

How the State Convention Mode of Ratification Allowed the American People to Vote on a Constitutional Amendment

In 1935, Everett S. Brown published an [article](#) in the American Political Science Review, on what was at the time a relatively recent political milestone: the ratification of the Twenty-first Amendment to the United States Constitution. Brown began his narrative with the unique status of the amendment's ratification process in the history of constitutional amendments.

"All proposals of amendments to the Constitution of the United States under Article V have been made only by Congress and, with the exception of the Twenty-first Amendment, the mode of ratification has been 'by the legislatures of three-fourths of the several states.' The Twenty-first Amendment alone was ratified by conventions in three-fourths of the states."

However, the Twenty-first Amendment's ratification distinction is more than just political trivia. As Brown goes on to describe the process, it becomes evident that the conventions were not just alternative deliberative bodies but were made up of representatives pledged to deliver the will of their electorate to the convention.

Among the many quotes illustrative of this fact, Brown includes the words of Joseph R. Fraley, President of the Iowa convention:

"And the people of Iowa have spoken," he declared. "What they have said no man or woman can mistake, and we, their delegated representatives, in a spirit of consecration to their voice, will now proceed, in this constitutional convention, to record their mandate."

In his conclusion, Brown summarized the significance of this first vote of the people in the development of their Constitution.

"The ratification of the Twenty-first Amendment by the convention method marks another milestone in the experience of the American people with the processes of democratic government. Further practice may serve to perfect the procedure, but the precedents established on this occasion will serve as guide-posts to future action."

More than 70 years later, Ethan Davis echoed those thoughts in his Yale Law School [paper](#) entitled Liquor Laws and Constitutional Conventions: a legal History of the Twenty-first Amendment.

He said, "...examining the legal history of the Twenty-first Amendment is a window to one of America's most democratic moments. Avoiding the possibility 'that self-dealing state legislatures might thwart needed reforms,' America chose the convention route. Dozens of state legislatures passed laws providing for dozens of popular votes on a constitutional amendment for the first time since the Founding. The conventions rubber-stamped the choice of the people. The Eighteenth Amendment restricted the personal liberty of the people; it was fittingly repealed by the people."

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