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# Interposition or Nullification

M. M. McGowan

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MISSISSIPPI - SEEGREGATION  
THE CONSTITUTION -

INTERPOSITION or NULLIFICATION

By M. M. MCGOWAN

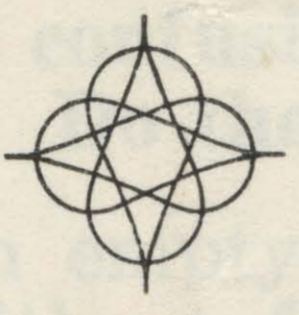
# INTERPOSITION

or

# NULLIFICATION

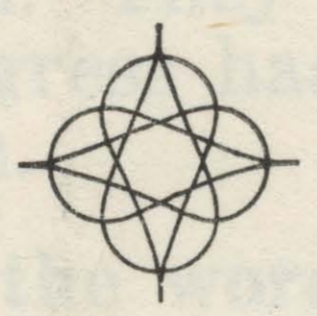
A. It means interposing or placing the Sovereignty of the State against that of the Federal Government; a matter of contested sovereignty; and a refusal to follow the Federal directive, whether it be an act of the Congress, judgment of the Supreme Court, or order of the Chief Executive until the question of who is right is settled by Constitutional processes.

Q. There has been some confusion about the words "Interposition" and "Nullification" - do they mean the same things?  
A. Yes. It would be an empty gesture to say "we never gave you this authority", without following up with "we will not follow your directive or order until it is settled by Constitutional processes who is right?" Just to lamely say "We never gave you this authority, it belongs to us", would be meaningless, or a mere nullification of the Federal Government's authority. The words are consistent and are one and the same.



Q. What is a memorial or petition to Congress?  
A. A petition or memorial to Congress is a mere petition asking Congress to do or not to do a thing. The mail bags going to Washington are full of them. They are usually disregarded. A memorial or petition to Congress has no relation whatsoever to Interposition or Nullification.

**A Dissertation In Question and Answer Form**  
**By Circuit Judge M. M. McGowan, of Jackson, Miss.**



Q. Is it necessary to use the word "Nullification" to void an act of the General or Federal Government by this means?  
A. It certainly is not. Sincere and responsible men should never quibble over words, when other words may be used that have exactly the same meaning. Such words as "State-Veto" were used by the South Carolina and others in South Carolina in the early 1800's. Plainly, the word "Interposition"

*"I would not know how to write an indictment against an entire people."* —EDMUND BURKE, in Parliament:  
Debate on the revolt of the American Colonies.

## INTERPOSITION or NULLIFICATION

By M. M. MCGOWAN

**Q. What is the meaning of Interposition or Nullification?**

A. It means interposing or placing the Sovereignty of the State against that of the Federal Government; a matter of contested sovereignty; and a refusal to follow the Federal directive, whether it be an act of the Congress, judgment of the Supreme Court, or order of the Chief Executive until the question of who is right is settled by Constitutional processes.

An example of Interposition or Nullification is found in a sentence like this: "I, (the State) deny that you (the Federal Government) have the right to do this, because the right to do so was never conferred on you by the Constitution, but was retained as one of the sovereign rights of the States when the union was formed, and I (the State) will not follow the directive or order until the question is settled by Constitutional processes as to who is right."

**Q. There has been some confusion about the words "Interposition" and "Nullification". Do they mean the same things?**

A. Yes. It would be an empty gesture to say "we never gave you this authority", without following up with "we will not follow your directive or order until it is settled by Constitutional processes who is right." Just to lamely say "We never gave you this authority, it belongs to us", would be meaningless, or a mere petition or memorial to Congress. The words are considered as one and the same thing, and in fact are one and the same thing.

**Q. What is a memorial or petition to Congress?**

A. A petition or memorial to Congress is a mere petition asking Congress to do or not to do a thing. The mail bags going to Washington are full of them. They are usually disregarded. A memorial or petition to Congress has no relation whatsoever to Interposition or Nullification.

**Q. Is it necessary to use the word "Nullification" to void an act of the General or Federal Government by this means?**

A. It certainly is not. Sincere and responsible men should never quibble over words, when other words may be used that have exactly the same meaning. Such words as "illegal and of no force and effect", or "unconstitutional and not to be obeyed", would have the same effect. In fact even the word "interposition" was not too much used in the early days. The words "State-Veto" were used by John C. Calhoun and others in South Carolina in the early 1830's. Frankly, the word "Interposition,

as a proper noun, seems to have come into use as a designation of the entire process late in 1955, some two or three months ago. True, Calhoun and Jefferson used the noun "interposition" but merely as a common noun.

**Q. What relation does the Fifth Article of the Constitution have to Interposition or Nullification?**

A. None, except as a vehicle to settle the question raised when an interposition is made, that is to settle the question as to who is right about the matter. The Fifth Article of the Constitution simply provides means of amending the Constitution, and this is sometimes (but not always) necessary to settle the question as to who is right. For instance when, in 1859, the State of Wisconsin nullified the Fugitive Slave Act and also the Dred Scott Decision of the Supreme Court, nothing was done; the Federal Government just called it quits, and let it go at that. On the other hand, when, in 1792, the State of Georgia nullified a decree of the Federal courts granting a judgment against Georgia at the suit of an individual suitor, the Congress got busy and enacted the Eleventh Amendment to the Constitution saying no individual could sue a state.

The Fifth Article of the Constitution provides two methods of amending the Constitution: (1) by two thirds of the Senate and House of Representatives proposing an amendment which will become effective when ratified by three fourths of the states, or (2) by two thirds of the States petitioning Congress to submit amendments upon which event Congress shall cause to be assembled in the states conventions to submit the amendments and these shall become effective when ratified by three fourths of the States.

**Q. What is meant by state sovereignty?**

A. It means that in the beginning the several states were free, independent and sovereign states. This can best be demonstrated by examining the first sentence of the treaty of peace signed by Great Britain and the Colonies after the Revolutionary War, which reads as follows: "His Britannic Majesty acknowledges the said United States, viz., New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina and Georgia to be free, sovereign, and independent States." So the fact that we started as free, independent and sovereign states cannot be denied.

**Q. What happened to the sovereignty of the states, and how can the Federal Government be sovereign and the states composing it at the same time be sovereign?**

A. The states granted sufficient of their sovereignty to found a "more perfect Union" (The Articles of Confederation

of 1781 being imperfect) and retained certain others to themselves. The Tenth Amendment settles this question. It is as follows: "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". Not one of the colonies would have adopted the Constitution unless the Tenth Amendment had been incorporated therein. It was a part of the Bill of Rights when the Constitution was adopted. It was a peculiar work of genius wrought by the great statesmen of the time.

**Q. What is meant by settling the question as to who is right by Constitutional processes?**

A. It was thought by Jefferson and Madison that dignity and right would require that when a State felt its sovereignty had been invaded by the Federal Government, the state itself should not be the sole judge of the matter, but that an appeal should be made to Congress to "arrest the progress of the evil" and that the several sister states be invited to join in said appeal. Thus the appeal is to the Congress with the sister states invited to join therein, and the appeal is that the "question of contested sovereignty" be settled by processes set in motion by Congress under the Constitution.

**Q. Is Interposition or Nullification illegal?**

A. No. No one can reach the conclusion that it is illegal without at first admitting that the States have surrendered their total sovereignty to the Federal Government. By the plainest sense and logic, if they have not surrendered their total sovereignty to the Federal Government, they have the right to raise the question for settlement. Only to those who claim such a surrender has been made is it or can it be illegal.

It would be a foolish thing indeed to say that the states had sovereign rights, but could not assert them. It would be a monstrous thing to say the Supreme Court could order a person hanged for criticising the President or other federal officer. (The Alien and Sedition Laws merely provided one could be sent to prison for a long term for just that! — and the Constitution was only nine years old then).

Of course there are those who make this contention. Many of them are honest people who have never stopped to think. And of course we have the left wing socialist groups who will of necessity have to have it declared illegal or go out of business. Until state sovereignty and local government are destroyed, they can never accomplish their purpose.

**Q. Under what circumstances should Interposition or Nullification be invoked?**

A. Certainly under none other than the most grave and solemn circumstances. It should be only upon the last resort to save the life and sovereignty of the state. There should be danger to the state that is not only imminent and perilous, but as Jefferson and Madison put it "palpable and dangerous". To invoke it under capricious or even ordinary serious circumstances would only bring upon a state the well deserved rebuke of the sister states.

**Q. Would Interposition or Nullification bring violence or disorder within the state?**

A. Certainly not. It would in the matter now threatening us insure peace and good order.

**Q. Would it result in Federal troops being sent into our State?**

A. Certainly not. Sending troops into a quiet and tranquil community would be no more than a farce or comic opera.

**Q. What does the army have to do with enforcing court orders?**

A. Not a thing in the world.

**Q. Just how will Interposition or Nullification work?**

A. It will work perfectly by the people standing solidly together and placing their cause upon their own sovereignty and that of their states. It is to be remembered that the sovereignty not delegated to the Federal Government was retained "to the States respectively or to the People".

No law can be enforced that is repugnant to ALL of the people and shocking to their inherent sensibilities.

Sir Edmund Burke, debating in parliament the revolt of the American colonies, threw up his hands and said in despair: "I would not know how to write an indictment against an entire people!" If we had not stood together in 1776, we would still be an English colony.

**Q. It has been said that when a State interposes its sovereignty against that of the Federal Government, it calls for a settlement of the controversy by "Constitutional Processes", and invites the sister states to join in the petition. Now, pursue that further and tell just exactly how the matter has been or may be carried to a conclusion?**

A. In the light of actual experience and history, a wide variety of courses may be taken, with different conclusions reached.

When Georgia interposed in 1792 (the Constitution then being only three or four years old) over an individual suing the State of Georgia in a Federal court, the Congress rather hastily submitted an amendment to the Constitution (the 11th) which was approved by three fourths of the states, vindicating Georgia's position.

When South Carolina interposed in 1832, on the question of the tariff laws, Congress promptly passed an act relieving the State of the oppressive burden of the tariff complained of. In case of the other acts of interposition, you might say that nothing was done; the states merely had their way about the matter.

However, if Congress refused to grant the relief by legislative act, and the Federal Government refused to give up and persisted in enforcing the act or court decision, then it must be admitted that the truly classical concept of interposition as conceived by Jefferson and Madison might come into play, which was that Congress at the address of the complaining states and such of the sister states as elected to join, would submit an amendment under Article V of the Constitution, and submit it to the people, the amendment embracing the disputed question, and let the result abide the action of three fourths of the States, either by affirmative or negative action.

**Q. If three fourths of the states in this instance should ratify an amendment which affirmatively granted to the Federal Government the right to take over the education and nurture of our children and mix members of the white and negro races in the schools, would the states be bound thereby?**

A. According to the theoretical concept of the principle, they would be.

**Q. Would Mississippi accept it upon such a result?**

A. The state officials would attempt to, but the entire people would have to be reckoned with. That crisis would have to be handled if and when it arose.

**Q. Is there any legal means, other than Interposition to avoid the effect of the School decisions of the Supreme Court on May 17, 1954?**

A. It is quite apparent that there is not. Unless it exceeds the powers granted the Federal Government to make such decision, then it is legal. There is no other avenue of attack that can be made upon it except upon this ground. All that would be left is open defiance or resistance.

**Q. What if the Congress refused to submit an amendment which would settle the controversy?**

A. They could not be compelled to do it unless at the petition of Thirty Two of the States. This is the alternative method provided for in Article V of the Constitution. The first method is, as said before, two thirds of the members of Congress may submit an amendment upon their own initiative, which will be ratified when approved by Three Fourths of the States; or Two Thirds of the States may petition Congress to submit amendments, and if it does so, these will likewise become valid when ratified by Three Fourths of the States.

**Q. What if Congress refused to submit the amendment and also two thirds of the states never petitioned them to do so? How would that effect the Interposition?**

A. It is quite clear that the Interposition would stand. It should be readily conceded that the states of this union, none of them, would interpose upon only the gravest and most solemn circumstances.

**Q. But this is dealing here with a judgment of the Supreme Court. Can Interposition be resorted to against that?**

A. Certainly. It is true that people are much more reluctant to challenge the courts than the Congress or Chief Executive. Reverence for courts of law and justice is perhaps the finest of all our traits. However, tyranny must be resisted from whatever source it might come.

The Supreme Court is a creature of the Constitution; the Constitution in turn is a creature of the States. It is Thomas Jefferson who is credited with saying that the germ of the dissolution of the Republic lies in the judiciary or Supreme Court.

**Q. Now who, in the very last analysis, is to be the judge in a case of contested sovereignty between the Federal Government and a State or group of States?**

A. That is a vital question indeed, and actually goes to the very heart of the matter. It became a very heated question less than ten years after the Constitution was adopted.

Jefferson and Madison, always clearly logical, reasoned thus: The sovereign states entered into a "Compact" as they called it: that was the Constitution itself; the states granted a part of their sovereignty to the general government and retained a part; that was the dual sovereignty system, truly a work of genius, and as they believed, and rightly so, the only and sole guarantee of liberty and freedom. Now, when a dispute came up as to who should exercise that phase of sovereignty, who was to be the judge? Jefferson, who wrote the first Kentucky Resolution of Interposition expressed it in these words:



“That the government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers; but that as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress.

So these great statesmen argued that the Constitution or “Compact” by its plain meaning prohibited Congress from passing the objectionable portions of the Alien and Sedition Laws, but if there was any doubt about its meaning, then the sovereign states who formed the Compact would be the ones to decide, not the Congress or the Supreme Court. There was no “common judge” provided for in specific words, so reason and principle, aided by the purest of logic, would dictate that the creature could not dictate to the creator. Hence the appeal to the States.

**Q. It has been said that Interposition is the only truly legal means by which segregation may be preserved. Elaborate on this.**

**A.** Always turning first to common sense and plain logic, we are confronted with this proposition: The Supreme Court decision of May 17, 1954 is legal unless the court did not have the right to render it; that is, in lawyers’ terms, it did not have jurisdiction of the subject matter. By logical processes and in regular sequence, this brings us to the question of whether or not the States, in forming the union, ever granted to the Federal Government the right to take over the education and nurture of their youth. All of the southern and many of the northern states say that they did not. The Federal government seems to assert that they did. This brings up the essential question involved in interposition—a case of contested sovereignty. Whose sovereign right is it to control the education and nurture of the youth of the land—the States or the Federal Government?

**Q. Several of the states have passed legislative acts, and constitutional amendments, seeking to provide means of preserving segregation. Comment on the efficiency of these.**

**A.** Several of the states have proposed and passed legislative acts, the intent and purpose of which is to avoid the consequences of the school decisions. Several of the states have enacted constitutional amendments providing varying powers, such as the power to abolish public schools, the power to subsidize pupils in private schools, or public schools rented out to private individuals.

The defect in all of these maneuvers is that they, tacitly at least, admit the validity of the school decisions, and seek means and methods to evade or avoid them. We should keep in mind that the same Supreme Court that enacted the school decisions will almost surely decree that Negroes be admitted to private schools.

**Q. What about the situation at Hoxie, Arkansas?**

A. At Hoxie, Arkansas, a Federal Court has already issued a temporary injunction against the residents of the community, enjoining them from "boycotting" the integrated school there. This means that if they failed or refused to send their children to the integrated school set up there, or attempted to set up a private school, they would be subject to fine and imprisonment. However, this court injunction has not been read by the writer, and comment upon its contents is with reservations, but the information comes direct from the attorney handling the case for the citizens of the Hoxie community.

**Q. Upon whom will the burden of enforcing the school decisions in this state fall, if they are accepted as legal?**

A. Just as much on the officers and courts of this state as on the Federal authorities. There is nothing peculiarly Federal about the jurisdiction. The duty would fall just as much on our court as the Federal.

**Q. In the event no Interposition or Nullification resolution is passed, in what position will this leave the executive and judicial officers of this State?**

A. It would leave them in a very bad position indeed. They should know exactly upon what legal ground they stand.

**Q. Is there any higher ground upon which they could stand than the asserted sovereignty of their state?**

A. No. They would be in company of people like Jefferson and Madison, and that is concededly good company.

**Q. Reverting to the historical side of the question once again, what instance of Interposition or Nullification was based upon the least right, so far as the State making the complaint was concerned?**

A. Undoubtedly, the Nullification of the Tariff Act by South Carolina in 1832. This Nullification stood upon practically no right because the right to control interstate and foreign commerce had been specifically granted to the Federal or general government. Paragraph 3 of Article I, Sec. VIII, of the Constitution, the Article which specifically names the powers conferred upon the Federal Government, states: "To regulate

commerce with foreign nations, and among the several States, and with the Indian Tribes." So the nullification was actually without right, except it might be said that the second paragraph of the same section said that tariffs and imposts should be "uniform". However it should be admitted that this factual deviation would not justify nullification. Still it worked! The Congress promptly passed a bill alleviating South Carolina of the unfair and onerous tariff.

**Q. What effect has the South Carolina episode had upon the public understanding of the subject of Interposition and Nullification?**

A. It has caused great misunderstanding and disapprobations for the simple reason that for the many generations since that time, the history books used and taught in school never mentioned any other type or form of Interposition, and the true principle as taught by Jefferson and Madison and other great statesmen of early times was completely lost and forgotten. For example, the Encyclopedia Britannica, under the title, "Nullification" mentions no other instance of such procedure in our history, and that is mentioned with disapproval. Britannica does not mention the word "interposition" at all.

Few people know it but in 1833 the South Carolina incident had gained such unpopularity that Mississippi completely under the domination of Andrew Jackson, passed a strong resolution condemning Nullification. Jackson practically ruled Mississippi at that time so far as political affairs were concerned. However, Old Hickory was tempermental about the matter. When, in 1838, Georgia nullified the Supreme Court order halting the removal of the Cherokee Indians, Jackson made his famed remark: "Marshall has made his decision; now let him enforce it."

**Q. From what has been said there is but one side to this controversy. Is there another side, or if not, to what do the proponents of Federal control of education and nurture of our children hold?**

A. What comfort they have can only come from the 14th Amendment, a rather vague and indefinite pronouncement itself, enacted as a punitive measure after the Civil War when the South was prostrate. It is sometimes called the "shot gun amendment" for the reason that the validity of same must rely upon the ratification of at least some of the Southern States, all of which were helpless and under Federal military control. Governor Coleman of Mississippi contends that it was never legally and validly adopted. He is undoubtedly backed up by historical data or he would not have made the assertion. No doubt the "due process of law" clause of the amendment, and "equal protection of the law" clause of the amendment are re-

lied upon to sustain the proponents of Federal control of education and nurture of our children.

But the fact remains that the 14th Amendment was enacted more than eighty (80) years ago; the very Congress that enacted it set up separate schools in the District of Columbia for negroes and whites; a consistent course of action has ensued whereby for more than 80 years all parties to the compact have understood and treated the amendment as not having anything whatsoever to do with the Federal government taking over the education and nurture of the youth of the land; innumerable court decisions of the court itself have plainly adhered to this interpretation. In fact the education and nurture of the youth of the land was understood to be the prerogative of the states since the founding of the Republic some 165 years ago. After all, the States founded and created the Federal Government; they founded and adopted the Constitution itself, as well as all of the amendments thereto. What the states over a long course of action construe them to be, verily they are.

**Q. Enumerate the instances of Interposition or Nullification in our history, with the results in each case?**

A. (1) In 1792, an individual sued the State of Georgia, and against its vigorous protest, took judgment. Georgia nullified the Federal Court judgment against it, and passed an act through the House of Representatives that if the marshal tried to collect same, he would be hanged! The Congress rather hastily proposed the 11th amendment which prohibited suits against the States at the instance of individual suitors.

(2) Next came the nullification resolutions against the Alien and Sedition laws, which in the teeth of the constitutional prohibition against abridgment of free speech and a free press, levied heavy criminal penalties against anyone who dared criticize the government or any officer thereof. A delegation from Kentucky came to Jefferson and implored him to prepare a nullification resolution for Kentucky. Jefferson complied with the first Kentucky resolution of November 1798, the first classical exposition of the doctrine of Interposition and Nullification in this country. In December Madison followed suit with a similar resolution for Virginia. The Alien and Sedition laws expired in 1801 without any prosecution thereunder.

(3) In 1814, smarting under the restrictions imposed by the War of 1812, tremendously unpopular in New England, all of the New England States met in the Hartford Convention which enacted: a Nullification of the draft act of Congress to provide soldiers for the war; drew up resolutions of actual secession which were never put into effect.

(4) In 1828 the Creek Indians procured from the Federal Courts a judgment which would have prevented the State of Georgia from removing them from the State. Georgia promptly nullified the judgments and removed the Indians by force.

(5) In 1829, the State of Alabama, under similar circumstances, nullified the Federal courts, and removed from its territory the Creek Indians therein.

(6) In 1832, the State of South Carolina nullified an act of Congress levying an unfair and onerous tariff upon the products of the state. The nature and result of this act has been commented upon.

(7) In 1838, the Cherokee Indians violated a treaty whereby they would be removed from Georgia, and appealed to the Federal Courts. The Courts sustained them. Georgia nullified the act of the Courts and removed them by force. President Andrew Jackson sustained them this time and this is when he made his famous remark: "Marshall has rendered his judgment; now let him enforce it."

(8) In 1859, Wisconsin nullified the Fugitive Slave Act of the Congress and the Dred Scott decision of the Supreme Court. Nothing was done.

(9) Some thirteen other northern states joined Wisconsin in the nullification of these acts and decisions. Nothing was done.

(10) The Supreme Court of Iowa nullified and disregarded a Supreme Court decision relative to the disposition of public lands appropriated to the railroads for building lines across the state. Nothing was done.

(11) On January 20, 1956, the Legislature of the State of Alabama nullified the Supreme Court decisions of May 17, 1954, the import of which was to forcibly mix in the schools of that state members of the white and negro race. Result: dependent only upon courage and unified action of the people of Alabama.

**Q. Has there ever been any other occasion of Interposition or Nullification comparable in importance to the Nullification of the school decisions of May 17, 1954?**

**A. No.** It is the last ditch stand to preserve Constitutional government in this country, and turn back the forces of the tyranny of centralized government and the minions of socialism and communism.

**Q. It has been declared that even if the Congress did set in motion what is called "Constitutional processes" to settle the**

question of who is right about the matter, and pursuant thereto three fourths of the States did ratify an amendment which granted to the Federal Government the exclusive right to manage and control the education and nurture of our youth, the people of Mississippi would not accept it. That poses a grave question. Discuss it further.

A. It does indeed pose a very grave question. You note it was said the "people" of Mississippi. As Senator Eastland has pointed out, this school decision is impossible of performance. It shocks the sensibilities of all of the people. The revulsion is too great to be overcome. It runs counter to universal laws of nature that man-made laws can not control.

In the next place, while unbridled and salacious attacks upon the Supreme Court have no place in a dignified discussion among responsible men, still there is a deep-seated conviction among the people that this decision, coupled with other and numerous acts and predilections, shows a studied intention to change the form of this government. It should be conceded that the Fifth Article of the Constitution was never intended as a vehicle for accomplishing this purpose.

**Q. Why would the constitutional amendments abolishing public schools, with pupil subsidizing funds, accomplish nothing? Comment further.**

A. The Supreme Court will strike it down. Few people realize that the Civil Rights mania has spread so far that three states have already passed laws providing that even private schools will have to admit negroes, that is except certain religious and denominational schools.

**Q. What does Interposition or Nullification have to do with Secession?**

A. Nothing. The two principles are actually diametrically opposed. Secession talk would be pure madness at any time, and especially now when our existence is threatened and a division would spell certain ruin.

**Q. If the general or Federal Government has absolute power through construction of the Constitution by court decree, as many seem to think it has, what is the need for having the amending machinery of the Constitution, that is Article V?**

A. None at all. Calhoun sensed this when he said: "Without it (Interposition), the amending power must become obsolete, and the Constitution, through the power of construction, in the end utterly subverted."

## Conclusion

Since the coming of the present crisis, the very word "Interposition" has precipitated somewhat of a furore in the land. A Southern Governor has said it will become a household word throughout the country. To its advocates, it has become a symbol of liberty and freedom from oppression. To its opponents, it is anethama, of near treasonable import.

The public opinion is the ungovernable master of all human disputation. How has it been received? What do those who solemnly aver that the Federal power is absolute and supreme have to say about it?

It can be truthfully said that it has been received in the main with the same solemn dignity with which it has been offered.

It appears that the arguments presently being waged and to be continued perhaps for a long time will follow the same line, with the same contentions being made as prevailed in the early days of the Republic. The advocates of absolute Federal sovereignty say the power and efficiency of the general government will be enfeebled by constant and capricious challenges of the states. The advocates of the dual sovereignty system as originally set up in the Constitution solemnly answer that Interposition cannot and will not ever be raised except upon the most grave and serious circumstances, such as would threaten the very life of the state and freedom of the people. The entire proposition is fraught with grave and onerous difficulties. They adopt as their answer what Calhoun said in his "Reports" of 1828:

"So powerful, in fact, are its difficulties, that nothing but truth and a deep sense of oppression on the part of the people of the state, will ever sustain the exercise of the power; — and if it should be attempted under other circumstances, it must speedily terminate in the expulsion of those in power, to be replaced by others who would make a merit of closing the controversy, by yielding the point in dispute."