

DECEMBER

THE CONSTITUTION

CONTINUE THE STORY

Observation on Congress and Supreme Court reach:

*At this time **reflect on the following as written by Steve Palmer, who is mentioned below:** "The 18th amendment was Constitutional by definition, but there is an argument to be made that the law passed by Congress and the Supreme Court's interpretations were not. When confronted with ... federal overreach, ... cities and states nullified through sporadic or complete absence of enforcement. As with the Whiskey Rebellion and resistance to the Federal Fugitive Slave Act, the federal government was unable to overcome the resistance and was eventually forced to repeal the detested intrusion.*

... In the case of prohibition, disorder arrived because a dishonest federal government attempted to pull a bait and switch on the American people. Order was restored when nullification led to repeal.

*...(note)... that lingering harm was done to the Constitution which has not yet been repaired. **Under cover of enforcing the 18th amendment, the federal government reinterpreted the 4th, 5th and 10th amendments. The 18th amendment was repealed, but the court's power grab was not.** To this day, **we have the prohibition era Supreme Court to thank** for the fact that our cars can be stopped and searched without a warrant, based merely on a police officer's claim of "reasonable suspicion". We are also subject to double jeopardy through state and federal charges through prohibition era precedent. **Indeed, the federal government's intrusion into the states' police powers was justified by the prohibition era courts.***

Questions to consider:

What was the purpose behind the 18th Amendment? The 18th Amendment concluded, what had been a part of the nation's debate of how to manage the abuse of alcohol, including drunkenness and the societal ills including the impact on families and health.

While overall consumption declined, what was not expected was the increase in organized crime, or the days of Prohibition.

Lasting nearly 14 years, it was finally nullified in 1933 because? The 18th Amendment was nullified by the 21st Amendment. To understand what was at stake in this discussion, read a review by Steve Palmer, "Prohibition Repeal: Another Nullification Success Story".



Simply, this is a classic example of the States ratifying an Amendment, Congress allowing for Federal Government agencies to create legislation, then interpretations and finally a Supreme Court to put a stamp of approval on what was now modified from its original intent. Many of the original State supporters were caught off guard when the Volstead Act was passed to include the sale of Beer and Wine during Prohibition.