intended to confirm the understanding of the people at

the time the Constitution was adopted, that powers not granted to the United States were reserved to the states or to the people. It added nothing to the instrument as originally ratified and has *no limited and special operation, as is contended, upon the people's delegation by article 5 of certain functions to the Congress.

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[4] The United States relies upon the fact that every amendment has been adopted by the method pursued in respect of the Eighteenth. Appellees reply that all these save the Eighteenth dealt solely with governmental means and machinery rather than with the rights of the individual citizen. But we think that several amendments touch rights of the citizens, notably the Thirteenth, Fourteenth, Fifteenth, Sixteenth and Nineteenth, and in view of this, weight is to be given to the fact that these were adopted by the method now attacked. The Pocket Veto Case, supra.

[5] For these reasons we reiterate what was said in the National Prohibition Cases, supra, that the "Amendment, by lawful proposal and ratification, has become a part of the Constitution."

The order of the court below is reversed.

The CHIEF JUSTICE took no part in the consideration or decision of this case.

(282 U. S. 675)

PRUSSIAN v. UNITED STATES.

No. 448.

Argued Jan. 6, 7, 1931.

Decided Feb. 24, 1931.

1. Statutes ⇐241(1).

Criminal statutes must be strictly construed.

2. Counterfeiting ⇐2.

Forging indorsement of payee's name on government draft *held* not forgery of "obligation of United States" (Cr. Code §§ 147, 148 [18 USCA §§ 261, 262]).

Criminal Code § 148 (18 USCA § 262), makes it a criminal offense to falsely make, forge, counterfeit, or alter any obligation or other security of the United States, and Criminal Code § 147 (18 USCA § 261), defines the words "obligation or other security of the United States" to mean all checks or drafts for money drawn by or upon authorized officers of the United States. The court found no offense was committed under the statute, since added indorsement was in itself neither a check nor a draft, but only the purported obligation of the indorser and a purported transfer of title, and it found that history of legislation would likewise prevent offense from coming within statute.

[Ed. Note.—For other definitions of "Obligation of United States," see Words and Phrases.]

3. Statutes ⇐184, 217.

History and purpose of a statute may be considered in ascertaining its meaning.

4. Forgery ⇐7(2).

Forging indorsement of payee's name on government draft *held* punishable as forgery of "writing" for purpose of obtaining money from United States (Cr. Code § 29 [18 USCA § 73]).

[Ed. Note.—For other definitions of "Write; Writing," see Words and Phrases.]

5. Forgery ⇐7(1).

Words "other writing," in statute punishing forgery of deed, power of attorney, order, certificate, receipt, contract, or other writing, to obtain money from United States, includes writings of every class (Cr. Code § 29 [18 USCA § 73]).

[Ed. Note.—For other definitions of "Other," see Words and Phrases.]

6. Forgery ⇐27.

Indictment charging forgery of indorsement on government draft *held* sufficient under statute without charging intent to defraud (Cr. Code § 29 [18 USCA § 73]).

7. Indictment and Information ⇐71, 73(1).

Indictment charging forgery of payee's indorsement on government draft *held* not uncertain or repugnant, though pleader mistakenly alleged that act violated two statutes (Cr. Code §§ 29, 148 [18 USCA §§ 73, 262]).

On Writ of Certiorari to the United States Circuit Court of Appeals for the Second Circuit.

Aaron Prussian was convicted of forging an indorsement purporting to be that of a payee of a government draft. Conviction was affirmed by the Circuit Court of Appeals [42 F. (2d) 854], and defendant brings certiorari.

Affirmed.

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*Messrs. Harold L. Turk and Walter B. Milkman, both of Brooklyn, N. Y., for petitioner.

Mr. Charles Peck Sisson, Asst. Atty. Gen., for the United States.

Mr. Justice STONE delivered the opinion of the Court.