

The Insurgent as Progressive

LESS THAN a month after the election, Norris was in Washington for the short session of the Sixty-first Congress. Any hopes he may have had for a leisurely session were quickly shattered. The breach in the Republican party was already too large to permit any easy reconciliation of the opposing factions, and during this session further issues and events would widen the gap. Believing that he would return to McCook in March, Norris did not bring his family and took a room at the Y.M.C.A. His secretary again remained in McCook tending to his law practice and intending to keep Norris informed of political developments, real estate matters, and investment possibilities. When the House was in session, Norris usually spent the forenoon in his office, the afternoon in the House, and the evenings working in his office or relaxing in the Y.M.C.A. swimming pool.¹

The House convened at noon on December 5, 1910. A week later Norris spoke on a measure providing for an inheritance tax in the District of Columbia. He proclaimed an inheritance tax the fairest way to raise revenue and stated that it could prevent the amassing of large fortunes which most progressives "admitted to be detrimental to good government if kept up for several generations."² Throughout his long career Norris took advantage of every opportunity to speak in favor of an inheritance tax, gaining acceptance of his views only once, during the Wilson administration.

Though deprived of his patronage by the president, Norris thought he foresaw a reconciliation when early in the session he suggested that Taft appoint a Nebraska jurist to fill a vacancy on the Supreme Court. Norris sent information about several Nebraska candidates, but all attempts at harmony between the two men ended when Taft appointed a conservative, Willis Van Devanter of Wyoming, to fill the post.³

Norris continued to expound his views on judicial matters. On January 25, 1911, the House was considering an amendment that sought to raise the salary of federal circuit judges from \$7,000 to

\$8,500. Norris opposed the measure, arguing that the increase would elevate judges to a higher station in society, encouraging them "to forget human rights and human liberties." He believed that the present salary was sufficient to enable a judge to be independent of any interest or financial consideration. Norris summarized his views, derived from his own experience as a judge, as follows:

Our judges should be absolutely independent of every outside influence and of everything which might have a tendency to in any way interfere with their official duties. They are the most important public officials of our Government. They should be absolutely free and unbiased, so that they can weigh the evidence and decide litigation alike between the rich and the poor, the high and the low. They should never be so far removed from the people—from the common, struggling citizens—that they will forget the just and fair rights of any litigant. The judges' salaries should be sufficient to keep them from want, from privation, from hardship, and to give them all the necessities and all of the reasonable luxuries of life. The salary should never be so high as to attract any man on account of its money consideration alone. The best judge, as well as the best citizen, is the man who realizes that money alone can not bring satisfaction or happiness; that the rights of property, while the same should be protected according to the spirit of the law, should never be permitted to outweigh or to cover up the rights of the individual. Men whose life work and whose life study have been in the direction of an understanding of the law and the principles of equity and justice, and who follow such lines because they love it and not for the money there is in it, are the men in whose hands the scales of justice should be placed.⁴

So persuasive was Norris and so economy-minded was the House that the amendment was defeated. But his interest in the federal judiciary did not end with these remarks. When the president considered Walter I. Smith, one of the staunchest regulars in the House, to succeed Van Devanter on the Circuit Court of Appeals, E. H. Madison of Kansas suggested Norris as a suitable candidate.⁵ Madison talked with Taft and asked McCarl to send recommendations showing that Norris had been fair and fearless on the Nebraska bench, meting out justice to litigants regardless of their financial or social condition. Madison received a large number of recommendations, including one from the entire Supreme Court of Nebraska, but, as was expected, the president nonetheless named Smith to the post.⁶

Throughout these hurried negotiations, Norris did nothing to encourage his candidacy. His friends suggested his name because they did not wish to have another conservative on the federal bench, and because they did not want the administration to have the excuse once again that no progressive candidates were available. Norris' candidacy was an effort on the part of the progressives to dramatize an issue, succinctly stated by Senator Cummins, who wrote: "Why send progressive men to Congress to enact progressive measures, when the Interests may rely upon the Federal Bench to give them relief when those progressive measures come before the courts for judicial construction?"⁷

Reactions to the judgeship issue varied. Some were sorry Norris was not appointed, while others rejoiced because he could now run for senator. Many felt that the progressives' purpose in suggesting his name was to counter the president's nominee with a better one from their wing of the party, thus challenging Taft's announced intention of treating equally all groups within the Republican party.⁸

Norris was a passive and silent judicial candidate in part because he was involved in another skirmish with the standpat element in the House. On January 5, he introduced two resolutions amending the House rules. One proposed a revolutionary reform by making the proceedings and votes of every committee of the House available to the public, thereby preventing committees from evading responsibility by throttling bills. The other was designed to remedy a defect in the "motion to discharge" rule, thereby preventing the clogging of the calendar. Both bills were sent to the Committee on Rules, though neither was presented on the floor.⁹

Several days later, on January 9, the insurgent position seemingly received a setback, when Charles E. Fuller, a regular Republican from Illinois, presented an amendment to one of the rules. When challenged that the resolution was not in order, he claimed for it the constitutional privilege that had been previously accorded the Norris resolution. Speaker Cannon in effect repeated his ruling of March 19, 1910, that the resolution was not in order. In this instance he was sustained by a rousing 235-53 vote, with all of the insurgents, none of whom participated in the discussion, voting with the minority and most of the Democrats not voting, though Oscar Underwood, who played a prominent role in the insurgency revolt, voted with the majority to sustain the Speaker.¹⁰

While Cannon and his supporters claimed that this vote was a vindication of their position, Norris prepared a statement which claimed that none of the rules enacted in 1910 had been abrogated.

Though the 235-53 vote was indeed a setback, he vowed that the fight "for progressive American principles in legislation" would continue. The attacks on the rules during this short session, he thought, were inspired by a small group of the "old guard" with a view to discrediting the accomplishments of 1910. He claimed that the Democrats, who supported Cannon in this ruling, were playing politics.¹¹

If Cannon experienced vindication early in January, by mid-January he experienced further defeat. The fight developed from an attempt to utilize a rule that gave the House the power at specific times to discharge a committee from further consideration of a bill. The insurgents and Democrats believed that this ruling, which had been enacted in the second session of the sitting Congress, was iron-clad—that, as soon as the consideration of bills by unanimous consent had been concluded on every first and third Monday of the month, the House was then bound to consider motions to discharge committees from the custody of specific bills. Cannon declared that the rule did not make it mandatory for the House to take up such motions, but simply made them in order if the House wanted to consider them. When the vote was taken on January 16 on the appeal from Cannon's decision, twenty-two insurgents and all but one of the Democrats present voted against the Speaker. The attempt to sidetrack discharge motions was rejected by a vote of 145-126.¹²

Since the rules received much attention during this short session, Norris took the opportunity on the first anniversary of the start of the insurgency revolt, Saint Patrick's Day, to prepare a strong statement. Claiming that the victory did more to make the House a truly representative body than any other incident in the history of Congress, he asserted that it was "a fight between representative government and machine control, a conflict between the people and the Special Interests." He noted that now there was growing sentiment "for more publicity in governmental affairs and for a higher standard of efficiency in public officials." The growing acceptance of the initiative and referendum, the widespread demand for direct election of delegates to national conventions and of United States senators, were indications that the "great progressive movement" was surging forward and would continue until the reins of government were restored to the people. He also decried partisanship by asserting that "patriotic public service" was more to be desired than "party solidarity." This anniversary statement was one of the earliest public pronouncements of his growing awareness that he was more a progressive than a Republican.¹³

Along with other prominent progressive Republicans, Norris helped to form the National Progressive Republican League, in January, 1911, with the avowed object of promoting popular government and progressive legislation. As an indication of his new status, Norris was chosen first vice president of the organization, which was headed by Senator Jonathan Bourne of Oregon and had among its members Senator Brown and Governor Aldrich of Nebraska. At the outset the league unofficially served as a rallying point for opposition to President Taft and his standpat supporters in Congress.¹⁴

Nebraskans reacted favorably to the creation of this organization and to Norris' official position in it. His prominence continued to grow in progressive Republican circles. He was chosen to deliver a eulogy in Congress honoring the memory of the later Senator Dolliver. Thus in the last session of the Sixty-first Congress, he continued to be the outstanding progressive leader in the House.¹⁵

Norris devoted much time and energy to legislative problems. Since the session would be the last during Taft's term in which the Republicans would control Congress, the administration made greater efforts than usual to enact its legislative program.

Important to Nebraskans was proposed legislation to establish a parcel post system. Many opposed the plan because they thought "it would foster the development of an enormous trust, create an oppressive monopoly, destroy the prosperity of all country towns, seriously injure tens of thousands of jobbers and country merchants, drain the rural communities of their capital and population, aggravate the evils of centralized wealth and congested cities, and benefit no one but the great retail mail order houses in the big cities, and the express companies." The farmer's local market, they argued, would be destroyed, and with it would go his educational, social, and religious benefits as well. Realty values would decline and further taxation would be thrown upon already overburdened shoulders. Retail mail-order houses would benefit enormously, but country merchants and farmers would face financial ruin as well as loss of their way of life.¹⁶

Agitation against parcel post mounted rapidly during the short session and reached a climax in the following Congress when a parcel post measure was enacted into law. Norris kept the criticisms in mind, but argued that if the system took distance into account most of the difficulties could be obviated. If the charge were in proportion to cost and took into account the weight of the parcel and the distance it traveled, he thought the doom of the farmers and rural merchants would not materialize. Furthermore, a fair parcel post system would

lower exorbitant rates charged by express companies which, according to a report of the ICC made an average profit of 50 per cent of all invested capital in 1909.¹⁷

In this session, as in the past, Norris voted against the annual addition of two battleships for the navy. The custom of adding two ships per year was inaugurated by Roosevelt to keep the navy at fighting strength and to provide for the scrapping of obsolete vessels. While Norris believed in a moderate naval increase, he thought it more urgent that the government devote its attention and funds to agreements for arbitration treaties. He thought the time was ripe for the United States to propose to other civilized nations an agreement to arbitrate all future difficulties. Both progressives and standpatters were divided on these issues and there had never been any concrete attempt to unite them.¹⁸

Concerning military affairs, Norris favored the national guard rather than a large standing army, though he never gave the matter very careful scrutiny.¹⁹ He became more involved with military matters and took stronger stands on them as conditions in Mexico deteriorated during the last months of the Diaz regime. Norris insisted on strict neutrality, denying that the president had any legal right to use the army or his official position to influence Mexican affairs. "The fact that the armies in the field are destroying property such as railroads, mines, etc., in which citizens of our country have a financial interest," Norris explained, "ought to have no effect whatever upon the course our Government should take." He maintained that since the destruction of property was a legitimate method of warfare, citizens investing in foreign countries always took the risk of war and must abide by its results. The private citizen, not the government, was involved.²⁰

The major piece of business before this session was the reciprocity agreement with Canada which was sent to Congress on January 26, 1911. In negotiating it was agreed that reciprocity would be effected by concurrent legislation in both countries instead of by a treaty. The proposed legislation would admit nearly all agricultural products except wool without duty. A few minerals, as well as iron and steel plates and wire, were also on the free list, while innumerable manufactured items would move across the border at reduced rates which would be identical in either direction. Generally speaking, the free list included raw materials imported by the United States. The schedule provided American publishers with cheaper newsprint by calling for free paper and wood pulp, and thereby assured a base of popular support for the arrangement.²¹

Norris opposed this measure because he considered it unfair to

the farmer's interests. It removed agricultural tariff protection without reducing the farmer's costs. Free trade for the farmer and not for the manufacturer seemed to Norris to be another example of discrimination against the rural regions. He could not see why America should not be protected from Canada as well as from any other country. A rate that assured the difference in the production cost of the article imported, with perhaps a small profit to the American producer, ought to be applied to all articles subject to tariff legislation, regardless of country of origin.²²

At the outset Norris was alone in his opposition to Canadian reciprocity. The Nebraska newspapers, and all of Nebraska's congressional delegates except Norris, were in favor of it. It was pushed through the House on February 14, by gag-rule tactics, with no opportunity to offer amendments, little chance to comment, and, unlike the Payne-Aldrich Tariff, with Democratic support. Norris protested, wishing to send the measure back to committee with instructions to put on the free list some of the farmer's necessities. His protest was to no avail; the bill easily passed the House by a vote of 221-93. Among the former insurgent members, eighteen favored it and nine, including Norris, opposed it. The measure carried because of Democratic support. The majority of Republicans voting on the measure opposed it.²³

Unable to express his opposition on the floor, Norris had his lengthy remarks inserted in the Appendix to the *Congressional Record*. Since the House had already agreed to a bill providing for a permanent nonpartisan tariff commission which would determine the difference in cost of similar articles produced at home and abroad, he thought the commission could aid in determining rates that would be applicable to all nations alike.

As an agrarian, he insisted that danger to American institutions would surely come if legislation helped to decrease rural population and drive more people into already overcrowded cities. Indicating his connection with nineteenth-century rural America, a bond he had in common with many progressives, Norris added:

But it is also in the city that we have the slum and the breeding places of anarchy, ignorance, and crime. It is there we have the mob. It is in the city that we have the machine politician and the political boss, where, by organization and machine control, the elective franchise is seriously interfered with. On the other hand, upon the farms are located the conservative, patriotic, and thinking voters of our country. Uninfluenced by the machine control or

the political boss, they are the balance wheel in our form of government. In time of danger and in time of war we lean with confidence and pride upon the strong arm and the willing and patriotic heart of the American farmer.²⁴

He could not comprehend why the United States should surrender markets for the advantage and development of the Canadian economy at the expense of the American farmer. He suggested that "the instigators of this plan" might have framed it as a punishment to that portion of the country whose Republican representatives had the courage to protest the high schedules in the prevailing Payne-Aldrich Tariff.²⁵

He ordered 25,000 copies of this speech from the Government Printing Office and had them sent to McCook for distribution. The job of informing Nebraska's farmers would be difficult, since all the large daily papers, sympathetic to either free trade or free newsprint, favored the measure. Yet the fact that Norris stood alone would make it easier for him to expound his position because voters would want to know what prompted his opposition.²⁶

Nebraska farmers, however, would have ample time to obtain an understanding of the reciprocity agreement. While the measure quickly passed the House, it immediately ran into trouble in the upper chamber where standpat qualms and progressive opposition grew rapidly, provoking a swell of senatorial oratory that did not abate in time for a vote to be taken before the session ended on March 4. Taft, to save reciprocity, was forced to call a special session and to hope that the Democrats would continue their support of the measure. The president's inability to obtain its passage during the third session of the Sixty-first Congress assured opponents of the measure an opportunity to educate their rural constituents to its inequities.

Because the short session presented a major legislative issue that had not been resolved, members of Congress looked forward to a summer of fervid debate in hot, humid Washington. The debate on reciprocity pushed Norris further into the progressive camp, led him to despise intense partisanship, and convinced him that reconciliation with the Taft administration was impossible.

Comic relief to the serious doings of Congress was provided for Norris by the condemnation and censure he received from the Society for the Protection of Poodle Dogs in the District of Columbia. On February 5 he delivered an impromptu address before an audience of young men in the Washington Y.M.C.A. He reflected on his blissful

domestic condition and advised his audience in favor of marriage. He claimed "To be a husband and a father is the noblest ambition of every male human being." Following Theodore Roosevelt, he believed that young men who wanted to do good for their country and humanity must marry and raise children. "Of all the joys that life can give," he said, "the baby is the best."²⁷ He observed, however, that many wealthy people were raising more poodle dogs than children, and related the following incident with irony and humor.

Walking along Connecticut Avenue one day he saw a well-dressed woman come out of a luxurious mansion and enter a carriage. In her arms she carried a beautiful poodle, "all decked out in ribbons, trinkets and flowers." Norris pitied this wealthy woman who, he supposed, was childless and therefore wasted her affection on a poodle. But soon the door of the mansion opened again and a maid emerged wheeling a baby carriage. Norris assumed from the baby's clothes that it was the child of the woman who had just departed. First he felt sorry for the child, but upon reflection he shifted his sympathy to the poodle because under the circumstances the baby seemed to be in the best company. Poodles, he believed, should never replace children. "Too often in America today rich women care nothing for their offspring, but would rather bestow their foolish affection on pets that amount to nothing." Few wealthy mothers, Norris concluded, gave their first and best thought to their children.²⁸

This address aroused an immediate and violent response from wealthy women and poodle-lovers all over the country. Washington's leading matrons unanimously condemned Norris and defended their pets. The male president of the Washington Kennel Club stepped into the breach and praised socially prominent women and their lap dogs, declaring, "If more men would attend to their children as they should, we would not hear so much of this talk of the American home being ruined." To protect himself Norris contemplated moving out of Washington and taking other precautions to escape the crowd of women and dogs pursuing him.²⁹

As humorous as this incident may seem, it shows that Norris' remarks were seldom without purpose. In this case he was condemning conspicuous wealth, a social phenomenon at odds with his progressive views and rural values. Later efforts along these lines would usually be more political and pertinent in their application. However, whether the tenor of Norris' statements was serious or humorous, he seldom failed to inform his listeners.

When Congress adjourned on March 4, 1911, he quickly returned

to McCook and his family. All plans for an extended vacation had to be shelved when Taft announced his intention of calling the new Congress into special session to consider the unresolved Canadian reciprocity agreement. Hopes for a brief vacation, as well, were dissipated shortly after his return to Nebraska.