

Seeds of Doubt

WITH almost nine months before the next Congress was to convene, Norris now had time to enjoy his family and to look after personal and political affairs in a leisurely way. He became interested in plans for a YMCA building, chiefly to provide the many unmarried railroad men in McCook with a place of residence and wholesome recreation. The local citizenry hoped to raise between eight thousand and ten thousand dollars for this project, and Norris hoped that the national headquarters of the YMCA would provide the difference, so that his home town, with a population of 4,000, could provide in this way for its young men.¹

Norris also attended to his real estate interests in Beaver City, particularly to the renting of a new hotel building he had recently acquired. Visiting Beaver City gave him an opportunity to chat with old friends, some of whom insisted he deliver a lecture either about his work in Washington or his trip to Europe as a member of the Inter-parliamentary Union.² These activities were pleasant and leisurely. In April, Jonah K. Kalaniana'ole, Hawaiian delegate to the United States Congress, extended an invitation on behalf of the territory of Hawaii to become his guest as a member of a congressional party, and Norris accepted with alacrity.³

The group sailed from San Francisco on May Day with the ostensible purpose of investigating conditions in the territory so that Congress might have a better idea of its needs in matters of general legislation. Actually Norris had a splendid vacation. Along with other congressmen he was photographed at the summit of Mount Haleakala, while Mr. and Mrs. L. A. Thurston of Honolulu extended to him the hospitality of their home. Norris also spoke at a meeting arranged by a native prince at a public square; no other member of the party wanted to speak and he was drafted for the chore to avoid disappointing the local citizenry.⁴

He returned to McCook in June and quickly departed with his family for a long summer vacation in Wisconsin. He enjoyed his leisure

and the L.U.N. reunion at Rainbow Lake, and no doubt also reflected upon the significant work of the Thirtieth Nebraska Legislature. Its achievements represented and registered the high point of the progressive movement in Nebraska. A statewide primary, a child labor act, an anti-free-pass law, and other railroad regulatory measures were among the major pieces of legislation recorded during this session. The state emerged as one of the few that had taken measures, as an editorial in the *Omaha Bee* stated, "to supplement the work of Congress under the direction of President Roosevelt to the end of relieving the people of Nebraska of railroad domination in politics."⁵

The new primary law meant that hereafter Norris would have to be nominated by direct popular vote instead of by a nominating convention. While the primary law would relieve an incumbent candidate in the good graces of his constituents of some political pressure, it also meant that most candidates would have to engage in a grueling and expensive primary before obtaining the privilege of representing their party in the fall election.

Before that time occurred for Norris, he would have served in the first session of the Sixtieth Congress, scheduled to convene early in December. Rather than start the children in school in McCook and then transfer them, the family decided to move to Washington for the opening of the fall semester. Once they were settled in the capital city, Norris planned to return to McCook to participate in the fall campaign. Early in September, McCarl sent some of the family's belongings to Washington. Norris rented suitable quarters at the Fairfax, a large apartment house on Massachusetts Avenue, near fashionable DuPont Circle, while the McCook house was rented to a local doctor.⁶

McCarl was delighted that Norris was not in Nebraska prior to the September primaries because a bitter fight occurred between Judge Orr, Norris' successor in the Fourteenth Judicial District, and Charles E. Eldred, Morlan's law partner. By his absence, Norris avoided becoming involved in the controversy.

According to the new primary law, state conventions were to be held at Lincoln on the fourth Tuesday in September of each election year for the purpose of adopting platforms and conducting the necessary business of the party organization. Though McCarl made great efforts, all unknown to Norris, to have him chosen chairman when the Republican convention met on September 24, they were not successful. Norris appeared merely as a delegate from Red Willow County.⁷

Governor Sheldon presided over the convention. Though the highest office involved in the coming state election was for Supreme Court justice, the delegates adopted resolutions pertaining to national

affairs and thereby enabled Norris to gauge public sentiment throughout the state. The convention, for example, favored legislation limiting the use of injunctions and further controlling corporate activities. Finally it endorsed William Howard Taft as the man most fitted to continue the policies of President Roosevelt. Norris was wholeheartedly in accord with this position, believing that Taft came nearer to representing these policies than any other person.⁸

Unable to obtain for Norris the chairmanship of the convention, McCarl next suggested him as chairman of the State Central Committee. Again his efforts were unsuccessful. Both McCarl and Norris thought it would be well for him to avoid campaigning in his own district where he would have to support Judge Orr, thereby risking the open enmity of Morlan and the numerous friends of Eldred, who was defeated in the primary. Therefore Norris, in offering his services to the state committee, stated that he preferred to speak in the northern part of the state. The committee accepted his offer and Norris, for the first time in his career, spoke in support of Republican candidates outside of his own political bailiwick. After the election, which resulted in another impressive Republican victory, the secretary of the state committee thanked Norris for his efforts and informed him that the committee proposed to maintain its headquarters and begin preparatory work for the national campaign of 1908. Thus in 1907, prior to his departure for the opening of the new Congress, Norris found himself working in close harmony with the Republican organization in Nebraska. He had served it well in the 1907 campaign; his services and advice were sought by party leaders. Such a harmonious arrangement, previously unknown to the representative from the Fifth Congressional District, boded well for the coming national campaign when it was generally assumed Bryan would make a third attempt to win the presidency.⁹

However, before Norris could concern himself with the 1908 campaign, his presence was required in Washington where the first session of the Sixtieth Congress convened at noon on December 2, 1907. McCarl, to Norris' great regret, remained in McCook practicing law and working as best he could by answering routine letters, sending out various government documents and copies of Norris' speeches, and handling pension claims and other matters.

For matters that required personal attention Norris utilized the services of an able young attorney with an historic name. James K. Polk looked after correspondence requiring information from various government departments. A part-time stenographer handled correspondence requiring a personal reply. It was not an entirely satis-

factory arrangement but it was a workable one, chiefly because Polk was very competent. At best it was thought to be a temporary arrangement until McCarl's financial position improved. As possible compensation, Norris was delighted to learn that an office would be available to him in the House Office Building which was to be officially opened in January, 1908.¹⁰

Once the session got under way, Norris learned that Speaker Cannon had not seriously considered his request for membership on the Ways and Means Committee. His committee assignments were the same as those he had held in the previous Congress—Public Buildings and Grounds, Labor, and The Election of President, Vice President, and Representatives in Congress. If he was disappointed, his papers reveal no record of it. But he was beginning to give much attention to the rules and procedures through which the Speaker exercised authority, and, before the session was concluded, Norris presented a resolution designed to deprive the Speaker of some of his power. In doing this he allied himself with a small but vigorous band of insurgents in the House of Representatives.

At the beginning of the session, however, Norris was not concerned with challenging the authority of the Speaker. The country was in the midst of a financial panic and many citizens feared that repercussions would be felt throughout the economy. Carefully following the course of the panic, Norris concluded that remedial legislation was required to prevent banks from speculating. He noticed in the press that Governor Edward Hoch intended to ask the Kansas legislature to levy an assessment on banks for the purpose of guaranteeing deposits. His thoughts had been developing along similar lines, namely, levying an assessment on deposits in national banks for the purpose of creating a fund to pay off depositors in case of failure. In the previous Congress he had talked to several members of the Banking and Currency Committee and had concluded that such a measure stood little chance of being favorably received. The Panic of 1907, however, convinced him that he should again try to introduce a measure to protect depositors. It was more pertinent at this time and, if the Banking and Currency Committee would not consider it, at least Norris could air his views on the floor of the House.¹¹

He gave careful study to the proposition, obtained information from many sources, and discussed it with banker friends in Nebraska. His idea was to have the secretary of the treasury levy an assessment upon all national banks, basing the assessment upon the average deposits of each bank. The fund thereby obtained was to be used solely for the purpose of paying off depositors of any national bank that

failed. The bill also provided that when any bank had paid into the fund an amount equal to a certain percentage of its average balances, it should be relieved from any further assessment until the amount paid in was less than the percentage of its balances. Thus each bank in time would virtually have a paid-up insurance policy against possible losses.¹²

Since his object in preparing the bill was to create confidence in national banks and to prevent runs on banks similar to those which had occurred in New York and elsewhere, Norris readily accepted the advice of bankers. He also suggested that Governor Sheldon of Nebraska introduce a similar bill applying to state banks. He realized if Congress enacted his bill and the states did not respond with similar measures most state banks would probably become national banks, since depositors would prefer to leave their money in an obviously more secure banking institution. However, Norris thought most states would follow the federal example as they had already done in the case of pure food laws and railroad regulation.¹³

He was quick to point out that his proposition was not a government guarantee of deposits, such as Bryan advocated and the New Deal later enacted. He was opposed to such a scheme for reasons of both practice and principle, but some legislation was necessary lest the public be further cheated by dishonest men in the banking business. He noted that bank examiners and other officials were reluctant to correct the practices of errant bankers by closing their banks because of the injurious effect it would have upon money matters in general and the panic it might induce among depositors who would seek to remove funds from legitimate and honestly conducted banks as well.

His bill, if enacted, would have prevented honest bankers from being injured by the failure of another bank. And it could have led bank examiners to insist on a stricter observance of the law without fear of accelerating a panic by penalizing mismanaged banks operating to the detriment of both the banking community and the public. Finally, Norris concluded that if such a law had been on the statute books, the Panic of 1907 would never have occurred. True, there might have been a disturbance in New York, but, he asserted, banks throughout the country would have gone on the same as ever. Thus the legislation he formally proposed to Congress in a long speech on January 7, 1908, would give depositors confidence and would bring relief not only to them and to the men who borrowed but also to the banker himself. In short, it would be a blessing to all concerned.¹⁴

Norris, like individuals in and out of Congress, gave serious atten-

tion to other aspects of the banking and currency situation beside the matter of protecting depositors. He favored a more "elastic" currency if it could be achieved without injuring its stability. However, most of the measures he had examined on this subject appeared to be injurious because of the fear engendered in depositors by currency being issued not on the basis of bonds but on the basis of a bank's total assets. Such a currency, Norris felt, while undoubtedly putting more money into circulation, would cause a greater disturbance than prevailed in 1907 when in a future crisis banks reduced their assets. Thus he believed an asset-based currency could not achieve a more flexible monetary system.¹⁵

Another change Norris thought beneficial was to require banks to keep a larger amount of their reserve fund in their own vaults, thereby lessening the amount of funds they could lawfully deposit in other banks. Such an enactment would avoid bank failure due to excessive speculation. He also thought a law preventing national banks from loaning money on call at exorbitant interest rates would probably do some good. But Norris believed that his bill, which would take away from the depositor all fear that the bank would squander his money, was the one that would not only relieve the prevailing panic situation but would also make its recurrence practically impossible. At the same time it would bring out of hiding a large amount of money that fearful citizens were afraid to deposit, or, as Norris stated it: "Old stockings and old tin cans would be emptied, and yield up their golden treasure, and the money of the country would assume its legitimate and proper sphere in the channels of business and trade throughout the land."¹⁶

This session of Congress, as expected, witnessed a large number of banking and currency measures. Norris, who was not a member of the committee that would report such bills, did not expect his measure to be seriously considered. But by presenting it early he at least hoped other members might agree with some of his ideas and later incorporate or add them to a bill that Congress would seriously consider. This strategy failed and he was far from satisfied with the measure that Congress finally agreed upon. The Aldrich-Vreeland Act provided for emergency currency based on commercial paper, rather than currency reform. Norris would have to wait until the Wilson administration before Congress would enact a measure that provided for reform rather than relief.¹⁷

Related to the problem of banking and currency reform was the proposal to establish a postal savings bank system which, though discussed, was not acted upon during this session. The objections Norris

raised to this proposition related to the question of how the government should use the money. He wanted the deposits to be utilized in the localities where they were made; otherwise they might drain one portion of the country to supply another. To avoid this situation, Norris hoped some plan could be devised so that these funds would be deposited in and made available to local banks. Furthermore, the government, by depositing these funds in local banks, would in effect be guaranteeing the deposits and would help bring hoarded money into circulation. Since the clamor for a postal savings bank arose because bank deposits were not secured, Norris pointed out that the bill he had introduced to protect depositors provided the same thing in a more direct and effective way. Indeed, he argued, if Congress passed "proper currency regulation," the demand for postal savings banks would cease. If not, the agitation would increase and postal savings banks of some kind would have to be established.¹⁸

Though the bill to protect bank deposits consumed most of his energy and attention at the outset of this session, Norris received much correspondence criticizing the pension allotments in the McCumber Act passed by the previous Congress. He therefore devoted some time to this subject. He thought that the pensions granted should be more liberal, but most of all he was concerned with the injustice of pensions provided for the widows of old soldiers. Under the existing laws, a widow, to obtain a pension of twelve dollars a month, had to show that her husband died as the result of a disease or disability originating in the service. This provision, he argued, was inconsistent, unreasonable, and unjust, because unless a widow could do this she only would receive a pension of eight dollars a month or possibly nothing at all, owing to a "peculiar wording" of pension laws enacted during the Civil War period. Believing that widows of old soldiers should all get twelve dollars a month, Norris unsuccessfully in the Fifty-ninth Congress had offered an amendment to the McCumber Bill. Now in the Sixtieth Congress he again presented a bill to remedy this situation. And in April, 1908, the president signed a measure including more liberal pensions for widows. Thus Nebraska veterans, already receiving pensions or adjusted benefits through his efforts, knew that they had in Norris a congressman who was ever alert to their interests.¹⁹

Aside from speeches on banking and pensions, Norris did not present any lengthy remarks for the consideration of colleagues or constituents. Nevertheless, he was acutely interested in legislative developments. In accord with his previous judicial experience was his concern about unduly severe punishment. The opportunity to express his views arose because the House of Representatives in January, 1908,

considered a bill which codified all the criminal laws of the United States. The code had last been revised in 1873. The new codification to be accepted had to be presented as a bill and voted upon. At one point in the reading, Norris commented that too severe a penalty sometimes defeated conviction, as juries would be inclined, if the offense were not very grave and the penalty too severe, to find the defendant not guilty. He believed that greater discretion should be left to the court deciding a case and that specific punishments should be made more flexible.²⁰

Many Democrats who did not take this work as seriously as Norris began to offer amendments for the purpose of making political speeches. Amendments were presented, speeches were made, and then the amendments were usually voted down, since the Republican party controlled the Congress. The object of the Democrats was to put the Republicans in the position of voting against amendments which appeared to be just and fair. And indeed most of them were just and fair, but they were in most instances already covered by law or contained in different portions of the bill being considered. Since the codification was being presented more as a matter of form than anything else, Norris became disturbed at the clever tactics of the opposition. These tactics, beside being dilatory, gave the Democrats an opportunity to develop a possible campaign issue.²¹

On the morning of January 21, 1908, the discussion disclosed that apparently most of the Democrats were opposed to lawyers and bankers serving in Congress. Considerable talk was also devoted to the use of free passes and the possibility of amending the Hepburn Act to provide for them. These developments, which consumed most of the morning without any discussion of the codification bill, seemed utterly ridiculous to Norris, and he proceeded to make them appear so to his fellow congressmen. When he obtained the floor to speak, he said he was impressed with the remarks of Champ Clark, the Democratic leader in the House of Representatives, who had presented an example of a man who sold his bank stock before coming to Congress. Clark commended this as conduct worthy of emulation. Norris agreed. He then went Clark one better by claiming a member ought not to be a farmer, because Congress might consider agricultural subjects, or a merchant, because he might have to legislate on the tariff or other matters affecting his business. The final result would be that Congress would be comprised of individuals "who have no occupation whatever, who have no means of gaining a livelihood." To achieve this logical conclusion from Clark's premise, Norris introduced the following amendment:

And any member of Congress who shall engage in the practice of law, or who shall deliver Chautauqua lectures for pay, or who shall engage in farming or manufacturing, or who shall have any occupation whatever, or who shall patronize any national bank by depositing any money therein, or who shall patronize any railroad company by riding thereon, or who shall purchase any material of or sell any material to any corporation shall be hanged by the neck until dead and thereafter be prohibited from holding any office of profit or trust under the Government of the United States.²²

Another topic which generated much discussion was curbing the use of injunctions. The administration, favoring moderate legislation, did not endorse or present a particular measure. Norris was in favor of a law that would prevent the abuse of injunctions, but he would not support any measure to abolish their use. While he was willing to admit that federal judges often had been reckless and careless in granting injunctions, he believed courts should retain authority to issue them in certain cases without notice; namely, where irreparable damage would result if time was taken to give notice. Norris' position would not appeal to those leaders of organized labor who wanted to abolish the writ, nor would it suit those businessmen who saw much good in government by injunction.²³ His interest in the topic lasted throughout his career, and in later years he would achieve one of his most notable legislative victories in curbing the misuse of injunctions.

Norris supported the president in his desire to continue the Inland Waterways Commission. Norris favored the idea of developing the waterways of the nation, particularly those in the Mississippi Valley. An overall plan to develop these waterways, of course, would benefit Nebraska, but the entire country would benefit from the reduction in freight rates that would follow such development. Thus Norris and other proponents of inland waterways were aware that such a program, beside aiding conservation, would tend to reduce railroad power and influence in mid-America by providing the railroad with water competition.²⁴

Though he was interested in more liberal legislation and championed the president's suggestions whenever possible, like Roosevelt, Norris knew prior to a presidential election there would be no significant changes tending to engender controversy.²⁵ Moreover, Norris, who had no plans of voluntarily retiring from Congress, had to consider measures with an eye toward the coming election. In regard to his position on legislative matters, all but the most partisan Democrats would have found much to approve in his record. Too many voters,

however, required more tangible notice of his service before they would pass favorable judgment on his work. Thus McCarl was kept busy distributing government documents and seeds, and Norris answered numerous requests for all kinds of relevant and irrelevant information about government services.

To aid and impress constituents even more, Norris made arrangements with the Department of Agriculture to have an expert lecture before farm organizations and other groups. He also sought through his work on the Committee of Public Buildings and Grounds to secure larger local appropriations. Though his membership on the committee insured the fact that the district would be included in every bill reported to Congress, he still could not satisfy all communities. Furthermore, he had to meet charges of favoritism toward McCook which, through his efforts, eventually obtained a courthouse as well as a post office.²⁶

While Norris continued as a consistent supporter of the retiring president, the most important development of this session as far as he was concerned was his announced hostility to the rules by which Speaker Cannon exercised his authority. Prior to the Sixtieth Congress, when a band of insurgents for the first time in a sustained and open way criticized both the Speaker and his power, Norris never revealed himself as a critic of the rules by which Cannon administered the House of Representatives. Indeed he had prided himself on his friendship with Cannon and, throughout the long struggle, retained respect for the Speaker as a person of knowledge and ability. When Congressman E. A. Hayes of California wrote prior to the convening of Congress in September, 1907, he was not sure where Norris stood on this topic. In reply, Norris openly and definitely committed himself to insurgency for the first time. He favored a change whereby the Committee on Rules would be expanded and elected by the House instead of appointed by the Speaker.

Though many members were in favor of such a change, Norris doubted whether it would receive strong support because the caucus at which such a change could be made took place just before the beginning of a new Congress, and the many new members would probably follow the leadership of those in positions of power and seniority. Thus any change not favored by these new men was usually doomed to failure, and Norris, though he promised to vote for a rules change, did not think it would occur in the immediate future. It was the caucus system that was the basis of the Speaker's power. Though Norris later was instrumental in depriving the Speaker of his authority to choose

the Rules Committee, he realized that this reform to be meaningful would have to be followed by the destruction of the party caucus.²⁷

Norris and the insurgents conducted no prolonged battle during the first session of the Sixtieth Congress. The Panic of 1907 and the coming national election precluded any open party strife. However, Norris courageously let it be known precisely what he intended to do, if the opportunity ever arose. On May 16, 1908, he introduced a resolution providing that all standing committees be appointed by the Committee on Rules. According to this resolution (H.R. 417), a new rules committee consisting of fifteen members would be selected by the membership from candidates representing different geographical groups. The Norris resolution was sent to the Committee on Rules to be disposed of by its chairman, Joseph Cannon.²⁸ (Norris later produced this same resolution from his pocket and sent it to the desk to be read, thus precipitating the historic struggle which deprived the Speaker of his membership on the Committee on Rules.) Norris, in effect, on May 16, 1908, warned Cannon to be on guard.

Thus when the first session of the Sixtieth Congress came to an end on May 30, 1908, his position was widely known. Norris knew that to a great extent public opinion in Nebraska and other western states was opposed to Speaker Cannon. He received widespread support for his resolution, and soon claimed, "It is on account of such friends more than on account of any personal wish that I feel like staying in the fight."

Of course, he had no other alternative, since his resolution heaped upon him the displeasure of the Speaker and most of the party leaders in the House of Representatives. It put him "out of the shadow of approval" and in many ways it promised to make his work and life in Congress most disagreeable. It meant that almost all the "favors and courtesies" extended to other congressmen would be denied to him. The die was cast when he presented this resolution. Norris now would have to place principles above party as long as he remained in political life. It was this resolution of May 16, 1908, more than any other single event that made Norris into an insurgent Republican, one who would challenge a fundamental pillar of party control, and eventually the outstanding independent in American political history. However, his immediate job was a difficult one; namely, to educate the people who applauded him for the position he took to an understanding that he no longer could perform all the services he once did for them. He had to see that his constituents, who generally thought in terms of personalities and not of principles, did not forget the

principle involved and condemn him for being unable to obtain patronage and favors. Indeed, his continuance in public life depended upon the ability of his constituents to understand this situation.²⁹

Though Norris was well aware of the implications of his position, his constituents seemingly were satisfied with it. Instead of defending his action, Norris, in the coming campaign, would have to explain why he had not opposed Cannon earlier, and why he had been so friendly to him.³⁰ But, before the campaign got under way, Norris hoped to rest and regain his energy by traveling to Europe as a delegate to the Berlin meeting of the Interparliamentary Union.

Returning to Nebraska from Washington in July, he was soon engulfed in the rising tide of party politics. Before he became completely involved, he lectured before Chautauquas and other assemblies. In most instances he talked about the work of the Interparliamentary Union and used an address he hoped to deliver before pacifist conferences at Lake Mohonk, New York, and Greensboro, North Carolina, later in the summer. Though he was interested in the work of the Interparliamentary Union and pacifist groups, and though he was strongly urged to attend the conference in Berlin on September 10, Norris did not go because the expensive trip would have consumed at least four weeks of valuable campaign time.³¹ His reasoning was wise because the 1908 campaign for re-election to a fourth term in the House of Representatives was to be one of the most difficult of his entire career.