In this book, Croly, a leading Progressive theorist and founder of The New Republic magazine, criticizes the Founders’ fear of tyranny of the majority and rejects their idea that government exists to protect individual rights.

Chapter XII: The Advent of Direct Government

...If economic, social, political and technical conditions had remained very much as they were at the end of the eighteenth century, the purely democratic political aspirations might never have obtained the chance of expression. Some form of essentially representative government was at that time apparently the only dependable kind of liberal political organization. It was imposed by the physical and technical conditions under which government had to be conducted. Direct government did not seem to be possible outside of city or tribal states, whose population and area was sufficiently small to permit the actual assemblage of the body politic at some particular place, either at regular intervals or in case of an emergency. But in the case of states chiefly devoted to agriculture, whose free citizens were distributed over a wide area, and were, in any event, too numerous for actual assemblage in any one spot, it seemed necessary for the people to delegate to a body of representatives the power required not merely for public administration, but for the discussion of public questions, the adoption of public policies and the supervising of the administration itself. Some form of a responsible representative government, that is, was prescribed by fundamental economic and social conditions. The function was performed in the several states according to the method best adapted to local traditions and by the class which had proved itself capable of leadership.

In the twentieth century, however, these practical conditions of political association have again changed, and have changed in a manner which enables

the mass of the people to assume some immediate control of their political destinies. While it is more impossible than ever for the citizens of a modern industrial and agricultural state actually to assemble after the manner of a New England town-meeting, it is no longer necessary for them so to assemble. They have abundant opportunities of communication and consultation without any actual meeting at one time and place. They are kept in constant touch with one another by means of the complicated agencies of publicity and intercourse which are afforded by the magazines, the press and the like. The active citizenship of the country meets every morning and evening and discusses the affairs of the nation with the newspaper as an impersonal interlocutor. Public opinion has a thousand methods of seeking information and obtaining definite and effective expression which it did not have four generations ago. The community is broken up into innumerable smaller communities, each of which is united by common interests and ideas and each of which is seeking to bring a larger number of people under the influence of its interests and ideas. Under such conditions the discussions which take place in a Congress or a Parliament no longer possess their former function. They no longer create and guide what public opinion there is. Their purpose rather is to provide a mirror for public opinion, to advertise and illuminate its constituent ideas and purposes, and to confront the advocates of those ideas with the discipline of effective resistance and, perhaps, with the responsibilities of power. Phases of public opinion form, develop, gather to a head, assert their power and find their place chiefly by the activity of other more popular unofficial agencies. Thus the democracy has at its disposal a mechanism of developing and exchanging opinions, and of reaching decisions, which is independent of representative assemblies, and which is, or may become, superior to that which it formerly obtained by virtue of occasional popular assemblages.

The adoption of the machinery of direct government is a legitimate expression of this change. After centuries of political development, in which certain forms of representation were imposed upon progressive nations by conditions of practical efficiency, and in which these representative forms grew continually in variety and complexity, underlying conditions have again shifted. Pure democracy has again become not merely possible, but natural and appropriate. The attempt to return to it is no more retrogressive than was the attempt to recover classic humanism after its eclipse during the Middle Ages. Society has been passing through a period of prodigious fertility, during which new social aspirations, purposes, instruments and activities have multiplied with unprecedented rapidity. If these new interests and activities are to be assimilated, they must be recognized and incorporated into the system.
of government. As a consequence of the attempt to incorporate them into the system of government, society may seem to be yielding to the power of disintegrating economic and social forces. This appears to be the beginning of a reverse process of denationalization which will be equivalent to dissolution. Those who place any such interpretation upon the facts of modern social development and the corresponding political changes fail to understand their meaning. Increasing direct popular political action is coming to have a function in the political organization of a modern society, because only in this way can the nation again become a master in its own house. Its very fecundity, and the enormous power which many of its offspring obtain, have compelled a democratic nation to adopt a more thoroughgoing method of promoting its integrity. As yet it is not making very much headway. It is distracted and disconcerted by its own fertility. It is terrified in particular by the capitalist and labor organizations to which it has given birth. But it will not continue to be disconcerted and terrified. It is adopting the very political instruments which are necessary for the purpose of keeping control of the increasingly numerous and increasingly powerful agencies of its own life. The attempt, far from being a reactionary reversion to an earlier political and social type, prepares the way, it may be hoped, for an advance towards a better and deeper social and political union, associated with direct popular political action and responsibility.

Chapter XIII: Direct versus Representative Government

In the preceding chapter I have submitted some reasons for believing that direct government is not retrogressive merely because its methods exhibit certain analogies to those used in city and tribal states. Neither does the fact that the electorate in a directly governed state has certain positive functions to perform in relation to legislation place upon such a state the stigma of reaction. Direct government cannot be fairly condemned as reactionary unless the exercise of the broad general responsibilities which it imposes upon the electorate proves inimical to the delegation of sufficient and specific additional responsibilities to other departments of the government. This second aspect of the matter still remains to be discussed. Will the advent of direct democracy result in any increase of the confusion and disorganization which prevails in the mechanism of American state representation? Or will the draught of self-confidence, which our local democracies are by way of swallowing, be communicated to the behavior of the rest of the political mechanism and invigorate the whole system? Will direct popular government commit the same fatal mistake which, to a greater or smaller extent, has already been committed by the national monarchies, by parliamentary government and by democratic legalism? Will it
seek to appropriate or emasculate legislative or administrative functions which need to be delegated to other human agencies?

The critics of direct democracy can hardly be blamed for considering doubtful the answers to the foregoing questions. The American experiment in direct democracy is still in its early youth. Its meaning and its tendencies cannot be demonstrated from experience. If the active political responsibilities which it grants to the electorate are redeemed in the negative and suspicious spirit which characterized the attitude of the American democracy towards its official organization during its long and barren alliance with legalism, direct democracy will merely become a source of additional confusion and disorganization. On the other hand, if, as a consequence of its rupture with legalism, the American democracy undergoes a change of spirit, if the attempt to discharge new and responsible activities in connection with its own government brings with it a positive inspiration and genuine social energy, the result may be to renovate American representative institutions and afford novel and desirable opportunities for effective political leadership. I prefer the second of these alternatives, but the preference can hardly be justified by a consideration of the results which have already been achieved in the directly governed states. It is born of an examination of the history, the needs and the ideals of the American local democracies.

The more dogmatic partisans of direct government do not help us very much in making a decision between the foregoing alternatives. In fact, they seem not to understand that any such alternatives exist. They usually attach much the same automatic efficacy to the system of direct government that the Fathers attached to constitutionalism and checks and balances. They have not, indeed, any declared intention of substituting direct for representative government. They admit verbally the necessity in a pure democracy of some effective delegation of specific governmental functions. But as a rule they devote very little attention and thought to the problem of a more powerful and efficient mechanism of legislation and administration. They are preoccupied by the flagrant betrayal of the popular interest which took place under the traditional system, and they seem to think that the adoption of the initiative, referendum and the recall will not merely protect the popular interest, but liberate the popular will—even though the popular will lacks, as much as it has lacked in the past, the impulse of positive social purposes.

Such an attitude toward the instruments of direct government is merely another expression of the old superstitious belief in political mechanics against which progressive democracy is bound to protest. If the people in the directly governed states consider the new instruments of democracy as fundamentally
a safeguard against abuse and oppression, they may succeed in abolishing one kind of abuse and oppression, but only at the price of its being succeeded by other kinds. If they do not impose limits on their use of the instruments of direct government, based upon the conditions of their profitable service, it will prove to be a barren and mischievous addition to the stock of democratic political institutions. The success of the new instruments as negative safeguards will be commensurate with their success as agencies for the realization of positive popular political purposes. Their serviceability as agencies for the realization of popular political purposes will depend upon the ability of democratic law-givers to associate with them an efficient method of delegating popular political authority. Direct democracy, that is, has little meaning except in a community which is resolutely pursuing a vigorous social program. It must become one of a group of political institutions, whose object is fundamentally to invigorate and socialize the action of American public opinion.

The salient reasons which make it necessary to associate the advent of direct democracy with the attempt to realize a positive social program have already been indicated. They are derived from the profound alterations in the balance of a political organization which is substituting a positive for a negative social policy. The abstract legalistic individualism of the Jeffersonian democracy had in theory no need of any machinery of direct popular control. The activity of government was restricted, and its organs were emasculated, in the interest of a specific formulation of individual rights. Government was considered to be merely a form of temporary police supervision. Such a political system was placed in irons by the Law and lacked the power to do any harm. It really needed to operate somewhat independently of public opinion. Fermentation of public opinion and active political and social experimentation could not accomplish anything of real social value. The essential popular needs were already safeguarded in the Law, which deserved vigilant protection and unquestioning obedience on the part of all good citizens. Effective popular control of such a government was unnecessary. Government was not intended to be the instrument of important popular social purposes.

In its actual historical development the government soon became the instrument of important popular social purposes, and it was obliged to develop a corresponding method of popular control. But the popular social purposes which the State and Federal governments formerly attempted to realize were derived from the old individualistic social economy, and the control supposed to be exercised by the partisan organizations was ineffective. A wholly new situation was created when the local democracies came to need and possess a genuinely social policy, which threw increased burdens upon
the government, and commensurately increased its power. Under such conditions direct popular control over the mechanism of government became of essential importance. A negative individualistic social policy implies a weak and irresponsible government. A positive comprehensive social policy implies a strong, efficient and responsible government. But a strong and efficient government, which exercises a large part of the authority of the state and which is not bound by the substantive provisions of the fundamental Law, might well be dangerous not only to individual civil rights, but to popular political rights. Every precaution should be adopted to keep it in sensitive touch with public opinion. A lack of responsiveness to public opinion would tempt it to become domineering and oppressive, and would in the long run make its own work abortive as well as dangerous. A social policy is concerned in the most intimate and comprehensive way with the lives of the people. In order to be successful, it must rest on the basis of abundant and cordial popular support.

The mechanism of direct government has, consequently, an essential function to perform in the organization of a social democracy. The realization of a genuine social policy necessitates the aggrandizement of the administrative and legislative branches of the government. Progressive democracy recognizes the need of these instruments, but it recognizes the need of keeping control of them. A strong government with an affirmative policy and effective popular control are supplementary rather than hostile one to another. The realization of such a policy will in the long run demand both an efficient system of representation and an efficient method of direct popular supervision.

The friends of direct government do not usually advocate it, for the reasons indicated in the preceding paragraph. An exclusively representative government is to many of them a perfectly satisfactory form of democratic political organization. It is objectionable only because it has failed to be really representative. A recent convert to pure democracy, President Woodrow Wilson, has expressed in the following words the reasons for his conversion: “If we felt we had genuine representative government in our state legislatures, no one would propose the initiative and the referendum in the United States. Our most ardent and successful advocates regard them as a sobering means of obtaining genuine representative action on the part of legislative bodies. They do not mean to set anything aside. They mean to restore and to reinvigorate rather.” And a much more radical critic of our traditional system, Professor J. Allen Smith, who also favors direct popular political action, asserts that “a government of the representative type, if responsive to public sentiment, would answer all the requirements of a democratic state.”
The adoption of direct government may, it is true, end by reinvigorating representative government; but if so, the result will not be accomplished by refusing “to set anything aside.” The first thing which must be set aside is the method of representation which has passed in this country under the name of representative government. Direct government will never reinvigorate our existing state of political institutions. What it may accomplish is to supply energy to a new and better method of delegating popular political authority.

A statesman whose dominant object was the reorganization of existing state representative government would be foolish to depend upon the initiative and the referendum for the accomplishment of his purpose. There are a score of ways in which American state government could be made more representative without any invocation of the instrument of direct government. The first condition of effective representation is the bestowal upon the representative body of some effective power and responsibility, which, as all admit, is precisely the condition which has been largely and increasingly absent from our so-called representative institutions. Direct government does not automatically satisfy this need. On the contrary, as the experience of the state of Oregon sufficiently proves, its merely external addition to the existing machinery of representation tends, if anything, to attenuate still further the meagre responsibilities officially conferred on our state representative agencies.

So far as these state representative agencies are concerned, a representative value cannot be restored to them, because they were never intended to be and never have been representative in any self-respecting meaning of the word. A thoroughly representative government is essentially government by men rather than by Law. The active exercise of effective political responsibility is confided to a body of the elect. They assume the same responsibility for the ultimate welfare of the state that the American system delegates to the Law and its official expounders. True, the legislative body may govern, just as the Law was permitted to govern, by virtue of an explicit or implied popular consent, but in a representative system popular power is exercised only to be delegated. For the time being, complete legal responsibility for the public weal is conferred upon the legislature. Quite obviously no such responsibility has been conferred by the American system either upon the legislature or upon the legislature and executive together; and, to my mind, it cannot be expected that any exclusively representative system will be even fairly successful on any other terms.

The Progressive Republicans, who are advocating an increase of executive power and a closer cooperation between the executive and the legislature as the most effective means of reinvigorating the representative system, can make a very strong argument in its favor. They can make a stronger argument than
can those advocates of “pure” democracy who expect to develop a genuinely representative government by grafting the instruments of direct government on an essentially and fatally unrepresentative system. But they cannot make a strong enough argument. The cooperation between an executive and a legislature, each of which derives its authority directly from the people, cannot be made properly operative except by some method of referring disputes to the common master—which means a considerable measure of direct government. Moreover, an American electorate would not submit for long to the increased power of the organs of government which would result from their cooperative action, without the creation of some means of effective popular control. But even if these difficulties could be overcome, it is doubtful how far any system can be considered really representative which does not bestow complete responsibility for the public welfare upon the government. The government must have the power to determine the Law instead of being circumscribed by the Law. Just in so far as its authority was curtailed, its sense of responsibility would be relaxed and its integrity would be undermined.

A purely representative system, such as that of the United Kingdom, seeks to accomplish the fundamental objects of government by a method opposed to that of the traditional American system. The former bestows complete legal responsibility for the welfare of the state and the course of its development upon the elect in the expectation that thereby society will obtain the boon of rational guidance. “Representation is not,” says Guizot, who was one of its most ardent advocates, “an arithmetical means employed to count individual wills, but a natural process, whereby public reason, which alone has the right to govern modern society, may be extracted from the bosom of society itself.” This account of the ultimate meaning of a purely representative system was accepted substantially by John Stuart Mill, although with certain significant modifications; and it manifestly constitutes the only justification for the enormous power and responsibility bestowed upon the legislative body. As the result of their deliberations the action of the representatives must embody a program based upon the enduring and the binding interests of the nation.

The American constitutional system did not need to create a powerful organ of government whose wise leadership would help to extract reason from the bosom of society. That desirable result had already been accomplished. Reason had been printed on the bosom of society in indelible ink by virtue of the embodiment in the Constitution of the great principles of legal morals. Its human purveyors were rather the judges than the legislature; and the business of the courts was not merely to declare the Word, but to keep the fire of political reason glowing in the political hearth. Under such a system executives
and legislatures were not supposed, and did not need, to be particularly reasonable—which is certainly a proof of the wisdom of the Fathers of the Republic. They needed most of all to be obedient and self-restrained. For if any effective method exists of extracting reason from the bosom of society, the human purveyors of this rational extract certainly require some oracular writing for their guidance; and the more authoritative this oracle can be made, the better. So far as the object of political organization is to bring to the surface an already existing fund of reason, the method adopted by the founders of the American constitutional system may be preferred to the method characteristic of a purely representative system. The latter leaves the secretion and extraction of reason much more to the operation of a clumsy mechanism. As an edifice of political rationalism, the record of the discussion and action of the British Parliament during the past century cannot be compared to the constitutional decisions of the Supreme Court of the United States; and this is true notwithstanding the fact that even in the latter some traces may be occasionally discovered of the fallibility of that sovereign faculty.

Thus the difficulty with a purely representative government is similar to the difficulty which is involved in government by Law. The assumption made by the advocates of both of these systems is that society possesses at any one time a fund of social reason which, by virtue of its superiority to interested, inexperienced and perverse counsel, is entitled to determine social action. The state should be organized chiefly for the purpose of giving control to this fund of social reason. The means whereby this control is exercised differs radically in the two systems; but we need not bother about their respective advantages or disadvantages. Neither of them meets the needs of a progressive democratic society, because in a society of this kind no such fund of really authoritative social reason can be held to exist. There is a fund of social reason which should possess some authority; but it is so small compared to social aspirations and needs that a democratic society must be organized less to obey than to increase it. The work of extracting the stores of reason from the bosom of society must be subordinated to the more fundamental object of augmenting the supply of social reason and improving its distribution. Legalism and purely representative government are unsuited to the needs of a thoroughgoing democracy, because their method of organization depends on popular obedience rather than popular education. The promotion and the diffusion of social reason cannot be brought about without a reverence for orderly procedure and without the leadership of the elect; but the erection of legalism alone or of representation alone into a system is not sufficient to secure this most important of all political objects. The best chance of securing it opens up as a result a more thoroughly
popular organization of the state. The electorate must be required as the result of its own actual experience and unavoidable responsibilities to develop those very qualities of intelligence, character, faith and sympathy which are necessary for the success of the democratic experiment.

Thus neither representative government nor government by law nor any combination between the two is competent to meet all the requirements of a democratic polity. A clear-sighted, self-confident and loyal democracy will keep in its own hands the active control of all the agents and instruments of its own fulfilment. The instinctive repugnance which the American democracy has always exhibited to the delegation of too much power to any one of the separate departments of government is explicable and justifiable. No plebiscite can bestow authenticity upon an ostensibly democratic political system which approximates in practice to the exercise of executive omnipotence. No intermittent appeals to the people for their approbation can wholly democratize a system which approximates in practice to the exercise of legislative omnipotence. No reverence for the law can guarantee political and social liberty to a body of democrats who confide their collective destiny to written formulas as expounded by a ruling body of lawyers. In practice each of these systems develops into a method of class government. The men to whom the enormous power is delegated will use it, in part at least, to perpetuate the system which is so beneficial to themselves. But even if they were as wise as Solomon and as gallant and disinterested as Sir Galahad, the systems for which they spoke and acted would still be evading rather than meeting the democratic problem. None of these systems make the people actively responsible for their own reasonableness and welfare. The people do not reap the advantages to which they are entitled, but if they did receive every possible advantage, they would not be earning it and could not keep what they received.

In all three of the principal departments of government, there are essential functions to be performed which must be delegated by a democracy to selected men under conditions which make for technical efficiency and individual independence and self-respect. The Fathers of the Republic were fully justified both in keeping the powers distinguished, and in seeking to balance one against the other. Their mistake consisted in the methods adopted for preserving or readjusting the balance. The preservation of a balance depends upon the harmonious development of several elements which enter into it; and as in the course of nature harmonious development is rare, the preservation of any such balance must usually be contrived by human insistence and intelligence. Only one part of a democratic system is entitled to exercise any such function—the electorate itself. The whole of a democratic political system is divided into
three parts, not merely or primarily as a protection to individual and popular liberties, but rather to provide an essential positive function for the people to perform—the function of recreating the unity which is necessarily compromised by the no less necessary specialization of governmental function. Such is the part which the people, or the closest possible approximation to the people, have to play in the process of their own nationalization or socialization. They must divide in order to act, to think, to rule, to move on and to aspire; but they must not impose upon any one of the resulting classifications or subdivisions the responsibility of ultimate social cohesion. That responsibility rests with the whole people, and its fulfilment depends upon popular intelligence, sympathy and faith.

Many sincere social democrats in this country, as well as in England or France, regard any such dependence upon direct government with the utmost repugnance. The industrial and social program of a democracy can, in their opinion, be accomplished with less friction and delay through the agency of an authoritative representative body. They are probably right in expecting that in the near future direct popular government will increase the difficulty of securing the adoption of many items in a desirable social program. But reformers of this class, like the conservatives, attach too much importance to the accomplishment and maintenance of specific results, and too little to the permanent moral welfare of the democracy. They are willing to have the people imposed upon in the interest of what is or is intended to be the popular benefit. An authoritative representative government, particularly one which is associated with inherited leadership and a strong party system, carries with it an enormous prestige. It is frequently in a position either to ignore, to circumvent or to wear down popular opposition. But a social program purchased at such a price is not worth what it costs. It makes no difference how benevolent the intention of the government may be or how wise its legislation. The program which is carried out by such means will do nothing to make the people worthy of their advantages. The result will either be popular servility or organized popular resistance or both. The country in which a benevolent government has succeeded in carrying out the most comprehensive social policy of modern times is the country in which a social democratic party, organized to overthrow the government, has succeeded in obtaining the support of a third of the electorate.

Social reformers must, consequently, be patient as well as eager and tenacious. A moderate program which is well understood and cordially supported by public opinion, and upon which the electorate has been in some measure specifically consulted, will be much more beneficial than a more extensive
program which is not so well understood, and which does not represent a genuine popular affirmation. From the beginning of civilization the people have been constantly imposed upon by moral or social or physical force in the real or supposed interest of their own welfare. The process will doubtless have to continue in some measure; but if democracy means anything, it means popular liberation in precisely this respect. It means that social reformers must present their arguments primarily to the electorate, and welcome every good opportunity of allowing the electorate to pass judgment upon their proposals.

Our conclusion, then, is double-faced. Democracy implies and needs some method of representation which will be efficient and responsible enough to carry out a social policy, but which does not imply the delegation of its own ultimate discretionary power to any body of men or body of law. No such representative system can be found in the provisions of existing state constitutions. An organization of the executive and legislative powers, which will give increased energy to both of them and which is adjusted to their cooperation both one with another and with a sufficient measure of direct government, is what is needed and must be contrived. The new organization will be intended first, last and always to promote political education. It must be adapted to action, but the action must merely be the decisive temporary result of widespread popular fermentation. It must have the chance to be efficient, but only for the purpose of being educational. It must be able to educate, but primarily by the road of efficient action. The new system can accomplish nothing without human energy, intelligence, sacrifice and faith, but if those qualities are present, it will make the best use of them.