

◀HE Presidential campaign of 1932 took place in the midst of probably the most profound economic and psychological depression which the American people have ever experienced. It was not regarded, however, as a serious constitutional crisis. The situation in which we found ourselves, whether we consider it in its world aspect or its more local American one, had not been caused by any particular form of government, or by the defects of any specific political system. It had come about from human factors-ignorance, economic greed, nationalistic feeling, and other qualities and emotions. We have learned from the Great War and subsequent events that danger to world stability may come equally readily from democratic, monarchic, fascist, communist or other states, although, as I write, it is the oldfashioned democratic states which are trying to save civilization from another, and perhaps final, catastrophe, threatened by the newer dictator states.

As the success of a form of government depends in the last analysis, as stated in an earlier article, on the wishes, desires, and character of the individuals operating it, we may stop a moment to look at the human causes of the particularly sharp disaster which occurred in America. Full recognition must be accorded to these when, in the

our house in order. We had put ourselves to the job of saving the American Dream and making America a better place for the ordinary citizen. Theodore Roosevelt had been preaching and trying to bring about the "Square Deal" before Franklin D. Roosevelt had even been admitted to the bar; and no plea for the "more abundant life" ever uttered by the latter has equalled in eloquence that in Woodrow Wilson's first inaugural. The Supreme Court had by interpretation made possible such control of giant corporations as had been considered impossible a generation earlier. When, as in the case of the Income Tax, interpretation reached its limits, a formal amendment in accordance with constitutional procedure had been adopted. Thus, we were "on our way."

The war, however, upset all American life. The high wages for labor and the huge profits for capital made us mad, and we spent some fifteen years in establishing an insanely high standard of living and trying to make the money to maintain it. Had we been a sober, economical, cautious people, anxious to be told the truth, we would not have acted as we did. We are not. The circumstances of our history have made us the opposite. We like to gamble with life, to take chances, to be optimistic not fearsome. When we are riding "high, wide, and handsome" we want no one to tell us of danger

ahead, and most people consider anyone applying brakes as an enemy to prosperity and hence of Society. These human characteristics accounted for our actions, for the folly of the boom, for the acts and words of our political leaders, far more than did any form of government, or any malevolent or selfish capitalists. If many in high places lost their heads and did what they should not have done, so did many millions in more lowly places who had the same complex of "get-rich-quick" and cared as little about the methods. We shall speak of this again in the final article but here may we emphasize once more that a constitution and a government machinery are not inanimate, mere blue prints, but, whatever their form, will be influenced and molded by the vital element of the character of the people themselves. There can be no clear thinking about the problem of forms which does not lay great stress on this truth, a truth for the most part wholly neglected by the blue-print reformers.

It is interesting that the final crash came during the presidency of Mr. Hoover, who more than any former executive represented the supposed expert administration of government. Indeed, one of the criticisms levelled at his administration was that under him government had become too much a

matter of specialists, too cool and calculating an effort at economic control. No one was willing to listen to anything but prosperity talk, and even Mr. Hoover is reported to have said that "it is the duty of the President to be optimistic." Then came the crash, and by 1932 America was prostrate among the ruins.

That autumn we had to elect a President. In America a President who has been in office during an economic smash is practically certain to be defeated if he runs for office at the next election. Nevertheless, the people, in spite of their customary desire under such circumstances for a new man in the White House, do scrutinize the plans, ideas, records, and characters of the opposing candidates. In 1932 the only two who were really important were Hoover and Roosevelt. The former was known by his acts. He had set up a group of scientific bureaus to run affairs, and had tried "economic planning" in forms such as the Farm Board, which in an effort to solve the farm problem had asked the farmer to reduce his crops and had paid millions to increase prices for farm products. Roosevelt, except to the few who knew something of him as governor of New York, had to be judged by his statements and by the platform of his party. We now turn to these.

The Democratic platform, considering the state of the nation, was remarkably conservative. It was far more so, for its time, than had been, for example, that of the same party in the Bryan campaign of 1896. Parliamentary or Congressional government cannot be operated to best advantage without two strong parties, a conservative and a liberal, representing the two attitudes toward life of us human beings of various ages and outlooks. Millions must have hailed, after the twelve years of Republican rule or misrule, what appeared to be the rehabilitation of the opposing party on sound principles but with forward-looking objectives, and with the democratic outlook (I do not use the word in its party sense) of a Theodore Roosevelt or a Wilson.

The platform advocated, among other things, "an immediate and drastic reduction of governmental expenditures by abolishing useless commissions and offices, consolidating departments and bureaus and eliminating extrava-

gance, to accomplish a saving of not less than 25 per cent in the cost of federal government;" "maintenance of the national credit by a federal budget, annually balanced on the basis of accurate executive estimates within revenues;" "a sound currency to be preserved at all hazards;" "a competitive tariff for revenue, with a fact-finding commission free from executive interference." Help for the farmers by the "enactment of every constitutional measure" to raise prices was also promised, as were likewise "strict and impartial enforcement of the anti-trust laws;" the development in the public interest of the water-power then owned by the nation; the regulation (not the abolition) of holding companies interested in interstate commerce; regulation of security exchanges; and better protection for investors. Among the things especially condemned by the platform were "the extravagance of the Farm Board [and] its disastrous action which made the government a speculator in farm products, and the unsound policy of restricting agricultural production to the demands of the domestic market."

In the most solemn manner this platform, which contained not a word foreshadowing the extent of the later "Roosevelt Revolution," was declared to be "a covenant with the people," who, it further said, "are entitled to know in plain words the terms of the contract to which they are asked to subscribe." Such were the pledges of a great party, signed and sealed with unusual solemnity.

Not a great deal was known by the nation at large of the candidate, Mr. Roosevelt. It was generally understood that he had an unreasoning prejudice against Public Utilities. Also, Walter Lippmann, one of the ablest and most influential of the publicists in the country, said of him that "his mind is not very clear, his purposes are not simple, and his methods are not direct." Nevertheless, to most people, who assumed Roosevelt to be a man whose word could be trusted, his speeches seemed to be for the most part both clear and emphatic.

Not only had the platform come out against the increasing expense and complexity of the federal government, but Roosevelt, two years before, had put himself on record as against too much "planning" and centralization.

"The doctrine of regulation and legislation by 'master minds,' " he had said, "in whose judgment and will all the people may gladly and quietly acquiesce, has been too glaringly apparent at Washington during these last ten years. Were it possible to find 'master minds' so unselfish, so willing to decide unhesitatingly against their own personal interests or private prejudices, men almost godlike in their ability to hold the scales of justice with an even hand, such a government might be to the interests of the country; but there are none such on our political horizon, and we cannot expect a complete reversal of all the teachings of history." To this he added that "to bring about government by oligarchy masquerading as democracy, it is fundamentally essential that practically all authority and control be centralized in our national government. . . . We are safe from the dangers of any such departure from the principles on which this country is founded just so long as the individual home rule of the states is scrupulously preserved and fought for whenever they seem in danger." If words mean anything, this pronouncement of Roosevelt's fundamental political beliefs was clear enough.

In the campaign he made many similar statements, most of which seemed equally clear. "I accuse the [Hoover] administration," he said, "of being the greatest spending administration in peace times in all our historyone which has piled bureau on bureau, commission on commission, and has failed to anticipate the dire needs or reduced earning power of the people." Again he said: "I know something of taxes. For three long years I have been going up and down this country preaching that government - federal, state and local-costs too much. I shall not stop that preaching. . . . We must merge, we must consolidate subdivisions of government, and, like private citizens, give up luxuries which we can no longer afford. . . . I propose to you, my friends, and through you, that government of all kinds, big and little, be made solvent and that the example be set by the President of the United States and his Cabinet." "This," he said again, "I pledge to you, and nothing I have said in the campaign transcends in importance this covenant with the taxpayers of this country."

If men and women were starving, money must be raised to support them but only by taxation. "Let us have the courage," he said, "to stop borrowing to meet continued deficits. Stop the deficits and let us have the courage to reverse the policies of the Republican leaders and insist on a sound currency." "Here at least is a field in which all business-big business and little business and family business and the individual's business—is at the mercy of the big Government in Washington." "If, like a spendthrift, it throws discretion to the winds, is willing to make no sacrifice at all in spending, extends its taxing to the limit of the people's power to pay and continues to pile up deficits, it is on the road to bankruptcy."

"The truth is," he said elsewhere, "that our banks are financing these stupendous deficits, and that the burden is absorbing all their resources. All this is highly undesirable and wholly unnecessary. It arises from one cause only, and that is the unbalanced budget. . . . Now, ever since the days of Thomas Jefferson, that has been the exact reverse of the Democratic concept. . . . [In his philosophy] I shall approach the problem of carrying out the plain precept of our party, which is to reduce the cost of the current federal government by 25 per cent. Of course that means the complete re-alignment of the unprecedented bureaucracy that has assembled in the last four years [1928-1932]."

Speaking of the relations between government and business, he announced emphatically that "I have warned the country against unwise governmental interference with business; I have pointed out that the policies of the present leadership of the Republican Party in the last few years have constituted dangerous back-seat driving. I am opposed to their kind of governmental interference with business. It means casual, dangerous tampering.'

Speaking of the currency, the prospects for which had alarmed many people, both because of the world situation and because of the general record of the Democratic Party, he said that "the Republicans claim that the Democratic position with regard to money has not been made sufficiently clear. The President [Hoover] is seeing visions of rubber dollars. This is only part of his campaign of fear. I am not going to characterize these statements. I merely present the facts. The Democratic platform specifically declares, 'We advocate a sound currency to be preserved at all hazards.' That is plain English." When Hoover asserted that at one time the government had been nearly driven off gold, Roosevelt declared that this could not have been so because, after recently having sold bonds payable in gold, had this been true and had the officials "failed so to advise the banks and private investors who had purchased nearly \$4,000,000,000 of these federal securities, they were guilty of amazing dishonesty; they were cheating the investing public; and could not even appropriate to themselves the solace of future oblivion because their names would have been remembered in terms of anathema for a century to come."

These, then, were Mr. Roosevelt's considered statements as to his attitude toward government in general and also to his personal policies which would be pursued if elected. At no single point did they conflict seriously, if at all, with our traditional governmental theory or the constitution. Indeed, in his Inaugural Address, pronounced four months after his election, the new President said, after outlining his policy, that "action in this image, action to this end is feasible under the form of government which we have inherited from our ancestors. Our Constitution is so simple, so practical that it is possible always to meet extraordinary needs by changes in emphasis and arrangement without loss of essential form. That is why our constitutional system has proved itself the most superbly enduring political mechanism the world has ever seen. It has met every stress of vast expansion of territory, of foreign wars, of bitter internal strife, of world relations." The only thing it had not yet met was the new President.

This article is not a political diatribe against Roosevelt. As it happens I was one of the 22,500,000 Americans who were for him when he was elected. But in view of what he said, as just quoted above, on the Constitution, and the facts that there was nothing in his party platform or his own announced views and policies during the campaign which called for unconstitutional action, it must be enquired why, at the end of three years, the most important quesAmerican people by him is whether or not the Constitution is still adequate for the nation. The question, which promises to be, perhaps, the leading issue in the next campaign has been imposed upon us and has to be faced. This series of articles has not been concerned with details. It has been intended rather as an attempt to aid thinking on the subject in general than to point to specific problems or to specific suggested solutions. But for the clarification of the problem it is of the first importance that it be considered whether or not, since Roosevelt pronounced his panegyric on the Constitution in his address on taking office less than three years ago, it has become inadequate to the genuine needs and desires of the great mass of Americans or whether it has merely proved a stumbling-block to the carrying out of hasty and ill-considered measures of certain individuals or minority groups. In the long run, what sort of government, and what sort of goods provided by it, do the great majority of Americans really want? This question will be discussed in the next and final article. In this one we must consider further the attitude of the present administration toward the Constitution in order to try to understand better why the issue of the Constitution has come to overshadow all else.

As we have seen, there was no such issue in 1932. For a long time it had been felt by many, conservatives as well as radicals, that changes, by one method or another, would have to be made in our Constitution considered in its broad sense, in order to keep pace with the changing conditions in modern America. But, without considering other methods, even formal amendments had been made for a generation at the rate of one to about every three or four years, and, as Roosevelt himself pointed out, the Constitution had been flexible enough to meet every crisis and condition for a century and a half. There was, in 1933, when this administration took office, no constitutional crisis in the sense which so many claim now exists.

That year, however, was marked by an economic crisis in which the morale of the American people reached perhaps the lowest point ever touched. Nevertheless, the figures for the election were most illuminating. Out of a tion which has been thrust upon the little more than 39,200,000 votes ap-

proximately, the conservative Hoover, without the qualities which make for popularity, and by necessity scapegoat for the crash, received about 16,000,000. Roosevelt, the "new face" desired by many, but running on a conservative platform and series of public addresses, received 22,500,000. The "radical," as it is understood in America, Thomas, on the Socialist ticket, polled only about 730,000, much less than that party had been able to muster in 1920 or even as far back as 1912. Roosevelt had talked much of the "forgotten man," and it was felt that he would be progressive but at the same time constitutionally and economically sound. Allowing for all cross-currents, it was as clear as anything could be that the overwhelming mass of the people were for a progressive and humanely motivated government but against socialistic experimentation and for sound economics.

In reality, although few recognized it at the time, in view of the fine work which the new President did in clearing the banking situation and restoring morale, the constitutional crisis began at once. Herman Finer, in his admirable book on Mussolini's Italy, notes that "the democratic system of government . . . proceeds upon an assumption radically different from that of the Fascist movement. It requires that all who aspire to power shall state clearly what they intend to do with it when they achieve it. This has given rise to political parties with elaborate programs, often based upon considerable scientific research, and a sense of responsibility and trusteeship to those for whose welfare the program is intended, and upon whose voices the accession to power will depend. It is a question of political morality of the first order whether it is right for men to demand the power to govern without first having thought out the consequences of that demand and genuinely accepted their responsibility for the execution thereof when they have attained to power. To do otherwise is to work the confidence trick, which is not less dishonest because it is played on the vast stage of politics. It has the same air of super-morality about it as a company floated during the South Sea Bubble 'for carrying on an undertaking of great advantage, but nobody to know what it is."

Did Roosevelt, when he asked the

people to elect him to supreme office, have a clear vision of the general policy and principles he intended to pursue? This question is not asked for political purposes but because I think the answer has a very important bearing on our present so-called constitutional crisis. The responsibilities to which he was elected were overwhelming, and his attempts to solve the difficulties of the situation should be accorded the most sympathetic consideration. On the other hand, he was not a private individual, suddenly drafted to serve the public. He did not take office until two and one half years after the crash of September 1929. During the intervening period he had been in an office second only, perhaps, in responsibility to that of Hoover himself, namely, governor of New York, the most populous, wealthy, and economically diversified state in the Union. For at least a year before his inauguration he had known that he might be President.

It is incredible that he should not have thought out his policy and principles. It is also incredible that he should have deliberately deceived the electorate as to what they were. We must, therefore, accept his platform and speeches at their face value. But the point is that there was nothing in these to foreshadow what has become a conflict all along the line with the Supreme Court, and the creation of the "constitutional crisis." I think the answer to the problem is to be found in the fact that since taking office, the policies he has pursued and the legislation he has demanded have fallen into two categories. There is one group, such as his carrying out the pledge to regulate the stock and commodity exchanges, which had long been regarded by many as a desirable reform and which, properly carried out, would not conflict with the Constitution. But another, and by far the larger and more important group, constitute in their aggregate what is called the "Roosevelt Revolution," and it is in that group that practically the whole of the difficulty with the constitution has developed.

There are several important points to be noticed. First, the President, almost from the day he started, himself ran counter to an important part of the Constitution, understanding that to mean the whole of our democratic machinery of government. No one can complain if an administration does not succeed in enacting its entire program, provided it makes an effort to do so, and moves in the promised direction. Democratic government cannot continue to function, however, if those elected on pledges of carrying out certain lines of policy turn round, when elected, and try to follow policies directly the opposite.

It is unnecessary here more than to list some of the things that have been done. Instead of balancing the budget, the hugest peace deficits in history have been piled up annually. New bureaus and commissions have been created in bewildering number and on an unprecedented scale, involving an increase of possibly 200,000 in the number of government employees, until it is estimated that 16 per cent of all the workers in the nation are on the federal pay-roll. After issuing government obligations payable in the old gold dollars, not only has the gold content of the dollar been reduced to about 59 cents, with the possibility that the President can make it 50 cents, but the gold clause was wholly repudiated. So far from maintaining a "sound currency," people have been justly alarmed at the possibility of such inflation of credit or currency as to make future purchasing power of income impossible of calculation. Instead of relieving the banks of the burden of financing the government, they have been loaded up as never before. So far from taking the government out of speculation in farm products, it has been put more heavily than ever into the markets, and has engineered the greatest cotton corner in history. Instead of cooperating with Congress to reduce expenditure, the Executive has demanded and received in one lump the unimaginable sum of nearly \$5,000,-000,000, a sum probably never before in the history of the world in the control of one man. Without extending the list further, we may note, finally, that so far from getting government out of business and refusing to indulge in "dangerous back-seat driving," the administration has undertaken to control vast areas of business in a manner never before contemplated except by dictatorships and other forms of the totalitarian state. In this sphere of its activities, the administration, so far from protecting investors, has assumed the power of life and death over their investments, even when honestly made and honestly used.

This is exemplified, for example, in the grants of money raised by federal taxation and handed over to local communities in order that they shall build utility plants to destroy the value of those already existing even when, as is the case in Iowa City, it is admitted that the existing plant has given good service at fair rates. A citizen may thus be taxed by the federal government for the purpose of destroying his own local investments, honestly managed.

If space permitted it could be shown how, in one way after another, the administration has been trying not merely to regulate business or correct abuses, but to make over the whole political and economic structure of our government and society. An outsider cannot know when Roosevelt turned from his announced pledges and principles of the campaign speeches to this new and unprecedented attempt to reorganize society. Such an effort in a democracy, and so complex a one as the United States, would seem to require at least two things, first, an unhurried and deeply considered approach to the problem, and second, a mandate from the people.

At this point, I think we reach the answer as to why Mr. Roosevelt has plunged the nation into what he seems to consider its constitutional crisis. The vast changes which he sought to bring about, and the experiments he wished to make, without any mandate from the electorate at the time he was elected, were not properly thought through. There was not time. If we accept his presentation to the people of his political philosophy up to the time of his election as honest and sincere, there were only four months for him to change before inauguration. There were also immediate problems of the most pressing sort to be considered. The Brain Trust, to whom rather than his Cabinet, the President-elect appears to have turned for advice, were men of ideas mixed with fads and fancies, but most of them were characterized by lack of long experience in large affairs, public or private. At this time doubts as to constitutionality of some of the plans to be tried seem to have assailed Roosevelt, for immediately after his panegyric on the Constitution in his Inaugural Address, he added, "it is to be hoped that the normal balance of executive and legislative authority may be wholly adequate to meet the unprecedented task before us. But it may be that an unprecedented demand and need for undelayed action may call for temporary departure from that normal balance of public procedure." In fact, he soon asked and received from Congress executive power as great as that which "would be given me," in his words, "if we were in fact invaded by a foreign foe," power much enlarged subsequently.

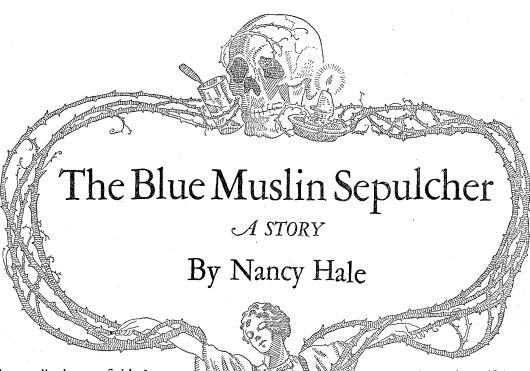
It has been said that the President was advised that even should some of the plans suggested by the Brain Trusters not be constitutional, nevertheless, if cases concerning them could be kept out of the Supreme Court for two years, the economy of the nation would have become so entwined with the new order, or the "New Deal," that (as did prove the fact in the gold case), the Court might declare measures unconstitutional, even immoral, but could do nothing about them. In any case, the nation was started toward an entirely new conception of the state, contrary to our former democratic ideal.

All sorts of plans were tried, many of them conflicting. The piling up of new bureaus started, giving us the NRA, the TVA, the AAA, and a host of other experiments, not thought out as to where they might lead us as a nation and apparently with scant attention paid to their constitutionality. Indeed, Act after Act was so hastily and carelessly drawn as necessarily to call forth an adverse decision when tested by the Courts.

Successive Brain Trusters, each with his own pet plan or panacea, rose and fell in influence. The attempt to plan on a wholesale scale for a complicated economic mechanism without adequate thought or cooperation, kept running against snags. Constant new plans had to be made and the area of planning widened, once we were On Our Way, as the President called his book. This has been clearly shown in the AAA, which has had to consider one crop after another as "basic" and to be controlled until we reached the absurdity of the Potato Act which even the administration was impelled to repudiate. As the muddle became greater, less and less attention was paid to the Constitution until the President asked Congress to pass the Guffey Bill, almost universally considered unconstitutional,

even though Congress itself might also consider it so.

These are some of the reasons why now, after about three years of the Roosevelt administration, many consider that we are facing a constitutional crisis, and why the Constitution is likely to be a leading issue in the next campaign. That is far from saying, however, that the Constitution has yet proved inadequate for the sort of government Americans want. The facts that almost the whole of the administration's policies are now considered to be of very dubious constitutional validity and that both the NRA and the AAA, considered pillars of the New Deal, have been overturned by Court decisions, are largely due to two things, first, the lack of attention paid to the Constitution in many cases of hasty and ill-considered legislation, and, second, the fact that the attempt is being made to turn the Government of the United States into something quite different from what the great majority of Americans have wished it to be in the past. If we really want a totalitarian state with universal planning and regimentation, then neither the present Constitution nor a mere amendment or two will suffice for our new government. But it must be clearly understood that much more than our Constitution will, in that case, have to be altered. With it will have to go those personal liberties which have meant something to us for the past three centuries. If we do not wish a complete overturn of that sort, then we may still be able to use the old Constitution, making from time to time certain alterations by the various methods pointed out in a previous article. It is certain that changes must continue to occur in the future as in the past. We cannot, however, continue merely to go gaily "On Our Way" without a clear realization of where it may lead, and the almost certain goal of the efforts of the Brain Trust thus far has not only not been confided by them to the people, but has been concealed. Mr. Roosevelt who so solemnly said, when speaking of wide-scale national planning, that "we cannot expect a reversal of all the teachings of history," must have been wrong in 1930 or is wrong now. Not only history, but also the contemporary story of several great nations, show all too clearly where leads the path of national economic control.



◀ HE blue muslin dress, unfinished, lay across the laps of Mrs. Gardiner and her two beautiful daughters with whom, although she was so very delicate, Heaven had endowed her. It was Annora's dress; she proposed to wear it at the June Cotillion of the Divinity School, night after next. But they had basted it, fitted it, hung it, stitched its seams and hemmed it, all three together, and they were now tucking it and sewing on the lace together. That was the way the dresses of the beautiful Gardiner girls were always made—once the money had been contrived to purchase the stuff. A dress was such a complicated and infinitely exhausting piece of architecture, and none of the three was at all strong.

At their backs, through the windows of their half-a-house came sweetly the sound of the ladies' feet tapping along the brick sidewalks of Schneider Street, the voice of the disagreeable Huntley boy raised above those of the other children of the street, the comfortable trundle of an occasional cab or a fringetopped surrey: in this weather it was pretty, even on Schneider Street. The door of the parlor, where they were sitting, stood open so that they would be able to hear poor Papa call if he should be in pain; at present the house was in silence except for the low harsh singing of Julia in the kitchen; she was green from Ireland, and as yet had not been frowned into real "training." . . .

... "She does seem quite dreadfully stupid," Mrs. Gardiner sighed. She drooped over the blue muslin, but her thimble twinkled and darted like a little golden bee above the long, tiny rows of tucking.

"It is wretched to be poor," Annora cried impulsively. She was the reckless one, and often, walking or marketing, forgot out of sheer high-spiritedness and let the hem of her dress swish through the dust, although she knew what a task it was to replace the dustruffle. What she lacked in prudence, however, she made up in affection,

generosity, and unselfishness. She was, although at times the victim of severe indispositions, more of a help to her mother than Jenny who, for all her docility and daughterliness, was so often obliged to lie down. She had inherited her mother's weak back. . . .

... "To have to bother with ignorant, untrained Irish girls," continued Annora; "to make our own dresses and contrive with this old furniture, and to drive, if we drive at all, in hired hacks. What wouldn't I give for a handsome carriage—and two servants—and a dressmaker to come in by the week—and perhaps a man nurse for poor papa! What bliss!"

"But we could never permit a stranger, Annora, to take the whole care of our father," breathed Jenny, and bit off a thread.

"Well, not that, then. But sometimes, truly, Mamma, I wonder why we slave and work our fingers to the bone with sewing, and dusting, and tending, and even cooking, and always, always contriving." Annora laid down her corner of blue muslin, and the strip of Valenciennes insertion; she regarded her mother and sister with large, earnest blue eyes. "We are poor; why do we wear ourselves out pretending that we are not? I can't help but think how much less tired you would be, dear, if we all wore plain dresses without lace or tucks or pipings, and if we let the Irish girls do the best they can without worrying over them, and if . . . "