falsch auf die «Verfassungsänderungskompetenz» zu setzen.[80] Das Rechtsmittel, das logisch aus der Gliedstaatensouveränität folgte, war das unilaterale Recht auf Nullifikation:

> Jeder, der auch nur ein wenig unsere Verfassung kennt, muss zugegeben, dass alle souveränen Hoheitsrechte vom Volk delegiert und zwischen Bundes- und Staatenebene aufgeteilt sind und dass beide somit ihren Teil aufgrund des gleichen Besitztitels haben. Es scheint daher unmöglich, den Staaten ihr Recht auf Feststellung und Abhilfe eines Verfassungsbruchs zu nehmen. Das Recht, solche Fälle zu entscheiden, ist ein Wesensmerkmal der Souveränität. Es kann den Staaten nicht genommen werden, ohne dass sie ihre ganze Souveränität verlieren würden und sich so in untergeordnete Gebietskörperschaften verwandeln. Es ist doch seltsam, einerseits Kompetenzen teilen zu wollen und anderseits das ausschliessliche Recht, die Grösse der Teile zu bestimmen, nur einer Partei zuzuschreiben. In Wirklichkeit ist das überhaupt keine Teilung, denn

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rotecting the General Government against the encroachments of the governments of the States, but also of the encroachments of the former on the latter – and as being, in fact, the only means provided by the Constitution of confining all the powers of the system to their proper constitutional spheres; and, consequently, of determining the limits assigned to each. Such a construction of its powers would, in fact, raise one of the departments of the General Government above the parties who created the constitutional compact, and virtually invest it with the authority to alter, at its pleasure, the relative powers of the General and State Governments, on the distribution of which, as established by the Constitution, our whole system rests – and which, by an express provision of the instrument, can only be altered by three-fourths of the States, as has already been shown.» (Ibid., 345.)

80 «The disease is, that a majority of the States, through the General Government, by construction, usurp powers not delegated, and by their exercise, increase their wealth and authority at the expense of the minority. How absurd, then, to expect the injured States to attempt a remedy by proposing an amendment to be ratified by three-fourths of the States, when, by supposition, there is a majority opposed to them? Nor would it be less absurd to expect the General Government to propose amendments, unless compelled to that course by the acts of a State. The Government can have no inducement. It has a more summary mode – the assumption of power by construction. The consequence is clear – neither would resort to the amending power – the one, because it would be useless – and the other, because it could effect its purpose without it – and thus the highest power known to the Constitution – on the salutary influence of which, on the operations of our political institutions, so much was calculated, would become, in practice, obsolete, as stated; and in lieu of it, the will of the majority, under the agency of construction, would be substituted, with unlimited and supreme power.» (Ibid., 356.)