201 Wilson Boulevard, Clarendon, Va

July 15, 1929.

Miss Ida Tarbell,
Liberty Magazine,
247 Park Avenue,
New York City, N.Y.

Dear Miss Tarbell:

I have read with intense interest your article in the Liberty magazine, and find in it the same fearless statement of facts and the same clear reasoning and logical deductions I have found in all your writing. The tragic possibilities you point out are only too evident, and the great structure of Constitutional government is being shattered in a hopeless effort to cure a minor evil. I believe, however, there is a reasonable hope of averting this disaster, and that hope is the organization of the sane, law-abiding, thoughtful citizen (the only class never organized) to proclaim the truth and defend it.

The past has conclusively shown that the truth will neither be proclaimed nor defended by any political party when it conflicts with political interests. The control of the legislatures of " Wet " States by " Dry " minorities is the demonstration of surrender of truth to force; and the so called " Big interests are either the primary cause of the enactment of the 18th Amendment, or too involved in other legislative acts to demand from politicians, the proclamation of the truth. The simple truth, so simple that the most befogged intellect can understand it, is that a " Wet " State can not have a " Dry" Legislature Constitutionally. This is the foundation of the people's disrespect for law, and it needs not the appointment of any commission to discover it. It is known to every judge on the bench, every juror in the jury-box, every legislator and every citizen in the United States: even by those who are trying to suppress this truth to justify the enforcement of their control. Germany believed that the American people were so non-resistant that they would submit indefinitely to any injustice. She had bitter proof of her mistake.

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Fanaticism is making the same error; but in this case the inevitable revolt of the people does not mean the overthrow of a despotic power but the destruction of Constitutional government. I believe there is but one possible force which can proclaim and compel the consideration of the truth without disrupting our country, and that force lies in the hands of our American women.

This conclusion is based upon the following facts: All political parties have suppressed the truth for political reasons, and have used the issue of prohibition to distfact the public attention from corrupt administration, or to cover religious intolerance and other selfish ends, and, consequently,will not proclaim the truth. Special interests can not point to an organized minority control in the case of prohibition without admitting the existence of this organized minority which President has so often warned the people against. Fanaticism, organized and financed beyond the need of money, will not admit a truth which announces to the world their treasonable destruction of Constitutional government; and they rely upon the disorganization and financial impotentcy of the masses for immunity from their acts.

The American women, strong in the power of the ballot, unsmirched by corrupt political practices; belonging to no dominating commercial interests which may fear investigation; free, as yet, from the blackmail of paid lobbyists, and having members of their sex in all the branches of legislation, can publish to the world the truth known to all and tear from the hands of fanaticism the false slogan, "Defend the Constitution," and place the true defense of our governing charter in the hands of the people This takes from ~~xxx~~ frenzied hands the false issue of temperance and shows it, in all its hedious corruption, as an attack upon the very foundation of our government, the Constitution of the United States. The people of all classes will defend the Constitution when the truth is pointed out, and fanaticism, shown in its illegal usurpation of the peoples right of self-government, will forfeit the right to the moral support of patriotism.

The whole strength of this proposed movement depends upon the ability to organize and finance the masses into a vital force. The accompanying plan of the SOCIETY OF THE CONSTITUTION OF THE UNITED STATES, has been declared practical by Dr. Nicholas Murray Butler,

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Senator Wadsworth, Governor Ritchie, Hon. Silas H. Strawn, ex-president of the American Bar Association; and Mr. Charles H. Sabin, of the Guaranty Trust Company, gave his assurance that it was a practical banking proposition and, under able leadership, should be very successful.

Mrs. Charles H.Sabin has published thestatement that she has organized woman's societies in twenty-three states to work for the repeal of the 18th Amendment. If those organizations are broad enough to place patriotism above politics and include members of all parties, creeds and classes, and work for the developement of the Society of the Constitution of the United States, this association will grow into an aggressive membership of many millions. To gain the moral support of the law and compel the politicians to either openly admit the truth or attack it, I believe the surest way would be for the American Women to demand of the Bar Association of a State (any State, for if it is true in one it is true in all) to denounce the unjustifiable assumption of the right of ratification by the legislatures of " Wet " States as an unconstitutional act, and demand the repeal of an amendment thus illegally approved. The accompanying article, " Constitutional Government Destroyed," gives more in detail, this just request to the Bar Associations. The synopsis of the plan of organization and financing the Society of the Constitution of the Unites States, is also submitted for your consideration. The financing plan is based upon the psychological truth that what cost nothing is but lightly valued; but what is paid for, no matter how triffling the investment, will be defended.

If this plan meets with your approval, I ask that you send it to Mrs. Sabin with your approval, unless your judgement suggests some wiser course, that the women of the country may take action which will force upon the people the truth that the very foundation of our government is tottering through the action of a fanatical minority, who would burn down the edifice to rid it of rats.

I beg to add that personally I belong to no political party, I am unknown to the liquor interests and desire no position with

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the proposed society, and I am totally indifferent as to the claim of authorship of this plan. I am a New Yorker by birth, born at No.1 Park Avenue; now I believe, through the irony of fate, the home of the Anti- Saloon League. If this work will organize the thoughtful to combat the evils whose existence you have so forcibly shown, it will have fulfilled its mission, and its authorship is of no importance.

Trusting that you may find merit in this plan and that it may receive the immense force of youe approval, I beg to remain,

very truly yours,

Chas. R. Kearney

Charles R.Kearney

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THE SOCIETY OF THE

CONSTITUTION OF THE UNITED STATES.

The 18th Amendment has demonstrated that an organized power can control the legislative acts of a State to the extent of forcing its ratification of an amendment to the Constitution of the United States in direct opposition to the will of a majority of the citizens of that State. The Constitution guarantees to each individual State the right of representative government of the majority. When this right has been usurped, government by the consent of the governed no longer exists within the boundries of that State: and the Constitution itself, not only ceases to function as the governing force of a free people, but becomes the charter of a governmental tyranny. No claimed benefits resulting from a law enacted from a Constitutional minority can compensate fpr the destruction of the foundation upon which the whole superstructure of our government is built; and no enforced submission to such a law can justify its enactment.

An organized minority which can control the legislature of a State, is not the result of hasty or superficial construction. It is the slow, steady, irresistible labor of master minds, working in the shadow; hidden from the attack of a disorganized majority until the final control of the peoples legislatures makes it independant of the peoples votes. A majority, confident in its numbers, courts the open. It is fearless of scrutiny because in the determining test of a comparison of numbers, it has no fear of the result. A controlling minority, lacking numbers when numbers alone justify control, dare not fight in the open. It must govern by strategy; and its strength is in direct ratio to the disorganization of the majority. To bring the power of the majority into active defense of the Constitution, it is essential to place before their reasoning all legislative acts bearing upon our Constitutional freedom, that such acts may be discussed in the open in every city, town and village in the country, and the peoples representatives be instructed by their constituents before such acts become laws.

For this purpose it proposed to organize the SOCIETY OF THE CONSTITUTION OF THE UNITED STATES.

The object of this society is to keep an unremitting, intelligent, organized vigilance over our Constitution, and through the radio and other means of publicity, bring directly before the people all legislative acts bearing upon our Constitutional freedom: To keep the people in constant touch with their representatives, that those representatives may execute the will of their constituents: To promote a study of the Constitution and foster a reverent vigilance over it; and to break up, through the ballot, the most powerful of all weapons, the despotism of organized minorities.

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ORGANIZATION FOR THE ELECTION OF DIRECTORS AND OFFICERS.

As the proposed society will in no way receive any financial aid from the government, and as an organization of such vast membership would ordinarily require immense sums for the election of officers and directors, the following suggested solution of the problem is offered:

Delegates to a convention to be held in a designated schoolhouse in the capitol city of each State, will be elected from the following societies in each State:

State Board of Education,
State Chamber of Commerce,
State Association of the Bar,
State Federation of Labor,
State National Guards,
State American Legion,
State Association of Bankers.

Each society will send one or more members as representatives. This plan places the expenses of each delegate upon the society he represents, which would be no burden, and it is within the power of the State to offer a school-house for the convention. The societies selected are those commanding the respect of the population as being above political bias and of the highest intellectual membership. It also makes the proposed society strong and sustained by organizations already strong; and each delegate is responsible to a patriotic organization.

The delegates in convention will nominate five, more or less, candidates whose names will be printed on cards and distributed to the people to select two from the number to be national directors. Those directors, ninety-six in number, will meet in Washington and select their own officers and president.

METHOD OF FINANCING AND VOTING.

FINANCING

The annual membership fee will be FIFTY CENTS, collected in the following manner: A Mailing coin-card in a business reply envelope will be distributed by the BOY SCOUTS (an organization 800,000 strong) in all available cities, towns, etc., during a certain number of designated days in each year. Those days will be announced above rthe radio in time for the people throughout the country to prepare for them. The envelopes will be issued by, and addressed to, a local bank in the district where the collections are to be made. When a distributor presents an envelope to a citizen, the citizen will write his name on the coin-mailing card, insert fifty cents in the card and place the card in the envelope.

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VOTING

With the coin-card in the business reply envelope, there will be a card bearing the names nominated by the State Delegates. The citizen will mark with pencil or ink, the two names he selects as National Directors. He will then place this voting card with the coin-card in the addressed envelope, and drop it in the mail box. The distributor will, in no instance, be allowed to collect the membership fee or voting card of a citizen. The envelopes will always be issued and addressed to a local bank; and when the bank receives them, they will be filed with the members original signature and the money and voting cards, after deducting the amounts for postage and stationery., will be forwarded to the State headquarters, which will report the result of the State election to the headquarters of the society in Washington.

By this method, the election finances itself and does away with the possibility of the misappropriation of money, or a malicious claim of the misappropriation of money; the society is relieved of an elaborate and costly organization for procuring members and collecting membership dues, and a local and State chapter are instantly created. There is absolute equality of membership. No individual can gain controlling interest through large contributions, and the possibility of corruption is reduced to a minimum. A counter balance to money power is created by making the governing force the number of ballots instead of the number of dollars.

SOURCES OF MEMBERSHIP.

It has been estimated that during the elimination contests for the prize essay on the Constitution in the annual oratorical contest of the High School pupils, over 30,000,000 persons attended, throughout the whole United States. The proposed society is formed to watch over and defend the ideals those citizens have assembled to discuss, and which gives their discussion the power of organization. Add to this the followers of the societies whose members have become the directors of the proposed society, and the immense influence of the Bar Associations of every City and State, combined with the millions of citizens who realize the impotence of a disorganized majority to defend their institutions, and the sources for the most powerful patriotic organization in the world are outlined.

CHARLES R. KEARNEY?
201 Wilson Boulevard,
Clarendon, Va.

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Constitutional Government Destroyed.

The most grave problem confronting the American people since the civil war, is now before the country, and unless it is looked at clearly, fearlessly and with the disinterested patriotism of a free people, the foundation upon which our government rests has begun to crumble and a mighty nation, impregnable to attacks from without, has begun to disintegrate from within. This problem is Prohibition. It is far more serious than the causes which brought about the civil war, for lacking the defined and easily understood issues of slavery and secession, it has clouded with a desired bebefit, the true danger of its power.

Inorder to understand the calamitous importance of the 18th Amendment, it is essential to review the circumstances of of its enactment and examine its fulfillment of the requirements clearly and undabatably defined in Article V of the Constitution; and to do this, it is necessary to trace the growth of the Prohibition movement to its final strength of claiming and exercising the Constitutional powers belonging only to two-thirds of 110,000,000 citizens of the United States.

ARTICLE V OF THE CONSTITUTION OF THE UNITED STATES.

> The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as a part of this Constitution, when ratified by the Legislatures of three-fouths of the several States, or by Conventions in three-fourths thereof, as one or the other mode of ratification may be proposed by Congress...

Here is clearly and unequivically stated that before an amendment can be added to the Constitution, it must be proposed by two-thirds of Congress and ratified by 75% of the Legislatures of the several States. Under the Constitution, the sovereign right to govern rests with the people and with them alone; and as representative government is guaranteed to each State, it is the fundamenal essential of this form of government that the representatives of the people act in obedience to the will of the people, who have endowed them with only the power of representation and not with the right to rule. If this right to rule has been usurped in any one State, it is as much the Constitutional obligation of all the States to assert their moral and legislative strength to correct this as it is for them to use their military force to expel a foreign foe from any individual State. The following is the recorded strength of the Prohibition Party in National elections for the last forty years:

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1884	Democratic	Cleveland	4,911,017
	Republican	Blaine	4,848,334
	Prohibition	St.John	133,825
1888	Republican	Harrison	5,444,337
	Democratic	Cleveland	5,540,050
	Prohibition	Bidwell	271,058
1892	Democratic	Cleveland	5,554,414
	Republican	Harrison	5,190,802
	Prohibition	Fisk	259,125
1896	Republican	McKinley	7,035,628
	Democratic	Bryan	6,467,946
	Prohibition	Levering	141,676
1900	Republican	McKinley	7,219,530
	Democratic	Bryan	6,358,071
	Prohibition	Wolly	209,100
1904	Republican	Roosevelt	7,628,834
	Democratic	Parker	5,684,491
	Prohibition	Swallow	259,257
1908	Republican	Taft	7,697,006
	Democratic	Bryan	6,409,106
	Prohibition	Chafin	252,683
1912	Democratic	Wilson	6,285,214
	Republican	Taft	3,483,922
	Progressive	Roosevelt	4,126,020
	Prohibition	Chafin	208,923
1916	Democratic	Wilson	9,129,605
	Republican	Hughes	8,538,221
	Prohibition	Hanley	220,506
1920	Republican	Harding	9,147,355
	Democratic	Cox	6,152,200
	Prohibition	Watkins	189,408

The most extreme act within the power of the people's legislative representatives is the changing of the Constitution. Upon this great charter rests our right of self-government and this right is retained by the people only as long as it is safe-guarded by the Constitutional majority. If an minority can, for any purpose whatsoever, alter, nullify or extend the Constitution, it ceases to exist as a governing force of the people and becomes the charter of a governmental tyranny. We have the recorded strength of the Prohibition Party, which in forty years, did not represent five per cent of the popular vote for an elected

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candidate or three percent of the votes cast. It is then indes putable that the Prohibition Party did not represent two-thirds of Congress or the Legislatures of seventy-five per cent of the several States, and consequently, under Article V of the Constitution had no CONSTITUTIONAL right to dictate an amendment. Now examine the actions of the other political parties up to the time of the adoption of this amendment by two-thirds of Congress and 75% of the State Legislatures. Up to, and including, the year 1920, when the 18th Amendment became a part of the Constitution of the United States, Prohibition was repudiated at every convention of the Republican, Democratic and Labor parties. It was not that the measure was not brought before the conventions; in each party it was presented, argued and rejected, and the conventions refused to submit it to the peoples votes. Consequently it had neither moral, financial or political support from any strong party. The claim is now made that it was those members in all parties who favored prohibition that joined into one party in Congress and the State Legislatures to enact this law. This is an affront to the intelligence of a free people. The joining together of these favoring this measure in each party in no way altered the opposition to it in each party which remained in exactly the same mathematical ratio.

Let us now sum up the conditions up to the time of the adoption of this amendment and see the ~~xxxxxxxxxx~~ strength of a power which added an amendment to the foundation charter upon which all our governmental institutions rests. Efforts have been made to find out from what source came the necessary financial support to place it before the voters of the whole United States since no strong political party would inderse it. The amount the Anti-saloon League and the Women's Christian Temperance Unions admit spending would not have been sufficient for an effective campaign in a single State. The Democrats, Republicans and Laborites repudiated it at their conventions and, notwithstanding this, a measure unfinanced, repudiated up to the time of its adoption by every strong party in convention, supported by only one party and that party unable, in the whole history of the United States, to gain the strength of one electoral vote, was added by over two-thirds of Congress and forty-six out of forty-eight State Legislatures, to the people's only safe-guard against despotic rule. We have followed the Prohibition movement down to its absolute control of Congress and the Legislatures of 46 out of 48 States. Let us now follow it down to the present time.

The eminent jurist Parsons, defined law in our country as follows: " We have no sovereign but the law, or rather the people is the sovereign and the law is only their utterance." As it has already been pointed out, legislative bodies have no power other than to enact into laws the will of the people they represent. The House of Representatives in Washington is composed of representatives from each State in proportion to the population of each State. Consequently it is the direct representative of the mass of the people; and if those representatives respect their oath of office and loyally represent the people who elected them, they will enact into laws only the will of their constituents. As the State is the unit of the National Government, the Constitution and all Federal laws founded upon it, are the result of the consenting

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majority of the States: and as the citizen is the unit of the State, the authority by which the State approves a Federal law is received soley from the consent of the citizens within the boundries of that State. The Constitution is the supreme law of the land and a law not conforming with it, if enacted by a State, is, ipso facto, null and void. The 18th Amendment is the first act to put legislation in the Constitution, or to assume Federal regulation of the people's habits; and it has, through the Volstead Act, arrogated to itself the arbitrary power of arresting and trying all offenses against this act, in every State, no matter what action may have been taken by the State wherein the offense may have been committed. It in no way co-opefates with the State but authoritively judges and punishes offenses within its boundries. New York and other States defined as " Wet," which means that a majority of its citizens disapprove of the 18th Amendmentm and the Volstead Law, are confronted by the appalling fact that, in direct opposition to the will of the Constitutional majority of its citizens, their votes are recorded as consenting and approving to an amendment to the fundamental charter upon which all State and Federal laws of self-government rests: thus giving Congress a right to regulate their habits in the seanctity of their homes, which they would refuse to give to their own legislatures.

Does not this begin to look serious? Yet when we go father into this problem still graver conditions develope. The 18th Amendment determines that, " Congress and the several States shall have concurrant power to enforce this article by appropriate legislation." Congress enacted the Volstead Law, which is now a supreme law in all States, and all but four States have enacted concurrant laws under this authority, either duplicating or making more stringent the prohibitions of the Volstead Law. This means that a power which never had a visible financial support, or sufficient political strength to be indorsed by any strong party, or the power of one electoral vote inthe history of the country, has not only been able to enforce ratification by the Legislatures of " Wet " States, but to procure the enactment of laws by the legislatures of those States which, in direct opposition to all laws of common sense and common justice, places their citizens in jeoprady of being twice convicted and twice punished for the same offense; an offense which, prior to the passing of the 18th Amendment, was not illegal, immoral or irreligious in any country in the world except Turkey. Is there any doubt on this subject? Then read the decision of the United States Supreme Court in the Lanza Case, Dec.,11,1922

> " Conviction and punishment in a State Court, under a State law, for making, transporting and selling intoxicating liquors is not a bar to a prosecution in a Court of the United States, under the Federal law for the same offense."

Now let us analyse the result of the last election which the supporters of the 18th Amendment claim as an overwhelmining justification of its addition to the Constitution. At the political conventions, one party, the Republicans, indorsed this amendment and the Volstead Law and made them a plank in their platform. The Labor

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and Democratic parties refused theirindorsement. Now judge the result. Six Southern " Dry " States voted " Wet," And New York, New Jersey, Pennsylvannia and other " Wet " States voted " Dry." Eight years after its adoption, this amendment is submitted to the votes of the people for the first time and the result of the election proves that, by its sinister combination with intensely bitter prejudices, both the "Dry" and the " Wet " States have been falsely recorded on this policy in the election result. Immediately after the election, in spite of President Hoover's inaugral demenad for concurrant laws by the State of New York, bearing a dual punishment for the same offense, that State again records its disapproval of the amendment its legislature indorsed.

It would seem evident to thoughtful minds, that a power that can usurp the right of representative government of a State and then, by political generalship, compel that State in defense of other issues to indorse, by association, the measures it repudiates, has destroyed the Constitutional guarantee of representative government of that State and the Constitution upon which that government rests. The English historian, Lord Mcauly said," It is an Anglo-Saxon characteristic to repeat a falsehood often enough to have it believed."

The powers which have deprived certain States of their legitimate right to the protection of the Constitution, are now endeavoring, under the false slogan, " Defend the Constitution," to disguise the fact that they have destroyed it. It is clearly only a matter of time when the same tactics which compelled New York to unwillingly vote for National prohibition, will wear its citizens down to the enactment of concurrant laws and the final surrender of representative government. The merits of demerits of the 18th Amendment are of negligable value compared to the destruction of our institutions,

When the principles defined by our Constitution were outraged by a foreign despotism, at their country's call, 2,500,000 of the flower of our manhood, under the flag which is only the visible emblem of our Constitution, offered their lives for its defense. To preserve to future generations the right of self-government bequethed to us by the patriotism and inspired genius of the founders of our independence, 200,000 of our citizens died in France; well satisfied to make this supreme sacrifice that the Constitution should remain a beacon of hope to the oppressed of the world and a guiding star to the land they died for. We now turn to the jurists of our country to preserve in our halls of legislation the charter of a free people which our soldiers defended in the field. Upon their judicial minds rests justice in our land, and the foundation of that justice is honesty in the enactment of the laws they are called upon to administer. Respect for the Constitution,and the laws enacted upon its authority, must begin with those in whose hands the sacred trust of its preservation has been placed. It Bhen behooves us to accept,with grave contemplation , the warnings of the great students of the Constitution. Jay, Marshall, Madison, Webster, Lincoln, Cleveland, Wilson, Coolidge, all pleaded for unceasing vigilance, and never in the history of the country has the need for vigilance been so great as the present time. We have before us the proven fact that disorganized vigilance is powerless; and it is to organize this vigilance into a vital patriotic force that the proposed plan is submitted to the Bar Associations of the cities and states. If the defense of our Constitution comes from the

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fearless proclamation of the truth by our jurists, respect for the law will be again established. If it comes from the inevitable revolt of the people against injustice, the Constitutional integrity of our country is shattered.

There is nothing new or original in the facts stated in this article. They have been more ably told a thousand times. But their strength, and it is an immense strength, for good or evil, is that they are the common sense deductions of millions of law-abiding citizens who know they have been robbed of the protection of their great Constitution and through disorganization are unable to resist it.

Charles R. Kearney
201 Wilson Boulevard,
Clarendon, Virginia.

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