



8-1965

## A. O. P. Nicholson of Tennessee: Editor, Statesman, and Jurist

Patricia P. Clark  
*University of Tennessee - Knoxville*

Follow this and additional works at: [https://trace.tennessee.edu/utk\\_gradthes](https://trace.tennessee.edu/utk_gradthes)



Part of the [History Commons](#)

---

### Recommended Citation

Clark, Patricia P., "A. O. P. Nicholson of Tennessee: Editor, Statesman, and Jurist. " Master's Thesis, University of Tennessee, 1965.  
[https://trace.tennessee.edu/utk\\_gradthes/3327](https://trace.tennessee.edu/utk_gradthes/3327)

This Thesis is brought to you for free and open access by the Graduate School at TRACE: Tennessee Research and Creative Exchange. It has been accepted for inclusion in Masters Theses by an authorized administrator of TRACE: Tennessee Research and Creative Exchange. For more information, please contact [trace@utk.edu](mailto:trace@utk.edu).

To the Graduate Council:

I am submitting herewith a thesis written by Patricia P. Clark entitled "A. O. P. Nicholson of Tennessee: Editor, Statesman, and Jurist." I have examined the final electronic copy of this thesis for form and content and recommend that it be accepted in partial fulfillment of the requirements for the degree of Master of Arts, with a major in History.

Ralph W. Haskins, Major Professor

We have read this thesis and recommend its acceptance:

Stanley J. Folmsbee, LeRoy P. Graf

Accepted for the Council:

Carolyn R. Hodges

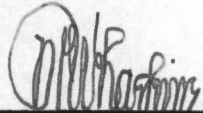
Vice Provost and Dean of the Graduate School

(Original signatures are on file with official student records.)

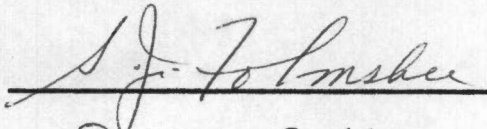
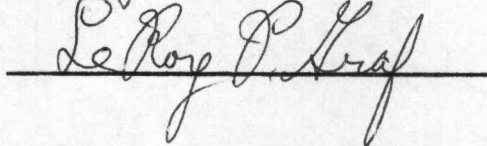
August 2, 1965

To the Graduate Council:

I am submitting herewith a thesis written by Patricia P. Clark entitled "A. O. P. Nicholson of Tennessee: Editor, Statesman, and Jurist." I recommend that it be accepted for nine quarter hours of credit in partial fulfillment of the requirements for the degree of Master of Arts, with a major in History.

  
Major Professor

We have read this thesis and  
recommend its acceptance:

Accepted for the Council:

  
Dean of the Graduate School

A. O. P. NICHOLSON OF TENNESSEE: EDITOR,  
STATESMAN, AND JURIST

---

A Thesis  
Presented to  
the Graduate Council of  
The University of Tennessee

---

In Partial Fulfillment  
of the Requirements for the Degree  
Master of Arts

---

by  
Patricia P. Clark  
August 1965



## PREFACE

Tennessee has had its share of notable sons, most of whom have found their Boswell and had their deeds and contributions duly recorded. A striking exception is A. O. P. Nicholson. State legislator, U. S. senator, and state chief justice, as well as the holder of numerous minor posts, Nicholson has never rated even a scholarly monograph. Although he may be an apt subject for a biography, the primary emphasis in this study is on the political aspects of his career, with some attention to his role as editor and as jurist. Since time and space do not permit, his legal career, his journalism, his presidency of the State Bank of Tennessee, and his role in developing the Nashville and Chattanooga Railroad are not studied in depth.

The major reason for the neglect of Nicholson has been the paucity of personal materials. Though Mrs. Nicholson managed to keep most of her husband's correspondence and records until her death in 1894, they were afterwards scattered. A few documents and Bible records, still in family hands, have been collected and copied by Miss Mary Nicholson, of Columbia, a great-granddaughter, who generously gave of her interest and enthusiasm to the present project. The largest collection of Nicholson letters, mostly of a political nature, are dispersed throughout the collections in the New-York Historical Society. These have been assembled on microfilm by the Tennessee State Library and Archives and by Dr. Joseph H. Parks, of the University of Georgia, who made them available for use in this thesis. Photostats from the James K. Polk Papers and the Andrew

Jackson Papers in the Library of Congress, in the possession of Mr. William B. Nicholson, of Nashville, were kindly loaned on an indefinite basis and thus materially aided this study. Contemporary newspapers and county records provided two rich primary sources and the numerous volumes of the Tennessee supreme court reports were indispensable for his later career.

For ease in handling the material certain procedures were followed. Since nearly forty years of Nashville and Columbia newspapers were used, and the titles varied, Winifred Gregory's Union List of Newspapers was consulted as a guide. The Republican Banner and Nashville Whig, for example, will appear throughout the thesis as the Nashville Republican Banner. Dr. Parks has published in the Tennessee Historical Quarterly many of the Nicholson letters in the New-York Historical Society collections. In order to avoid expanded footnotes, these articles are listed only in the bibliography. For the purposes of this study all of the New-York Historical Society letters will be cited as Nicholson Letters with one exception. Any Andrew Johnson item, no matter what the original source, was used from the Andrew Johnson Project at the University of Tennessee.

Besides individuals already acknowledged, I would like to mention Mrs. Frank L. Owsley, of the Tennessee State Library and Archives, who was extremely helpful in making materials from the state library available. I wish to extend thanks also to my readers, Dr. Stanley J. Folmsbee and Dr. LeRoy P. Graf, for their many useful comments and emendations. I am particularly grateful to my advisor, Dr. Ralph W. Haskins, whose guidance and advice, so often soliticted, were of particular benefit in matters of both style and content.

## TABLE OF CONTENTS

CHAPTER	PAGE
I. THE GENESIS OF A CAREER. . . . .	1
II. ON THE HUSTINGS: TENNESSEE POLITICS, 1833-1847. . . . .	15
III. BEYOND TENNESSEE'S BORDERS: FROM NASHVILLE <u>UNION</u> TO WASHINGTON <u>UNION</u> , 1847-1857 . . . . .	58
IV. TENNESSEE'S OTHER SENATOR, 1857-1865 . . . . .	99
V. THE CLOSING YEARS: FROM BAR TO BENCH, 1865-1876 . . . . .	135
VI. AN APPRAISAL . . . . .	159
BIBLIOGRAPHY. . . . .	168
APPENDIXES. . . . .	177
Appendix A. . . . .	178
Appendix B. . . . .	179
Appendix C. . . . .	181
Appendix D. . . . .	182
Appendix E. . . . .	184
Appendix F. . . . .	185
Appendix G. . . . .	187
Appendix H. . . . .	189
Appendix I. . . . .	192
Appendix J. . . . .	195

## CHAPTER I

### THE GENESIS OF A CAREER

Like many of his contemporaries, Alfred Osborne Pope Nicholson was a first-generation Tennessean with North Carolina antecedents. Some time during 1806 his parents, Osborne Pope and Sackey Clark Hunter Nicholson, joined the westward migration to take up land in the south-central basin of Middle Tennessee.<sup>1</sup> Prior to ceding this region to the federal government, North Carolina had opened it for settlement to soldiers, as military service bounties, and to land speculators. As long as the United States continued to recognize the Indian title, however, holders of these land warrants were unable to claim and settle the land. After treaties in 1805-1806 had extinguished the Cherokee title, migration was encouraged. Most famous of the military bounty holders were the Polks, Col. William and Col. Ezekiel, whose grants were so extensive that their progeny, including James K. Polk, enjoyed considerable wealth and gentry prestige for generations to come. By 1807, the Polks and others who had settled around the Duck River petitioned the Tennessee legislature to establish a new county; and on November 24, 1807, Maury County, named in honor of the pioneer-soldier, Abram Maury, was carved from Williamson.<sup>2</sup>

---

<sup>1</sup>Osborne (variously spelled Osborn and Osburn[e]) and Sackey (Saachy, Sachey). Typescript of family records in possession of Miss Mary Nicholson, great-granddaughter of A. O. P. Nicholson, Columbia, Tennessee. Hereafter cited Nicholson Family Papers.

<sup>2</sup>Stanley J. Folmsbee, Robert E. Corlew, and Enoch L. Mitchell,

Not a great deal is known about A. O. P. Nicholson's parents. His father, Osborne Pope Nicholson, was born in Guilford County, North Carolina, about 1780, the son of George and Jane Pope Nicholson of Granville County, North Carolina. Better educated than most of his contemporaries, he became a contractor-builder-surveyor and owned property including a residence in Raleigh which he sold around 1800.<sup>3</sup> Sackey Hunter, Alfred's mother, was born in 1783 in Warren County, North Carolina. Her great-grandfather Hunter left England in the early 18th century to settle in Perquimans County in the Albemarle Sound region of North Carolina. Jacob, his son, was a weaver who migrated westward to Gates County, and Isaac, the third generation and Mrs. Nicholson's father, took up residence in Warren County.

After obtaining land warrants, possibly through inheritance but more probably through purchase, O. P. Nicholson settled his family temporarily in Williamson County, Tennessee, in 1808. At this time there were two children, Maria and Calvin.<sup>4</sup> Here, the youngest child, Alfred,

---

History of Tennessee (4 vols.; New York, 1960), I, 269-271, 282, 283; Century Review, 1805-1895, Maury County . . . (Columbia, 1905), 12; William Bruce Turner, History of Maury County, Tennessee (Nashville, 1955), 12; Albert V. Goodpasture, "The Boyhood of President Polk," Tennessee Historical Magazine, VII (1921), 41-45.

<sup>3</sup>R. S. Tucker, comp., Early Times in Raleigh: Addresses Delivered by the Hon. David L. Swain . . . (Raleigh, 1867), 56; William S. Speer, Sketches of Prominent Tennesseans (Nashville, 1888), 332; Nicholson Family Papers. George Nicholson and Osborn Pope were listed as taxpayers in the Beaverdam District of Granville County in 1788. The former had 375 acres and the latter 153 1/2. Walter Clark, ed., The State Records of North Carolina (26 vols.; Goldsboro, North Carolina), XXVI, 1281.

<sup>4</sup>Speer, Sketches, 332; Nicholson Family Papers. The Nicholson-Voorhies Family Bible lists Sackey Hunter Nicholson Voorhies, May 14,

was born on August 31, 1808.<sup>5</sup>

Concomitant with Alfred's birth was the establishment of the county seat, Columbia, where the first lots were offered for sale on August 1, 1808. O. P. Nicholson was one of the bidders, purchasing two lots himself and a third with John M. Goodloe.<sup>6</sup> On September 2, the town commissioners, William Frierson, Joseph Brown, and John Lindsay, contracted with Goodloe and Nicholson to construct the first courthouse. Their specifications called for the erection on the public square of a two-storied brick building, which was to be completed by the third Monday in December, 1810, at a total cost of \$6,990.00 to be paid in three instalments. Begun in 1809 and finished the next year, this courthouse was the subject of lengthy litigation for breach of contract, filed first by Goodloe and Nicholson, in 1811, and continued by Goodloe alone after Nicholson's death.<sup>7</sup> A compromise settlement made

---

1783-April 16, 1873; and Maria Nicholson, September 18, 1802-July 12, 1855. Calvin was born in North Carolina in 1805. United States, Seventh Census (1850), Original Schedules (Microfilm), Population, Tennessee, Maury County, Columbia, 441.

<sup>5</sup>Nicholson-Voorhies Family Bible. According to family records, Alfred was born in the Carter Creek area, which may actually have been in the new Maury County. At least one writer, and near contemporary, wrote that Nicholson's birthplace is in present Maury. H. P. Figuers, "Two Lawyers of Our Town," Tennessee Bar Association Proceedings, XXIV (1905), 129.

<sup>6</sup>Turner, Maury County, 43; Maury County Deed Book C (Maury County Courthouse, Columbia, Tennessee), 162, 172; Ibid., D, 240. On February 14, 1810, Nicholson sold his half of the lot to Goodloe. Ibid., 236.

<sup>7</sup>United States Work Projects Administration, Tennessee Records of Maury County, Circuit Court Minute Book, Vol. A, 1810-1815 (Nashville, 1938), 442-52. The jury awarded for the plaintiff, Goodloe, in 1815. Ibid.



in 1823 deposited \$308, less fees, in his heirs' account.<sup>8</sup>

Although he built in 1809 what was probably the first frame house in Columbia, O. P. Nicholson ultimately settled his family in the Spring Hill area in the northern section of Maury. At the time of his death in late 1812 or early 1813, he was living on the portion of the tract called the Sand Spring Place. On another portion he had settled his parents. By his will, he specified that his widow was to receive one hundred acres and dower rights in Sand Spring, with Alfred her beneficiary, while Calvin inherited the plantation occupied by his grandparents. Any land warrants still in O. P. Nicholson's possession were divided equally between the sons, and the town lots in Columbia were devised to Maria. Personal wealth distributed among the heirs included twenty-three Negroes.<sup>9</sup>

The eighth provision of O. P. Nicholson's will indicated his desire "that my children should receive a good English Education unless my Estate can afford it and my Executors see proper to give my two sons a Classical Education."<sup>10</sup> Although Sackey later married a Maury County planter, Garrett L. Voorhies, she carefully followed this request, at least as far as Alfred is concerned. After some tutorial instruction, he was sent to Columbia to board with his sister, who was now Mrs. James

---

<sup>8</sup>Maury County Record Book C, 1823-1824, p. 59. James K. Polk served as attorney for the O. P. Nicholson estate. Ibid.

<sup>9</sup>Mrs. A. O. P. Nicholson, Reminiscences of an Octogenarian, Published in the Maury Democrat, [n. d.], 1894, typescript in A. O. P. Nicholson Papers (Southern Historical Collection, University of North Carolina Library), 9, 19, 22; Maury County Will Book A-1, p. 77. Alfred received six of these slaves.

<sup>10</sup>Ibid.

Simpson Walker, and to continue his education at the Old Brick (Woodward) Academy.<sup>11</sup> As Walker, his brother-in-law, became his guardian in September, 1821, Alfred probably entered school that month. An old account indicates that he paid \$5.00 a month room and board.<sup>12</sup> Walker kept a strict accounting of his trust while Alfred was a minor, and, when he entered the University of North Carolina in 1823, the ledger indicated the following debits and credits:<sup>13</sup>

1823	Store account to 1st of January 1824	45.09
	Sam Polk Tuition kept	15.00
	Tax receipt pd by Garrett	3.85 1/2
	Shermans Tax Receipt	.75
	Tuition Receipt	15.00
	Board from 15 April 1823 to 14th	
	May 1824 \$100 pr annum	108.00
	Cash to purchase Books	14.00
	To Balance	1366.17
		<u>1567.86</u>
1823	By Balance on Settlement	1385.58
	Interest 12 months	82.28
	By Hire of Negroes for 1823	97.00
		<u>1567.86</u>

To supplement his account as his expenses increased, Nicholson took one of his slaves, Moses, to Nashville in 1824 where he sold him for \$596.00.<sup>14</sup>

At the time Alfred entered the University of North Carolina it was a small academic village of three brick buildings, each three stories

---

<sup>11</sup>Mrs. Nicholson, *Reminiscences*, 18; Turner, Maury County, 127, 279.

<sup>12</sup>Maury County Record Book C, 60.

<sup>13</sup>Maury County Wills and Minutes E. Vol. 1, pp. 258, 259.

<sup>14</sup>Ibid., 258. Nicholson made a trip to Philadelphia in 1826, and, since \$250 was sent to him there, he was either on a buying trip or a lengthy visit. Ibid.



high. Most of the students boarded at the college for \$100 per annum. The 1830's were lean years financially, for the proceeds from the sales of Tennessee lands appropriated to the college had dwindled to such an extent that it became understaffed and the unfinished chapel, Gerrard Hall, remained unoccupied for nearly ten years. Discipline, while not rigidly enforced, was fairly strict and included weekly visits by staff members to each student's room. A student was allowed only \$1.00 a month and any merchandise, including "spiritous liquors," could only be purchased with faculty consent. Gray cotton coats with white pantaloons and waistcoats were required apparel in summer and a blue suit in winter. Until Alfred's senior year there were once-a-month holidays as well as regular vacation periods, and seniors were granted a month's leave just prior to the graduation services.<sup>15</sup> Punctual for all class recitations and quite studious, Alfred also took pleasure in the pedestrian tours which were conducted during the collegiate vacations to such places as Natural Bridge and Weir's Cave. Like his fellow Maury countian James K. Polk, he was an honor student and at his commencement (1827) was one of the seven students selected to deliver an address. His was "An Oration on Political Economy."<sup>16</sup>

---

<sup>15</sup> Kemp P. Battle, History of the University of North Carolina (2 vols.; Raleigh, 1907-12), I, 297, et passim.

<sup>16</sup> Ibid., 258, 316; Mrs. Nicholson, Reminiscences, 19. In 1853, Nicholson was pleased to accept an invitation to deliver an address before the University's debating societies. A. O. P. Nicholson to W. L. Alexander, R. B. Johnson, and W. Lafayette Scott, August 1, 1853, in Address Delivered Before the Two Literary Societies of the University of North Carolina, June 1, 1853, by A. O. P. Nicholson of Tennessee (Raleigh, 1853) (Special Collections, University of Tennessee).

Deciding on a career in medicine, in 1828 he began studying with Dr. John B. Hayes, a physician in Columbia. There were several doctors in Columbia at the time, including Irish-born James O'Reilly,<sup>17</sup> who shortly became Nicholson's father-in-law. While his mother and sister persuaded him to continue his medical studies by attending a series of lectures at Jefferson Medical College in Philadelphia,<sup>18</sup> doubtless Dr. Hayes, himself a graduate of that school, was also influential. Remaining approximately a year in Philadelphia, Nicholson passed through Washington en route home, in March, 1829, and attended Jackson's inaugural.

Having courted Caroline, the lively daughter of Dr. O'Reilly, prior to his Philadelphia sojourn, Nicholson proposed upon his return home, was accepted, and married on June 17, 1829. They settled temporarily with Caroline's father, a widower, in the Zion community south of Columbia. While Dr. O'Reilly belonged to the Zion Presbyterian Church and is buried in its cemetery, Caroline was converted to Methodism during a revival in 1832. Nicholson never affiliated officially with any church, although on occasion he attended the McKendree Methodist Church in

---

<sup>17</sup>Dr. James C. O'Reilly was born in Dublin, Ireland, in 1776. While serving as a surgeon in the British Navy, he was shipwrecked and brought to America in 1803. After his marriage to North Carolina-born Mary Gordon, he came to Tennessee in 1805. Typescript, Nicholson Family Papers.

<sup>18</sup>Speer, Sketches, 332. The college was started c. 1821 and was incorporated as such in 1826. At the time Nicholson attended, it was located in an old theater building on Locust Street between Fifth and Sixth streets. Joseph Jackson, Encyclopedia of Philadelphia (4 vols.; Harrisburg, 1932), III, 885.

Nashville.<sup>19</sup>

Exactly when Nicholson made up his mind to surrender medicine for law is little more than conjecture but either before he left Philadelphia, which would explain his brief stay there, or shortly after his return to Columbia, he had so decided. Both Caroline and Dr. O'Reilly encouraged this professional transition, and two of his best friends, Edwin Keeble and Terry Cahal, were attorneys.<sup>20</sup> Once decided, he received from the county court in October, 1829, a certificate which stated:

On motion of Jesse M. Egnew attorney at law and it appearing to the satisfaction of the court This court doth certify that A O P Nicholson who intends making application to the judges of this state for a license to practice law as an attorney and counsellor at law is a man of honesty probity and good demeanor and that he is at this time twenty one years of age and has been for many years a resident of this county

Test.

Thos. J. Porter<sup>21</sup>  
of Maury County Court

From the summer of 1829 until the summer of 1830 he pored over Blackstone, studied in Egnew's office, and was licensed to practice on July 7, 1830.<sup>22</sup>

At this time Columbia had a number of lawyers: Thomas Craighead, Charles Webber, Terry Cahal, Robert L. Cobb, William P. Martin, and James H. Thomas, who were described by a contemporary as conducting the major

---

<sup>19</sup>Mrs. Nicholson, *Reminiscences*, 19-21, 23, 43; *Nashville Banner*, May 1, 1897.

<sup>20</sup>Mrs. Nicholson, *Reminiscences*, 20, 21; Speer, *Sketches*, 332.

<sup>21</sup>Copy, Nicholson Family Papers.

<sup>22</sup>Mrs. Nicholson, *Reminiscences*, 21. A copy of the license is in the Nicholson Family Papers.

legal business. Felix Grundy, of Nashville, was hired in most criminal cases. Others who practiced between 1825 and 1840 were Samuel D. Frier-son, Edward Dillahunty, Barclay Martin, William H. and James K. Polk, John H. Dew, Gideon J. Pillow, Jesse Egnew, and Russell Houston. Frier-son, Houston, and Cahal were all later law partners of Nicholson.<sup>23</sup>

The haphazard method of issuing land warrants at an earlier time and the continuation of the colonial system of metes and bounds caused constant litigation at a later day, which no doubt accounts for the number of lawyers.<sup>24</sup>

In the fall of 1829, with a barely inceptive law practice and the beginnings of a large family, Nicholson established a printing office to supplement his income. Renting a two-room building on Main Street in Columbia, he used the front room as a law office and the rear one to house a press. With Alston B. Estes, his cousin,<sup>25</sup> he edited the Western Mercury, a weekly four-page newspaper which contained mostly local and state news, some national, and very little foreign news. At one time Felix Zollicoffer, colorful Whig editor and later Confederate general, was one of their printers. By 1832, Nicholson edited the paper

---

<sup>23</sup>Samuel H. Watson to Thomas A. R. Nelson, December 11, 1832, in T. A. R. Nelson Papers (Lawson McGhee Library, Knoxville); Mrs. Nicholson, Reminiscences, 18, 24, 28.

<sup>24</sup>Folmsbee, et al., Tennessee, I, 283-84; St. George L. Sioussat, "Some Phases of Tennessee Politics in the Jackson Period," American Historical Review, XIV (October, 1908), 52.

<sup>25</sup>Sackey Nicholson's sister, Sarah Alston Hunter, married Ludwell Bacon Estes and moved to Columbia. Alston must have been their son. Nicholson Family Papers.

alone and then with Samuel D. Frierson, who was also his law partner.<sup>26</sup>

In one of the few issues extant this ad appears:

Samuel D. Frierson & A. O. P. Nicholson

Attorneys at Law

Have formed a co-partnership, and will in future attend jointly to all business confided in their profession. They will attend the several courts of Maury, Giles, Hickman and Bedford counties. One of them can always be found at their office in Columbia.<sup>27</sup>

In 1834, as politics and a growing practice dictated, Nicholson and Frierson sold the paper to M. G. Lewis, who changed the name to The Examiner. After Zollicoffer joined Lewis, the name was changed again, as were its political proclivities, to the Columbia Observer.<sup>28</sup>

Nicholson was an indefatigable worker, and his future career was concerned mainly with his variegated activities--politics, journalism, and the bench--but he never really deserted his legal profession. For example, in 1836, in collaboration with Robert L. Caruthers, a leading Whig of Lebanon, Tennessee, he embarked on an ambitious undertaking of a Compilation of the Tennessee Statutes, known to the profession as Caruthers and Nicholson. After George Roulstone, a Knoxville printer,

---

<sup>26</sup>Mrs. Nicholson, Reminiscences, 22; Turner, Maury County, 360; Century Review, 28; Columbia Herald, May 12, 1866. This issue contained an historical sketch of Columbia journalism. No two authorities agree on the history of the Western Mercury nor of Nicholson's connection with it. However, Nicholson and Estes were editing the paper in 1830 as shown in photostats of the only two issues extant for that year, January 13 and July 30. The originals are in the Huntington Library and microfilm copies are in the Tennessee State Library.

<sup>27</sup>Western Mercury, April 17, 1835.

<sup>28</sup>Columbia Herald, May 12, 1866.

had published a rudimentary compilation in 1803, the legislature commissioned Willie Blount and Moses Fisk to prepare a code from the statutes, but this opus was never completed. The best known code, compiled by Judge John Haywood in 1807, was revised several times, with the last revision commissioned by the legislature and finished in 1831 by James Whiteside after Haywood's death. Another useful early compilation was one done by Judge Edward Scott, of Knoxville, in 1820.

Since the Constitution of 1834-35 made major revision necessary, Nicholson and Caruthers planned a compilation as a private enterprise.<sup>29</sup> With an enthusiasm born of youth and ambition and bred on the promise of honor and financial gain, as well as on a conviction of the need of such an endeavor, Nicholson set out to work in February, 1836. Unfortunately it is not known just how they divided their labor, but Nicholson organized his time in order to spend at least six hours a day on his part of the project. At times his zeal threatened to outrun the patience required for a joint undertaking, and he was constantly urging upon Caruthers the necessity of an early publication.<sup>30</sup> At other times he managed to maintain his equanimity in the face of some, perhaps minor, disappointment and revealed a touch of wit not found in his later letters.

---

<sup>29</sup>Samuel Cole Williams, History of Codification in Tennessee (Johnson City, Tennessee, 1932), 9 et seq. See also A. V. Goodpasture, "An Account of the Compilations of the Statute Laws of Tennessee," American Historical Magazine, VII (1901), 69-79.

<sup>30</sup>A. O. P. Nicholson to Robert L. Caruthers, February 28, March 14, April 23, 27, 1836, in Robert Looney Caruthers Papers (Southern Historical Collection, University of North Carolina).



I had just drawn the last stitch and packed away my manuscript, was then cutting off a new quid of tobacco, counting over in my mind six times five . . . when my man Friday handed me your last letter. My dreams of cash and fame were dissipated--I was struck dumb--the hippo-quagaire--damper--depressed & all rushed into my brain, and gave me a shock that was awful! . . . but what is a small touch of the highstrikes--sticking up to the knees in a quagaire--compared with Robt. L. Caruthers and A.O.P. Nicholson, in great big flaring letters on the title page of a book that will be in every body's hands--Why Sir, how many swamps and quagaires has many a poor devil of a fame-hunting fool waded thro' just to suffer an Indian to blow out his brains--and then think of the six thousand copies at five dollars a copy--My Dear Sir, I have become as "buoyant as air" (and Lord! how poetical) under the bright vision.<sup>31</sup>

Although their work was excellent and subsequently the standard authority until 1858, it was not uniformly well received in 1836. Their agent in East Tennessee, William Churchwell, was not too effective, probably because attorneys in that area relied on earlier compilations, mainly Scott's.<sup>32</sup> Of particular pleasure to the compilers, however, was the elaborate testimonial given their labors by the most prominent Tennessee jurists, William B. Turley, William B. Reese, and Nathan Green of the state supreme court. Calling it "the best work of the kind we've seen," they bestowed particular praise on the chronological arrangement which enabled one to ascertain the history of the legislation upon a given topic, on the explanatory footnotes in the event that a legal judgment had been rendered on a statute, on the index, and on the sample forms which the compilers included.<sup>33</sup>

---

<sup>31</sup>Nicholson to Caruthers, April 23, 1836, in ibid.

<sup>32</sup>Nicholson to Caruthers, April 27, 1836, in ibid.; Williams, Codification, 16.

<sup>33</sup>Nashville Union, February 23, 1837. During 1846-1847 Nicholson prepared a supplement which, by legislative act, was supplied by the

Although Nicholson worked at home during the time consumed by the preparation of the Statutes, he was so often away at court or on political business, that Caroline occasionally regretted her encouragement and his decision to enter law. Even when his business allowed him to live in Columbia, he often uprooted his family, making more than eight moves in Columbia alone before moving to Nashville in 1844. One of these was necessitated by the death of James Walker, who was insolvent, so that Nicholson sold his own farm to settle the proceeds on Maria and her children. The repurchase of an earlier home on Little Bigby in 1850 so pleased Mrs. Nicholson that she was content to remain there even though her husband would spend most of the next ten years away from Columbia, returning only periodically and during holidays.<sup>34</sup>

Eight children were born between 1831 and 1851,<sup>35</sup> with Hunter, the second son, most nearly emulating his father's career. After graduating from the University of North Carolina (1855), he joined his father in Washington as associate on the Washington Union and later edited the Columbia Herald and the Dixie Farmer. Although he practiced law briefly, he made teaching his occupation and in 1869 became the first professor of agriculture at the East Tennessee University

---

the state to county officials. Acts of the State of Tennessee Passed at the First Session of the Twenty-Seventh General Assembly for the Years 1847-48, Resolution No. XXVIII. Hereafter cited Tenn. Acts.

<sup>34</sup>Mrs. Nicholson, Reminiscences, 21, et passim.

<sup>35</sup>James Osburn, later Osborne Pope (1831-1894), Calvin Hunter (1834-1901), Mary Gordon (1837-1841), Alfred O. P., II (1840-1915), Mary Pope (1843-1912), Andrew Jackson (1845-1864), James Charles O'Reilly (1848-1896), Anna Maria (1851-c. 1940). Nicholson Family Papers.



(now the University of Tennessee).<sup>36</sup>

Among their close neighbors in Columbia at one time were James K. and Sarah Childress Polk. Polk, then congressman, was the pride of Columbia, and the county was the scene of myriad political meetings. By March, 1831, the twenty-two-year-old Nicholson was infected by the fever and announced himself a candidate for the legislature. In his first bid for elective office, he was defeated by the incumbent, Col. James Dobbins, but re-entered the hustings in 1833 and was elected to represent Maury County in the 20th General Assembly.<sup>37</sup> Mrs. Nicholson described the wild demonstration which followed the reception of the news from the last precincts:

The last one, on that occasion came in from the West and cried the news from the Institute Hill. It was taken up and the crowd rushed to Mr. N.'s office, seized him and hoisted him to their shoulders, tore up his hat--which turned out to not have been his, but [one] which he had picked up as he was hustled out of the house.<sup>38</sup>

There were many times in the years that followed, that Nicholson considered deserting politics and concentrating on the legal profession, and the closing years of his life spent on the state supreme court must have been in many ways the most rewarding.

---

<sup>36</sup>Speer, Sketches, 333. For an interesting account of Hunter's years at the University, see Stanley J. Folmsbee, East Tennessee University, 1840-1879, Predecessor of the University of Tennessee, University of Tennessee Record, LXII (May, 1959), passim.

<sup>37</sup>Mrs. Nicholson, Reminiscences, 23, et passim.

<sup>38</sup>Ibid., 24.

## CHAPTER II

### ON THE HUSTINGS: TENNESSEE POLITICS, 1833-47

Nicholson's emergence on the hustings coincided with the rise of extremely partisan politics, marked by a great deal of personal abuse on the stump and aided by an equally partisan press which demanded and obtained quid pro quo. Although Andrew Jackson, now in the White House, was still the titular head of political activity, by 1832, both at home and in Washington, numerous breaks had cracked the solidarity of his forces. Foremost were the imminent defections of John Bell and Hugh Lawson White. The former, a congressman, after previously avoiding an open break with Jackson, had finally aroused the president's suspicions for his attitude on the U. S. Bank and on nullification, while White, who was probably next to Jackson in popularity in Tennessee, became disaffected as his influence with Jackson waned. Other prominent Jacksonians in the state--including Ephraim Foster, Bailie Peyton, and Newton Cannon--ultimately deserted the Jacksonian tent for the "Whig-wam." Nationally the Whigs were the legatees of the Federalist and National Republican parties coalesced under Henry Clay's American system; in Tennessee Whiggery arose in phoenix fashion from disgruntled Jacksonians. To a considerable degree, and with few exceptions, it would dominate state politics for the next twenty years.<sup>1</sup>

---

<sup>1</sup>Folmsbee, et al., Tennessee, I, 313-16; Powell Moore, "The Political Background of the Revolt Against Jackson in Tennessee," East Tennessee Historical Society's Publications, No. 4 (1932), 45-66.

In this fluid state of the Jacksonian revolt, the legislature which Nicholson entered in 1833 was not fully stratified politically. The nominally Democratic<sup>2</sup> William Carroll merely retained the governorship, a position he had held continuously from 1821 with the single exception of Sam Houston's term, 1827-29. Because the rise and expansion of the democratic spirit which had sent Jackson to the White House demanded basic changes in property taxation, voting qualifications, and representation, Carroll viewed his election this time as a mandate for constitutional revision, and he appealed to the legislature to establish the necessary machinery for a convention. Much of the work of this session revolved around the constitutional issues.<sup>3</sup> Nicholson served on a select committee to consider the subject of a call for a convention; and from this committee's report and recommendations the legislature initiated the election.<sup>4</sup>

A special committee was appointed to investigate the state's resources and compile corresponding statistics which could be utilized the next year by the constitutional convention. Nicholson chaired this committee--an auspicious beginning for a young legislator. His report

---

<sup>2</sup>As the party was in a transitional state, the name varied. In the early 1830's it appeared as Republican or as Democratic-Republican; by 1840 the more modern form, Democrat, was generally used.

<sup>3</sup>Folmsbee, et al., Tennessee, I, 299-302; Robert H. White, Messages of the Governors of Tennessee (6 vols.; Nashville, 1952- ), II, 436, 443.

<sup>4</sup>Journal of the House of Representatives of the State of Tennessee, 1833-34 (Microfilm, Tennessee State Library and Archives), 139-40, 154-56; Tenn. Acts, 1833, Chapter LXXVI.

from the committee, presented on November 14, 1833, was deemed so significant that the house ordered 1600 copies printed. Categorized by population, territory, exports, public debt, expenditures, revenue, public lands, real estate, and natural resources, these statistics probably represent the first attempt of such magnitude for a comprehensive study of the state. Perhaps the most salient feature of the report was its emphasis on population. Even with a 61 per cent increase in the decade, 1820-1830, the state remained underpopulated in all areas. Particularly was this true of East Tennessee, where the industrial potential indicated that a far greater population density could be supported, and the committee recommended a state program to encourage immigration. At the conclusion of his report, Nicholson introduced a resolution, which the house adopted, for the reappointment of the state geologist, Dr. Gerard Troost, who had materially aided the committee and facilitated its work.<sup>5</sup>

Nicholson also chaired the committee on the state of the Union to which was referred a request from the South Carolina General Assembly--consisting mainly of nullifiers--for a call to amend the U. S. Constitution. After deliberations in committee, he reported back to the house that "it is inexpedient and dangerous" to consider such action, and recommended by resolution that the governor so communicate to the South Carolina legislature.<sup>6</sup> In spite of Nicholson's service on this committee,

---

<sup>5</sup>House Journal, 1833, pp. 98, 355-60; White, Messages, II, 443-47.

<sup>6</sup>House Journal, 1833, pp. 21, 46.

a rumor wafted abroad which reached all the way to the White House that he was a Calhoun man and a nullifier. Not enough issues of the Western Mercury exist to substantiate such a charge from any of Nicholson's editorials, but there were other Jacksonians with state-rights proclivities, not excluding the redoubtable Felix Grundy, who found the path at this time and on this issue extremely narrow.<sup>7</sup>

One of the major issues which divided the Whigs and Democrats was the question of banking, and the subject, along with internal improvements, was present in every legislative session of the 1830's. Nicholson shared the Democratic view that the U. S. Bank was an unconstitutional monopoly, infiltrated and controlled by foreign investors--mainly the Bank of England--and that it was a grand conspiracy between the advocates of paper money and foreign capitalists against the farmer-planter.<sup>8</sup> It is not surprising, therefore, that he introduced a resolution for a six-member delegation of the house to meet with a similar delegation from the senate to prepare instructions for Tennessee senators to vote against rechartering the bank. When this resolution passed, he was appointed to head the house delegation. The final resolution, adopted November 30, was transmitted to Washington.<sup>9</sup>

---

<sup>7</sup>Andrew Jackson to Martin Van Buren, November 19, 1833, in John Spencer Bassett, ed., Correspondence of Andrew Jackson (7 vols.; Washington, 1926-35), V, 227; Moore, "Revolt Against Jackson," 51.

<sup>8</sup>Nashville Union, July 7, 1843. Although the speech reported here was made June 5, 1843, it is a clear interpretation of Nicholson's attitude toward the U. S. Bank.

<sup>9</sup>House Journal, 1833, p. 49; Tenn. Acts, 1833, Res. No. VIII.

His interest in state banking problems began with this session, for he served on the committee on banks, on a select joint committee to consider the establishment of a bank at Memphis, and on a joint committee on the Union Bank.<sup>10</sup> This last bank, a privately-owned corporation in which the state had subscribed 5000 shares, had been chartered by the previous legislature to fill the void created by the failure of the second state bank and the closing of the Nashville branch of the U. S. Bank, following Jackson's veto. Until the re-establishment of the state bank, the Union Bank was the repository for state funds.<sup>11</sup>

All legislators, whether state or national, have certain duties incumbent with office, such as introducing petitions of one kind or another, and Nicholson performed such perfunctory services when requested. Perhaps the two most interesting were those he presented on October 18, 1833--one from the citizens of Maury petitioning for the enactment of a law requiring owners of cotton gins to make their bales "all of a size" and the other from Dr. Jack Macon for a license to practice as a botanic physician. Both were referred to the committee on propositions and grievances and there consigned, it seemed, to quietly expire.<sup>12</sup>

With the close of the session, Nicholson returned to Maury to await political developments, which were in constant flux. Anti-Jackson

---

<sup>10</sup>House Journal, 1833, pp. 99, 134, 287; Tenn. Acts, 1833, Ch. LIV.

<sup>11</sup>Claude A. Campbell, The Development of Banking in Tennessee (Nashville, 1932), 62-66.

<sup>12</sup>House Journal, 1833, p. 145. For his seventy-eight days of service, he was reimbursed \$224.80. Ibid., 410.

sentiments, at first expressed in the form of mild opposition, exploded into full revolt when Martin Van Buren was nominated as Jackson's heir at a convention in Baltimore in May, 1835. This, in itself, was an unprecedented move, as candidates were generally nominated by state legislatures or by congressional caucuses, and was interpreted as an effort to nip the White bloom before it flowered. White supporters, still claiming to be true Jacksonians, had virtually captured the press in Tennessee, and an attempt to nominate him for the presidency had been made in the constitutional convention in 1834.<sup>13</sup> In the summer of 1834 Nicholson, to his later embarrassment, had supported White in a lengthy editorial and had proposed the following toast at a public dinner: "To Hugh L. White. The honest politician. He is worthy to be the successor of Andrew Jackson."<sup>14</sup> As late as September, 1835, on the eve of the convening of the legislature to which he had been re-elected, he had written to Francis P. Blair, editor of the Washington Globe, the administration organ, that he had favored White's candidacy earlier from personal preference and state pride, and he predicted that White would be nominated by the state legislature. That he expected, and indeed hoped, the letter would be shown to Jackson is evidence that he felt he had committed no political heresy.<sup>15</sup>

---

<sup>13</sup>Folmsbee, et al., Tennessee, I, 316-19.

<sup>14</sup>Columbia Observer, August 3, 1834; Charles G. Sellers, Jr., James K. Polk, Jacksonian (Princeton, 1957), 255.

<sup>15</sup>Nicholson to Blair, September 15, 1835, in Blair and Rives Papers (Library of Congress). Nicholson and Jonas Thomas were elected to the house from Maury over a field which included M. G. Lewis, James Osborn, James J. Porter, [?] Huey, and Gideon J. Pillow, who was backed by the Columbia Observer. Nashville Union, March 30, April 13, 27, August 10, 1835.

Nicholson's forecasts about the course of the incoming General Assembly proved all too accurate to the discomfort of the Jacksonians. In the first place Newton Cannon, the White candidate, had defeated Carroll for governor, and the speakers of both houses were White supporters--Foster being elected unanimously in the house. Yet, few other Tennessee legislatures could equal this one in ability, for making their debuts in this session were a number of rising young politicians in both factions. Among the White men, soon to be Whigs, were Robert L. Caruthers, of Wilson, Nicholson's collaborator on the Statutes and later congressman, prominent jurist, and Confederate-governor-elect; Meredith P. Gentry, of Williamson, later congressman and gubernatorial nominee; and John Netherland, of Sullivan, a serious contender for numerous state offices including senator and governor. On the Jacksonian side of the house were Hopkins L. Turney, of Franklin, later congressman and U. S. senator; George Washington Jones of Lincoln, later congressman; and Andrew Johnson, of Greene, who ultimately served as congressman, governor, U. S. senator, and president. Harvey M. Watterson, of Bedford, a later congressman, entered this session as a White supporter but by 1837 joined the Jacksonians. Although Nicholson's split with Turney in the 1840's was unfortunate for both, the warm friendships he developed in this session with Watterson, Jones, and Johnson contributed immeasurably to his future place in the party.<sup>16</sup>

The first real contest in the house was spawned on the second day, when Joseph Guild, of Sumner, introduced a resolution to instruct

---

<sup>16</sup>Folmsbee, et al., Tennessee, I, 321; House Journal, 1835, pp. 3, 4.



Tennessee's senators to vote to expunge the Clay censure of Jackson from the U. S. Senate Journal. Guild's preamble and resolutions, a sweeping endorsement of Jackson's administration, were undoubtedly proposed to arrest the White movement in Tennessee. As expected, the White majority nailed the resolutions to the table, fearing their passage would damage White's chances. Unceasing efforts by the Jacksonians to bring the resolutions to a vote were constantly attended by failure.<sup>17</sup> On January 26, 1836, Nicholson wrote Jackson, "The expunging resolutions are still on the table--we made an effort a few days ago to call them up--a vote was taken which was deemed a pretty good test--it stood 37 for and 38 against taking up." With the balance so nearly even, Nicholson continued, a vote could not be avoided, and "I hope and believe that in a few days I shall have the pleasure of announcing to you, that the state of Tennessee is redeemed."<sup>18</sup>

The debate dragged on into February, lasting sometimes until midnight before a packed lobby which alternated between clapping and hissing. One White supporter, Netherland, after delivering a lengthy harangue against the resolutions, resigned his seat because his constituents had instructed him to vote for expunging. In one of these night sessions, Nicholson, in a speech characterized by the Union as

---

<sup>17</sup> Ibid., 14; White, Messages, III, 5-18; Nashville Union, October 9, 12, 1835. Nicholson's motion to have 150 copies of Guild's resolutions printed was rejected. House Journal, 1835, p. 14.

<sup>18</sup> Nicholson to Jackson, January 26, 1836, in Andrew Jackson Papers (Library of Congress).

a "powerful effort of a powerful mind," defended Jackson's fame and reputation as property of Tennessee and laid the responsibility for the cleavage between Jacksonians on the White forces.<sup>19</sup> On February 20, while serving as presiding officer, he accepted a move to consider the expunging resolutions only to be overruled by the house and forced to declare the motion out of order.<sup>20</sup>

White's supporters, in the meantime, were anxious to win Tennessee's endorsement for White without actually condemning Jackson. The result, on October 16, was a resolution to approve generally Jackson's principles and policies, to nominate White for the presidency, and to condemn the Baltimore convention which had nominated Van Buren. The section approving Jackson's policies generally passed the house 69 to 3. Their attempt to amend the resolution wording from generally to speci-ally denied by parliamentary maneuvers,<sup>21</sup> Nicholson, Guild, and B. L. Ridley voted nay and then entered their protest in the Journal:

We regard the said resolution, when taken in connexion with the original preamble, as an attempt to pass an indirect censure upon the present administration by the use of the indefinite term "approve generally." . . . We should have heartily supported a resolution approving in strong and decided terms the leading measures and policy of the Administration of Gen. Andrew Jackson.<sup>22</sup>

While not inclined to endorse White for the presidency, Nicholson was willing to support that part of the declaration which recommended Hugh

---

<sup>19</sup> Nashville Union, February 16, 1836.

<sup>20</sup> House Journal, 1835, p. 684.

<sup>21</sup> Ibid., 71-72.

<sup>22</sup> Ibid., 73.

Lawson White to the people of the United States "as being eminently qualified to fill the office of President."<sup>23</sup>

Nicholson's speech during this debate indicated his strong belief that White could not be considered a logical candidate. Professing a preference for party and principles first, personalities second, Nicholson declared that if Van Buren and White were both Jacksonian Republican candidates, he would favor White. His previous adherence to White had stemmed from his conviction that they shared the same principles and doctrines. Changing times had convinced him that the enemies of Jackson were using White to break up the Republican party, obligating him

to yield my preference for men, and to lend my aid in saving the principles which I hold dear from destruction and overthrow. In taking this course, I abandon no principle I have ever advocated; I only abandon the support of one man, to whom I have been long devoted, and who is decidedly my first choice for the Presidency.<sup>24</sup>

To him, Van Buren was the only national choice. Webster, the high priest of Federalism, could count only on the northern Federalists; and Harrison, the follower of Clay and the new Whigs, could gain only the middle states Federalists. As for White, who "has been and always will be a Republican," Nicholson predicted his only support outside Tennessee was with non-Republicans, the southern nullifiers and southern Federalists. In his analysis, then, a vote for White was a vote for Clay, Webster, and the Whigs.<sup>25</sup>

---

<sup>23</sup>Ibid., 71. A few days earlier Nicholson had voted for White for the Senate. Ibid., 14.

<sup>24</sup>Nashville Union, October 19, 1835.

<sup>25</sup>Ibid.

Like other Jacksonians of the time, Nicholson had crossed his Rubicon. When attacked by some White adherents in Maury, including Zollicoffer's Observer, Nicholson mounted his offensive in letters to his constituents published in the Tennessee Democrat (Columbia) and in the Nashville Union. To a charge that he had failed to attend a dinner in Judge White's honor, Nicholson explained his absence on the grounds that Cave Johnson and James K. Polk, both congressmen, and Felix Grundy, U. S. senator, all in Nashville at the time, were not invited and in deference to them he had absented himself. Several Columbians with White proclivities, who had attended the dinner and exposed Nicholson's absence, threatened to instruct him from his seat. In answer to their charges, while careful to stress his belief in the right of instruction by a majority of Maury voters, he ably defended his position and the matter ended.<sup>26</sup>

The White-Jackson duel was not the only battle to plague the legislature. In his message of October 15, 1835, Governor Cannon reminded the assembly of various other responsibilities, including action on internal improvements, banking institutions, and the common school system. Although internal improvements and banks were in the main Whig projects, Nicholson admittedly had more interest in these than in the public education issue. In fact, at this time he held the aristocratic

---

<sup>26</sup> Ibid., October 26, November 24, 1835; Columbia Tennessee Democrat, November 12, 1835. Nicholson could not escape charges of inconsistency. At a later dinner this toast was proposed to him--"He marched into the Legislative Hall under the White Banner--the great magician said, 'Presto, change,' and lo, it is black." Nashville Union, November 9, 1835.

attitude common to conservative landholders in Middle and West Tennessee. When somewhat later in his career he conceded the necessity for mass education, he advocated that government support should also embrace colleges as an integral part of any public education system.<sup>27</sup>

Tennessee was one of the last states to be enveloped by the canal, turnpike, and railroad fevers which had swept the country, and the constitutional convention had left its endorsement of internal improvements as a mandate for action by the 1835 assembly. After Jackson's veto of the Maysville bill, probably more from political expedience than from pure conviction, most Jacksonian Democrats could not in good conscience support federal aid and to some extent would not sanction state aid. However, local conditions operated against strict party compliance. In East Tennessee, geographically the most isolated, the agitation for support first of river improvements followed by a clamor for railroads was general and not restricted to party affiliation. The first attempt at state aid, largely ineffective, passed the legislature in January, 1830, with appropriations made to the three grand divisions out of the unassigned revenue from public land sales. By the fall of 1833 railroad journals and public meetings demanded more, and in November, 1833, after chartering the Western Railroad Company, the legislature considered, but rejected, a state subscription in the amount of \$100,000.<sup>28</sup>

---

<sup>27</sup> Nicholson to Robert Looney Caruthers, April 23, 1836, in Caruthers Papers; White, Messages, III, 45-49; IV, 86; draft of a speech (in Nicholson's hand) in Nicholson Family Papers.

<sup>28</sup> Stanley J. Folmsbee, Sectionalism and Internal Improvements in Tennessee, 1796-1845 (Knoxville, 1939), 58-84; House Journal, 1833, p. 280. Nicholson had voted for this appropriation. Ibid.

The report from the 1835 house committee on internal improvements, of which Nicholson was a member, contained a complete summation and justification for state aid. Replete with appendices from U. S. topographical engineers who had surveyed routes, the report called attention to the languishment of Tennessee in the area of internal improvements. Subsequently, from its recommendations a bill was introduced which would commit state aid totaling \$3,500,000 to various railroad projects. By floating a bond issue to raise the money, the state would gradually be repaid from the interest earned by the railroads. When the bill reached the senate, Terry Cahal proposed instead that the act authorize the governor to subscribe on the part of the state one-third of the stock of all incorporated companies for works of internal improvement when the other two-thirds had been privately raised. Nicholson later amended the wording to limit the bill to companies building "railroad or M'adamized turnpike roads," which the house adopted 50 to 4 and incorporated into the final bill.<sup>29</sup>

As early as 1832, Nicholson was convinced of the desirability of constructing railroads and turnpikes. In the Western Mercury he had editorialized on the practicability of a railroad from Columbia to the Tennessee River.<sup>30</sup> In November, 1833, to a bill appropriating \$500 for a survey of a railroad in West Tennessee, he offered an amendment to include a like sum for a survey for a Columbia to Tennessee River Railroad.

---

<sup>29</sup>Ibid., 1835, pp. 214-38, 667; Tenn. Acts, 1835-36, Ch. XXII; White, Messages, III, 76-87; Folmsbee, Sectionalism, 121-26.

<sup>30</sup>Western Mercury (Columbia), April 17, 1832.

Although this amendment was adopted in the house, it was ultimately deleted.<sup>31</sup> When the bill authorizing the Nashville and New Orleans Railroad to extend its line into Tennessee was under debate in October, 1835, he submitted an amendment "that no tax shall be assessed upon the property of said company, within the State of Tennessee until the said road shall be completed" or a portion opened for traffic. After attempts by Turney and Guild to amend his amendment were rejected, Nicholson's amendment passed 34 to 31.<sup>32</sup> In 1845, while editor of the Nashville Union, he conducted a vigorous campaign through the newspaper's columns for the building of the Nashville and Chattanooga Railroad, which became the first completed line in the state.<sup>33</sup>

In addition to serving on the committee on the judiciary which was responsible for guiding through the house the numerous reforms dictated by the new constitution, Nicholson and Caruthers were named a committee of two to consider and report back their interpretation of the somewhat ambiguous section seven of the judiciary article dealing with the limitation of individual local and private acts. All too often the success of such private measures was based on lobbying, log-rolling,

---

<sup>31</sup>House Journal, 1833, p. 413.

<sup>32</sup>Ibid., 1835, p. 114.

<sup>33</sup>Nashville Union, February 27, 1845, et seq. He served as chairman of an internal improvements convention which met in Nashville in November, 1845, and as secretary of the board of directors of the Nashville and Chattanooga Railroad. In 1846, while president of the state bank, he made a trip to Athens to investigate mismanagement in the branch bank. Taking advantage of this opportunity, he travelled by way of Chattanooga in order to survey the railroad route personally and to seek prospective subscribers. Ibid., February 26, 1846.



and outright bribery, rather than on any intrinsic merits, and their consideration consumed far too much time and effort on the part of the legislators. As the committee noted, such private acts were frequently deleterious to the public in general and expensive to the state. Nicholson and Caruthers interpreted this section as authorizing the legislature to deal with such private cases only when the payment for services rendered the state was under legislative directive or in the event the claim was justified as good and expedient for the public weal.<sup>34</sup>

After the adjournment of this General Assembly on February 22, 1836, Congress passed the Deposit Act distributing among the states part of the surplus funds of the federal treasury. In order to determine the dispersal of Tennessee's portion amounting to \$1,911,676.53, Governor Cannon convened a special session October 3, 1836. Three days later Nicholson, as a member of a select committee on the question, submitted a resolution that a committee be appointed to ascertain the terms on which the Union and Planters' banks would receive Tennessee's portion of the surplus. When the resolution was adopted, Nicholson was appointed to chair the committee. On the following day he reported back to the house that both banks would accept the funds provided the deposit would not be less than one year and offered 5 per cent annual interest. Yeatman, Woods, and Company, of Nashville, a private bank, also canvassed, offered to receive up to \$300,000 on the condition that it would not be withdrawn until the next legislature met. As the money was theoretically

---

<sup>34</sup>House Journal, 1835, pp. 259, 296, 505-13, 695-98.



merely on loan and subject to recall, the major concern of the legislators was the use of the interest. For its appropriation, there was no dearth of ideas, most of which revolved around aid for internal improvement projects and for the common school system. Nicholson was not dilatory in introducing a bill to obtain a part of this sum to defray the cost of changing the route of the newly incorporated Franklin and Columbia Turnpike.<sup>35</sup>

In the upcoming presidential canvass, most of the Tennessee press was opposed to Van Buren, except for the newly-established Union, the Memphis Intelligencer, and a few small town journals like the Tennessee Democrat in Columbia. Nicholson, along with other party leaders, was concerned about this paucity of press coverage, and he was instrumental in setting up additional presses. Whenever he was in Nashville he aided with the Union, whose able and talented editor, Sam Laughlin, had an unfortunate weakness for the bottle, which in turn occasioned prolonged absences from his editorial chair.<sup>36</sup> While seriously reflecting on what he called "liberal offers" to assume editorial charge of the Union, Nicholson remained reluctant. At this time he was so encumbered with the settlement of his brother-in-law's estate and anxious about his

---

<sup>35</sup>White, Messages, III, 117, 134-38; House Journal, 1836, pp. 14, 47, App. 73-75. The final bill placed the surplus in three banks, Farmers' and Merchants', Union, and Planters' with the interest for unspecified appropriations. Tenn. Acts, 1836, Ch. III.

<sup>36</sup>Folmsbee, et al., Tennessee, I, 319; Nicholson to James K. Polk, January 31, February 7, 1836, in Polk Papers (LC); Nicholson to Andrew Jackson Donelson, January 21, 1837, in Andrew Jackson Donelson Papers (Library of Congress).

political future that he decided to apply for a federal post, the office of district attorney. Writing to both Polk and Jackson about his application, he sought their assurances.<sup>37</sup> His letter to the latter is particularly interesting and was most definitely a feeler, for he wrote,

There is a general impression pervading the country that Col. Polk will not be candidate for re-election--and in that event it is calculated that I shall run as his successor. I have no inclination to go into Congress at my age--and especially when my means are so limited, with an increasing family.

After asking Jackson to consider him with "parental feelings" and to consult with Polk concerning his application, he ended:

If you should deem it prudent in me under all the circumstances to retire from political life, it would be gratifying to me to receive the appointment alluded to--if not, then I shall feel myself encouraged to go on in the cause of republicanism.<sup>38</sup>

There is no record of Jackson's reply. But it was at Polk's insistence, however, that he did continue in the cause of republicanism. He campaigned arduously in his district for the Van Buren ticket, which nevertheless lost in Tennessee, and the next year for Robert Armstrong in the gubernatorial race which Nicholson considered even more important than the presidential canvass. After Cannon's re-election Democratic prospects dipped so low that a few party stalwarts, including Cave Johnson, considered migrating from the state. As Maury County was safely

---

<sup>37</sup> Nicholson to Polk, January 31, 1836, in Polk Papers (LC); Nicholson to Jackson, January 26, 1836, in Jackson Papers.

<sup>38</sup> Ibid. Nicholson may have been offered, and declined, the post as commissioner of land titles in Mississippi. Typescript, Nicholson Family Papers.

democratic, Nicholson was returned to the house.<sup>39</sup>

Had the Democrats won the house, Nicholson, in all probability, would have been speaker, but John Cocke, of Grainger, the candidate of the Whig majority, was elected. Yet Nicholson had two important assignments. He was appointed a member of the internal improvement committee, and he chaired the committee on banks.<sup>40</sup> By this time the internal improvement issue had become so paramount that it was a deciding factor in the campaign. Andrew Johnson, by voting against state aid for such improvements in the previous legislature, had so displeased his East Tennessee constituents that he was not returned to the 1837-38 assembly. Although Armstrong had not been defeated on this issue alone, he had tried perhaps too cleverly to straddle the fence, by neither sanctioning nor condoning such legislation.

As a result of the previous enactment, three turnpike companies and one railroad had obtained state funds and Governor Cannon reported that two more companies, including the Franklin and Columbia Turnpike Company, had applications pending. As very little had been done for the common school system, except to give verbal approbation and to establish an administrative office, Cannon requested remedial legislation. With all three banks, the Planters', Union, and Farmers' and Merchants', in a state of near collapse as a result of the panic, he asked for the

---

<sup>39</sup>Nicholson to Polk, April 28, May 30, 1836, and Polk to Nicholson, November 3, 1836, in Polk Papers (LC); Powell Moore, "James K. Polk and Tennessee Politics, 1837-41," ETHS Publications, No. 9 (1937), 31.

<sup>40</sup>House Journal, 1837, pp. 4, 6, 7.

re-establishment of a state bank.<sup>41</sup>

Nicholson, as chairman of the bank committee, reported a recommendation for the establishment of a state bank to be capitalized by the surplus revenue, the common school fund, the proceeds from the sale of Ocoee lands, and by the issuance of state bonds. Dividends would be invested in the school fund and be utilized toward retiring the state debt. The bill included the organization of five branch banks which the senate amended to seven.<sup>42</sup> The provisions of this bill were then interlaced with the question of internal improvements and the request for additional school aid. The end result was a bill entitled "An Act to establish a State Bank, to raise a fund for Internal Improvements, and to aid in the establishment of a system of education." This skillfully contrived piece of legislation contained something for everyone. Cloaked within its provisions were a \$4,000,000 appropriation to enable the state to subscribe one-half of the stock for railroad and turnpike companies; the establishment of a state bank, capitalized substantially as suggested by the committee on banks; and an annual distribution from the bank's profits of \$100,000 to the common schools and \$18,000 to academies.<sup>43</sup> Nicholson was one of the ablest defenders of the measure, and his four-hour speech before a crowded lobby was reported by a Union correspondent as a "powerful argument" which "at once placed its author

---

<sup>41</sup>White, Messages, III, 157-64, 174-75.

<sup>42</sup>House Journal, 1837, p. 173; Nashville Union, November 18, December 23, 1837.

<sup>43</sup>Folmsbee, Sectionalism, 169.

in my estimation as one of the first men in the state."<sup>44</sup> Nicholson justified the union of the three projects as the only compromise possible. The stipulations governing aid to internal improvements encompassed by the bill were far more sound in his judgment than those of the previous legislation which had set no ceiling on the amount the state could appropriate.

As originally presented, the measure specified that the \$4,000,000 was to be divided \$1,700,000 to East Tennessee, \$1,300,000 to Middle Tennessee, and \$1,000,000 to West Tennessee. Efforts by Middle Tennessee representatives to win support from that region were successful in cutting \$300,000 from the East Tennessee allocation and adding it to the Middle Tennessee allotment. While Nicholson was from Middle Tennessee, he was not overly sympathetic with this grab, for he was cognizant that the physical obstacles to be surmounted made construction more expensive in East Tennessee. In appealing for general support from that area, he defended this position and acknowledged that representatives from East Tennessee had yielded reluctantly to the change. But revision was not over. Because of the clamor for river improvement the final bill, providing \$1,300,000 to East Tennessee, \$1,500,000 to Middle Tennessee, and \$900,000 to West Tennessee, included an additional \$100,000 to each section for navigational development.

Unfortunately, the panic of 1837 caused most of the ambitious projects aided by the act either to fold or to resort to banking schemes

---

<sup>44</sup>Nashville Union, December 16, 1837.

to avoid liquidation. In the end, the only groups really to benefit from this state-aid system were the turnpike companies; and nineteen of the twenty-four were located in Middle Tennessee, most of them radiating from Nashville.<sup>45</sup>

By 1838, Nicholson was no longer interested in another house term. As there was a fair possibility that Polk would become the party's candidate for the vice-presidency in 1840, he again entertained the idea of running for the congressional seat. With considerable urgency, as early as January, he requested Polk to reveal his plans.<sup>46</sup> Since he was undecided himself, Polk encouraged the young Nicholson to remain for the present in the legislature. When, in September, Polk finally disclosed his candidacy for the governorship, Nicholson, with official blessing, commenced his campaign for Congress. He was met in debate by his friend, Terry Cahal, who, while defending Whig principles, disclaimed being a candidate for office. In spite of this activity, however, Nicholson abruptly withdrew from the race in January, 1839, to support his fellow Democrat, Harvey M. Watterson, who was elected. As Nicholson recently had formed a law partnership with Cahal, who was considered by many Democrats the most dangerous Whig in Maury, and Watterson as a recent convert was unpopular with older party members, this action aroused Polk's suspicions.<sup>47</sup>

Democratic exile from Nashville finally came to an end with

---

<sup>45</sup>Folmsbee, Sectionalism, 162-70.

<sup>46</sup>Nicholson to Polk, January 7, 1838, in Polk Papers (LC). Polk had probably suggested Nicholson as his successor. Sellers, Polk, 288.

<sup>47</sup>Sellers, Polk, 352, 358-59. Nashville Union, September 3, 4, October 12, 1837.

Polk's election. This success was the result of his thoroughly reorganizing the party from precinct level up and of invigorating the press with the addition of two ebullient editors, E. G. Eastman for the Knoxville Argus and Jeremiah G. Harris for the Nashville Union.<sup>48</sup> First among Democratic considerations was the removal of Foster from the U. S. Senate. His election in 1837 by the Whig majority for Grundy's seat, which was not due to expire until 1839, had long been regarded as an usurpation by the Democrats. Although the Whigs failed in their attempt to instruct Grundy from the Senate, Foster did assume the seat in 1837 when Grundy resigned to go into Van Buren's cabinet. As soon as the new Democratic legislature was successful in ousting Foster by instructions, Nicholson (as well as ex-Governor William Carroll) was reportedly interested in the seat. But Polk, evidently fearing a split in the ranks should Carroll or Nicholson be elected, pressured Grundy to resign from the cabinet and run for the Senate. Rumors of Nicholson's interest apparently again stirred Polk's suspicions of the younger Columbian's ambitions.<sup>49</sup>

Nevertheless, Polk recognized Nicholson's ability as a campaigner and called upon him for yeoman service when the presidential canvass of 1840 began. Never before had the country been engulfed in such a raucous, emotional campaign whose accelerated pace would be detrimental to both business and health for all candidates concerned. In Tennessee, extensive plans were drawn for the district

---

<sup>48</sup> Folmsbee, et al., Tennessee, I, 343-44.

<sup>49</sup> Ibid., 346; Powell Moore, "James K. Polk: Tennessee Politician," Journal of Southern History, XVII (1951), 502; Sellers, Polk, 383-84.



electors to interchange with each other in stumping the state in an attempt to keep fresh issues constantly before the electorate. When the electoral candidate nominated for the ninth district declined to serve, Nicholson took his place as he had promised Polk. During May and June, then, between legal commitments, Nicholson appeared in Benton, Charlotte, Shelbyville, and Savannah. In August he joined Andrew Johnson, candidate for elector-at-large, in stumping East Tennessee, a crucial area which both sides canvassed thoroughly.<sup>50</sup>

Beginning on August 17 and continuing until October 6, Nicholson and Johnson so effectively toured East Tennessee that the Whigs dispatched party leader, John Bell, to aid their district elector, Thomas D. Arnold. The Knoxville Argus, profusely laudatory of Nicholson's efforts, gave considerable coverage to his speeches and considered his reputation enhanced by his performance in this campaign. As reported by that journal, Nicholson generally spoke for about three hours, starting at noon and leaving some rebuttal time for the Whigs.<sup>51</sup> To publicize the appointments in addition to press notices, handbills were prepared, a sample of which follows:

REPUBLICANS OF OLD GREENE,  
Rally at the call of your country. Let  
there be a general turn out at Rheatown on Thursday the 10th  
of September at Greeneville on Friday the 11th, and at

---

<sup>50</sup>Thomas B. Alexander, "The Presidential Campaign of 1840 in Tennessee," Tennessee Historical Quarterly, I (1942), 27-32; Nicholson to Polk, May 3, 15, 1840, in Polk Papers (LC).

<sup>51</sup>Knoxville Argus and Commercial Herald, August 25, September 2, 8, 16, 19, 23, October 7, 9, 1840. Nicholson's exhaustive schedule appeared in ibid., August 5, 1840.

Warrensburg on Saturday the 12th, to hear our talented and fearless statesmen, Col. ANDREW JOHNSON and A.O.P. NICHOLSON discuss the politics of the day. An attempt is now making [sic] by the Federal Whig party to keep the people at home on those days--they fear light. We again say rally, and hear the old principles of General JACKSON manfully and triumphantly defended from all the charges of Blackcockade Federalism.--While canvassing East Tennessee some short time since by Mr. Foster, he and his party utterly refused to let Col. Johnson have a fair division of time to reply; and told him that he had just as good a right to go to the stable and take out his (Foster's) horse and ride him off, as to claim any part of the day of his (Foster's) appointments: evidently fearing an open and manly discussion of principles. It is now understood that some half dozen Federal Whigs are following Messrs. Nicholson and Johnson's appointments and claim a fair division of the time. We ask, fellow-countrymen, if this looks gentlemanly, since they would not allow Col. Johnson a chance, when at Foster's appointments. It evidently shows fellow-citizens, that their cause is a bad one. We repeat again, turnout [sic] and hear the principles of one of the purest Republicans of the age defended, that of Gen. Jackson.

MANY VOTERS

September 2d, 1840.<sup>52</sup>

National issues, principally the panic of 1837, undoubtedly hurt the Democrats, but even more damaging to their chances was the type of campaign the Whigs generated. They had selected a nationally-known figure, General William Henry Harrison, who was uncommitted as to issues, and had substituted a form of mass hysteria and enthusiasm for platform. Democratic barbecues paled beside the Whig parades with their log-cabins, hard cider, and coonskins. While the popular vote was fairly close, the Whigs rolled up a four to one majority in the electoral count. In Tennessee the Democrats lost by 12,000 votes. Among the Democrats, in post-mortem discussions, there was a consensus that the Whigs by an

---

<sup>52</sup> Photostat, W. B. Nicholson, Nashville, Tennessee.

early start had held an advantage throughout the campaign.<sup>53</sup>

Nicholson, disheartened by the result of the election and still harboring ambivalent feelings toward politics, prepared to spend a busy winter in rebuilding the party in Maury County. His announced disinclination to seek office again brought encouragement from Polk, who advised him to run either for Congress or the legislature. When Senator Grundy died on December 19, 1840, Polk appointed Nicholson to fill the vacancy until the legislature met. Press reaction was immediate, and while most of it, including Whig comment, was not personally unkind toward him, Harris's announcement in the Union aroused Nicholson's sensitivity. Evidently, until Harris mentioned it, Nicholson had not been aware that the appointment was third-hand, having been proffered to ex-Governor Carroll and George W. Campbell, both of whom had declined. While endorsing Nicholson, "a much younger man," Harris editorialized:

It could scarcely be expected that any one of our aged Republicans of the State would consent to make a tour of the cold north at this inclement season for the purpose of entering upon so short a term of official duty. Indeed, we had apprehended that the Governor would find great difficulty in procuring a competent person to accept the appointment for the limited space of two months; especially when it was known that such acceptance could, in itself, have no direct or indirect influence upon the action of the next legislature.<sup>55</sup>

---

<sup>53</sup> Samuel Eliot Morison and Henry Steele Commager, The Growth of the American Republic (2 vols.; New York, 1962), I, 574-76; Folmsbee, et al., Tennessee, I, 347-48.

<sup>54</sup> Nicholson to Polk, November 15, 1840, in Polk Papers (LC); Polk to Nicholson, November 8, 1840, in James K. Polk Papers (Vanderbilt University Library).

<sup>55</sup> Nashville Union, December 28, 1840.

Nicholson, sensitive about his youth, felt the announcement injudicious, indiscreet, and damaging to his chances of being elected. Already in Washington before Harris's editorial reached him, he considered the passage of the Tennessee Land Bill probable and hoped its provisions would cause Polk to convene the legislature into special session. In this event he was a candidate for election since the present legislature was Democratic.<sup>56</sup> When Harrison called for a special session of Congress to convene May 31, others besides Nicholson were pressuring Polk to call the legislature to elect senators as Alexander Anderson's term expired March 4. Without a replacement Tennessee would be represented by only one senator in the summer session. But Polk was not to be persuaded, possibly because he had not as yet determined his own plans and feared such a call might be prejudicial to his personal interests.<sup>57</sup>

Nicholson took his seat on January 11, 1841. With the possible exception of John C. Calhoun, for whom he cherished admiration, he was somewhat overawed, yet not overly impressed, by the array of talent in the august body. As to his own course in this lame-duck session, Nicholson wrote to Congressman George Washington Jones,

I find myself much the youngest man in the Senate--  
This circumstance together with my freshness from the  
backwoods and the very short term of my service

---

<sup>56</sup> Nicholson to George Washington Jones, January 13, 1841, in George Washington Jones Papers (Southern Historical Collection, University of North Carolina Library).

<sup>57</sup> Adam Huntsman to Polk, March 9, 1841, in Emma Inman Williams, ed., "Letters of Adam Huntsman to James K. Polk," Tennessee Historical Quarterly, VI (1947), 351; Eugene Irving McCormac, James K. Polk: A Political Biography (Berkeley, California, 1922), 174-76.

will induce me to play a silent part during this session.<sup>58</sup>

Nevertheless he altered his role almost immediately when the Tennessee Land Bill was before the Senate. On February 17, during debate on an amendment to the bill, he made a few remarks in support of the original provisions. Senator Graham (North Carolina) wished to extend the time for the North Carolina warrant holders to take up land in Tennessee from one to three years or to receive payment of \$1.25 per acre of their warrants instead of the twelve and a half cents allowed by the bill. Nicholson opposed both provisions, pointing out that none of the available land was worth more than twelve and a half cents per acre and that Tennessee had been trying for fourteen years to end these grants. After forty years of availability, he believed that all such claims had been satisfied. The amendment was voted down, and the bill, making Tennessee the agent for the disposal of unappropriated U. S. lands within the state, became law on February 18.<sup>59</sup>

With Harrison's death, the strict constructionist, anti-protectionist Tyler became president. Clay seized this opportunity to take control and inaugurate the Whig program which included a national bank and the distribution of the proceeds of the sales of the public lands. This latter issue he cleverly tied to preemption, a Democratic plank. As a result, the Democrats rallied against the measure, fearing

---

<sup>58</sup>Nicholson to Jones, January 13, 1841, in Jones Papers.

<sup>59</sup>Congressional Globe, 26 Congress, 2 Session, 183; United States Statutes at Large, V, 412.

that distribution in practice would nullify preemption. The bill, introduced in the Senate on June 10, occasioned all manner of debate, logrolling and tabling before it was finally adopted, and then only after Clay agreed to amend the bill to state that if the tariff were raised above the 20 per cent level previously set, distribution would cease. This Preemption Act, one of the most important agrarian measures ever passed, fixed preemption as a permanent feature in land policy. During debate on the bill, Nicholson proposed that the committee on public lands consider an amendment that would give Tennessee the proceeds of the sales of public lands remaining unsold within the state, but there is no evidence that this was further discussed.<sup>60</sup>

On the bank issue Nicholson demonstrated a certain pragmatism which made him suspect for apostasy by Democratic leaders in the state. As soon as the national election of 1840 was decided, he became convinced that the sub-treasury established the previous summer was doomed. Rather than cling to it, he recommended that the party explore alternate possibilities, such as establishing stronger state banks whose notes would be receivable as public dues or modifying with tighter controls any bank bill offered by the Whigs. At the very least, he advocated a constitutional amendment to permit a federal fiscal corporation with checks and restrictions.<sup>61</sup> On June 9, 1841, the sub-treasury

---

<sup>60</sup>Roy M. Robbins, Our Landed Heritage: The Public Domain, 1776-1936 (Gloucester, Mass., 1960), 86-91; Cong. Globe, 27 Cong., 1 Sess., 64, 405-406.

<sup>61</sup>Ibid., 170; Nicholson to Polk, November 15, 1840, June 14, 1841, in Polk Papers (LC).

law was repealed. When the new bank bill reached the floor of the Senate, on July 20 he offered an amendment to the bill to allow the states to tax the bank. This change would give them some measure of control while at the same time it would protect state banks which were taxed. This suggestion brought him into conflict with Henry Clay who vehemently opposed such a modification as subjugating the bank under the power of individual states which might be willing to tax state institutions out of existence in order to destroy the national bank. In view of this opposition, the amendment was rejected 27 to 21.<sup>62</sup>

During the bank discussions, Nicholson had argued that the bank's business should be openly conducted. After alluding to the exposure of frauds in the late U. S. Bank, he urged constant public surveillance as necessary in the future. Furthermore, since the proposed bank was spawned and supported mainly by Whigs, it would become a "party machine"; hence, its transactions and proceedings must be given full publicity.<sup>63</sup>

On the subject of federal laws regulating bankruptcy, again Nicholson somewhat deviated from the mainstream of Democratic thought. Most Democrats regarded any such legislation as unconstitutional. When the Bankruptcy Bill was under debate, he conceded its constitutionality and proposed an amendment which would include banks, other than those owned by the state, within its provisions. His motive was clearly to establish more control over these institutions, whose policies he blamed for the fiscal dislocations of the day. By his proposal the charter of

---

<sup>62</sup>Cong. Globe, 27 Cong., 1 Sess., 230-31.

<sup>63</sup>Ibid., 170-71.



any bank which suspended specie payment would be forfeited and the violator's business terminated. While this clearly infringed upon the right of a state to control its institutions, Nicholson believed the enormity of the problem called for prompt and powerful regulation. He was unable to muster enough support and his amendment was defeated.<sup>64</sup> The sponsorship of this amendment and his admission of the right of federal intervention in the field of bankruptcy left him vulnerable to the Whig press in Tennessee. These editors claimed he had advocated a bankruptcy law, unpopular in Tennessee with both parties.<sup>65</sup>

Polk's failure to convene the legislature before his defeat for re-election by Lean Jimmy (James C.) Jones ended Nicholson's senatorial career for a time. As U. S. senators by custom were elected by a joint convention of the two houses of the legislature, the composition of the membership was important. The Whigs, with a majority of three, controlled the lower house, while the Democrats held a majority of one in the upper. Because a joint convention would give both vacant Senate seats to the Whigs, Democratic leaders in the state senate consistently refused to vote for convention, hoping that a compromise, whereby each house would elect one senator, could be effected. Principle contenders for the office were Nicholson and Hopkins L. Turney, for the Democrats, and Foster and Spencer Jarnagin for the Whigs. Nicholson had determined support from political allies. Andrew Johnson, one of his warmest

---

<sup>64</sup>Ibid., 241-44.

<sup>65</sup>Nashville Republican Banner, February 4, August 3, 1842.

friends and a leader in the senate, complained of the manifest ambition of the two Turneys, Hopkins and his brother, Sam, the speaker of the senate. Barclay Martin, senator, and John Dew, representative, both from Maury, were accused of not only sowing seeds of discord in promoting Nicholson but of proposing a compromise with the Whigs to elect him and Foster.<sup>66</sup>

While Polk had the backing of the Union, his failure to announce himself as a candidate produced further chaos within Democratic ranks. His recent defeat undoubtedly made him cautious, but Jackson and other party leaders felt he should be rewarded with a Senate seat and saw Nicholson as the most serious rival. In a letter to state senator, Sackfield Maclin, Polk revealed his concern that the state should be represented in the Senate even if the Democrats had to take Foster and "some good & true Democrat," implying perhaps himself as the compromise choice.<sup>67</sup> Angered now by the action in Nicholson's behalf, Polk continued,

Every day convinces me more and more that he (N.) is now travelling in the broad road--that John Bell travelled for several years before his apostasy, whilst he was making loud professions of his adhesion to our principles. We all know where John Bell now is. And mark what I now say to you, that in five years, perhaps not one will pass --before he is found where Bell now is, unless it shall be his personal interest shall make him seem to be otherwise. I am not mistaken. I speak from no personal or malignant feelings--I would prefer to day an open opponent,

---

<sup>66</sup>White, Messages, III, 489-541; Folmsbee, et al., Tennessee, I, 348-53.

<sup>67</sup>Moore, "James K. Polk: Tennessee Politician," 506; White, Messages, III, 546-48; Polk to Maclin, January 17, 1842, in Andrew Johnson Papers (University of Tennessee Library); Sellers, Polk, 455.

to a hypocritical friend in disguise. Under no circumstances therefore would I compromise on him. I hope our friends may not be so far deceived as to think of such a thing for a moment.<sup>68</sup>

Nicholson, aware that he had enemies among the party membership but not cognizant of their identities, attributed their malevolence to jealousy. Exceedingly disturbed, he unburdened himself to Johnson, stating, "I may be driven from the democratic party if that party choose to excommunicate me--but I can never be driven to take up arms against it in the ranks of the enemy." He declared his willingness to "bow submissively" should the party decide to bestow its honors on others, but he would like to be permitted to retire honorably "as a faithful democrat untarnished by foul suspicion."<sup>69</sup>

The legislature adjourned, failing to elect U. S. senators, and the state was thus unrepresented for the next two years. Nicholson, in the meantime, returned to Maury where he found his practice prosperous beyond his expectations.<sup>70</sup> But politics was a part of the warp and woof of his life, and a year later he was back on the trail canvassing against Terry Cahal for the state senate. No longer a pristine politician, he was assailed by the Whig press, which claimed his position on the bankruptcy law controverted the wishes of his own party. Zollicoffer, of the Columbia Observer, taking peculiar delight in converting his name to Alphabet Nicholson, compared him to a fellow on a grape vine: "If

---

<sup>68</sup> Ibid.

<sup>69</sup> Nicholson to Johnson, January 6, 1842, in Johnson Papers.

<sup>70</sup> Ibid.

he held on by his hands he would lose his grip elsewhere, and if he let go, he would break his neck."<sup>71</sup> But Nicholson's well-publicized speech at Pulaski on June 5, 1843, on the national bank indicated he was back in the Democratic fold on that issue. In substance, his charges against the bank were its failure to provide financial relief, as it was set up to do, and its combining with northern merchants and the Bank of England to control prices to the detriment of the planter and the state banks. The tariff and distribution, he asserted, were so closely interwoven with the bank that it was impossible to support one independently from the others.<sup>72</sup>

Again, in 1843, the Whigs controlled the legislature, and while Nicholson was nominated for speaker when the session opened October 2, he lost to Josiah M. Anderson by a strictly party vote, 13 to 10. The panic of 1837 and the large appropriations, principally for internal improvements in the previous decade, had decimated the state's credit. Democrats, in particular, were anxious for a policy of retrenchment. For this reason the deliberations and recommendations from the ways and means committee, which Nicholson chaired, were significant.<sup>73</sup> After reporting that the state bank (established 1838) would continue to have an annual deficit, he recommended, in lieu of a raise in taxes, that the legislature pursue a "rigid application of the pruning knife to

---

<sup>71</sup>Nashville Union, May 12, 1843.

<sup>72</sup>Ibid., July 7, 1843.

<sup>73</sup>Journal of the Senate of the State of Tennessee, 1843-1844 (Microfilm, Tennessee State Library and Archives), 4; White, Messages, III, 716-17.

every object of expenditure of the public money which can be reached without serious injury to the public interests." Because the annual school appropriation of \$118,000 amounted to 14 per cent of the bank's capital, while earnings were accruing at only 5 1/2 per cent, the committee requested with great reluctance that the school distribution be reduced. Nicholson then offered a bill "to set apart for the common schools annually the amount actually realized upon the school fund."<sup>74</sup>

After additional study by the committee, Nicholson reported that even if his bill passed, the state deficit, due to school support, would still amount annually to \$15,000. Since a further pruning was necessary, the committee suggested reductions in offices and salaries. These had been fixed in a time of reasonable prosperity and needed re-appraisal in view of the devaluation of both labor and property following the panic of 1837. In addition to abolishing the office of superintendent of public instruction, which the house had passed a few days earlier, the committee now recommended the abolition of the fourteen district attorneys-general and a per diem cut for legislators after the first sixty days, as well as salary reductions in other departments.<sup>75</sup>

In November the ways and means committee conducted a thorough investigation into the estimated revenue and expenditures for the next two years. The committee findings, reported in detail by its chairman, indicated the state's estimated yearly income would be \$90,000. With an estimated outgo of \$130,050, the state could anticipate a yearly

---

<sup>74</sup>Senate Journal, 1843, pp. 97-101.

<sup>75</sup>Ibid., 117-20, 94, 102.

deficit of \$40,050.<sup>76</sup>

In spite of the statistics and tables prepared by the committee, its recommendations were not adopted by the senate. Part of the explanation lies in the attitude of the Whig majority, which was inclined to believe that Nicholson's report of the state's indebtedness and ability to pay was deliberately exaggerated in order to defeat the Whig revenue bill and to cause the legislature to raise taxes. John R. Nelson, Whig senator from Knox County, while complaining of Nicholson's actions, wrote of him:

. . . he is the brag Democrat in the Legislature spoken of more highly by Whig and Democrat than any other. And it is but justice to him to say he is a man of talents and gentlemanly deportment in his intercourse with both parties. But he is a cunning manager and adroitly shifts responsibility on such occasions.<sup>77</sup>

In this, his last state legislative assignment, Nicholson sponsored Senate Bill No. 22, a bill to secure to married women the use and enjoyment of their own property. As a lawyer it seemed particularly unfair to him for a woman to lose control, with or without her consent, over her own property upon marriage, and by this act he hoped to end an inequity. When William Sneed proposed an amendment for a wife to inherit the whole estate when a husband died intestate, Nicholson immediately objected, fearing that such an addition would jeopardize the whole bill. At the close of his arguments, the amendment was rejected,

---

<sup>76</sup>Ibid., 307-308.

<sup>77</sup>John R. Nelson to Thomas A. R. Nelson, December 24, 1843, in Nelson Papers.

18 to 6. After then passing the senate, the bill died in the house.<sup>78</sup>

During the latter part of 1843 and early 1844, Nicholson and Johnson were actively instigating a movement to nominate Lewis Cass, of Michigan, for the presidency in an effort to head off Van Buren. The latter's stand in opposition to the annexation of Texas, as expressed in his Hammet letter, was offensive to annexation-minded Tennesseans.<sup>79</sup> When J. P. Heiss, the Union proprietor, wrote Nicholson for advice as to the newspaper's stand on the presidential issue, Nicholson replied:

How can Mr. V. B. be now nominated? Surely, surely, surely it will not be done. But what ought the Union to do? I'll tell you. Just say in emphatic terms-- Let others do as they may we go for the annexation warmly and constantly--and then as to men wait patiently until the nomination--in the mean time keep striking for Texas and our other principles.<sup>80</sup>

This policy butted directly against the Jackson-Polk segment of the Democrats, who were maneuvering for a vice presidential bid for Polk, which was considered possible only on a Van Buren ticket. Unable to accept Van Buren, the Tennessee delegates to the Baltimore convention were unpledged on the presidential issue but were instructed to nominate Polk for vice president. At the convention the two-thirds rule was invoked in order to prevent Van Buren's nomination. For the first seven ballots, Tennessee's votes went consistently to Cass, shifting to Polk

---

<sup>78</sup>Typescript, Nicholson Family Papers; Nashville Union, October 24, 26, 1843; Senate Journal, 1843, p. 130.

<sup>79</sup>Johnson to Nicholson, February 12, 1844, in Johnson Papers; Nicholson to William Allen, November 5, 1843, in William Allen Papers (Library of Congress).

<sup>80</sup>Nicholson to J. P. Heiss, May 8, 1844, typescript in John P. Heiss Papers (Tennessee State Library and Archives).



at his nomination on the eighth.<sup>81</sup>

Nicholson had no interest in serving again as an elector, although he was the choice of East Tennessee and had been proposed, along with Laughlin, by some of the delegates to the state convention. Nevertheless, from June to the eve of the election he was on tour for Polk's candidacy. His swing through East Tennessee, accompanied by Barclay Martin, started at Jonesboro on August 17 and ended at McMinnville on the 22nd, with stops along the way at Rogersville, Bean's Station, Tazewell, Jacksboro, Clinton, and Kingston. When Cave Johnson, one of the most popular stump speakers, fell ill in August, Polk urged Nicholson to complete his tour, which in October included debates with one of the most fluent and popular Whigs, William T. Haskell.<sup>82</sup> But for all the herculean efforts on the part of the Democrats, the state was lost to the Whigs and Henry Clay. Only in Middle Tennessee was Polk the victor and then by less than 3000 votes.<sup>83</sup>

Once again disenchanted with politics, Nicholson decided to move his family to Nashville where he established a law partnership with William F. Cooper.<sup>84</sup> Andrew Johnson, alarmed by Nicholson's intention to abandon the scene, wrote to him urging him to be a candidate for governor and advising him, "The state must be redeemed and you are the

---

<sup>81</sup>Robert S. Lambert, "The Democrat National Convention of 1844," Tennessee Historical Quarterly, XIV (1955), 6-12; Nashville Union, June 6, 1844.

<sup>82</sup>Nicholson to Polk, July 23, 1844, in Polk Papers (LC); Huntsman to Polk, March 1, 1844, in Williams, "Huntsman-Polk Letters," 359.

<sup>83</sup>Nashville Union, November 23, 1844.

<sup>84</sup>Ibid., March 25, 1845.

only man that can do it, you must keep your armor in train for the fight."<sup>85</sup> But Nicholson never seemed to consider the governorship as a prize to be sought. Instead he encouraged Aaron V. Brown to seek the post, advocating his nomination to the state convention.<sup>86</sup>

When both Harris and Laughlin, co-editors of the Nashville Union during the presidential campaign, were rewarded with federal posts, Nicholson accepted the editor's chair at something less than \$1500 a year beginning January 1, 1845. Three months later he established the weekly Democratic Statesman to supplement the Union during Brown's campaign and to offset the two Whig journals.<sup>87</sup> He was none too sanguine about the results, particularly of the Democrats' regaining control of the legislature. As he was interested in obtaining the Senate seat recently vacated, his anxiety doubtlessly motivated his pessimism. When the August general election produced a clean sweep for the Democrats, both in the state house and in the legislature, Nicholson's election to the Senate was expected. Nominated in the caucus, he was by no means assured of election, for six Democrats favoring H. L. Turney bolted and, in spite of requests from party leaders for concerted action, refused to back the caucus nominee.<sup>88</sup> On October 21, Nicholson

---

<sup>85</sup> Johnson to Nicholson, February 12, 1844, in Johnson Papers.

<sup>86</sup> White, Messages, IV, 3-4; Nashville Union, March 6, 1845.

<sup>87</sup> Ibid., April 1, 1845; James G. Shepherd to E. G. Eastman, October 30, 1846 (Ms in possession of Dr. E. E. Anderson, Nashville).

<sup>88</sup> White, Messages, IV, 21; Cave Johnson to Nicholson, September 5, 1845, in A. O. P. Nicholson Letters (New-York Historical Society); Nicholson to Samuel H. Laughlin, March 29, 1845 (Miscellaneous MSS, Tennessee State Library and Archives).

was nominated in the joint convention by Speaker Jonas Thomas of the house. By a strictly party vote there were fifty-one Democrats and forty-eight Whigs, with fifty votes needed to elect. A glance at two ballots tells the story.<sup>89</sup>

First ballot		Thirteenth ballot	
Nicholson	40	Nicholson	40
Turney	11	Turney	39
Dunlap	7	Dunlap	9
Bell	35	Bell	6
		Foster	1
		Henry	4

After Turney had picked up in all some thirty-three Whig votes, Nicholson's supporters, fearing a bargain with the Whigs would bring Turney more votes, tried to delay the election. Harvey Watterson, speaker of the senate, openly denounced Turney, charging him with making concessions to the Whigs. The Democrats tried to force Turney's hand by the standard procedure of submitting interrogatories, a list of questions concerning national issues, for his replies. The effort was in vain, for Turney neither replied nor lost any votes for his failure to do so. The Whigs, on the other hand, really made no attempt to hide their desire to defeat the caucus nominee, for they considered him also to be the choice of the president. Contrary to rumors circulated by them, however, Polk had remained completely aloof, neither designating his choice nor encouraging either candidate. While both Turney and Nicholson had written to him, he had refrained from answering either. Turney

---

<sup>89</sup>Senate Journal, 1845, pp. 117, 127-28.

erroneously interpreted Polk's silence as an endorsement of Nicholson.<sup>90</sup>

Realizing that he could not win without some Whig votes, Nicholson asked Thomas to withdraw his name. At the same time he denied that he had been the choice of the president, and he thanked those who had manifested their confidence in him by continued support.<sup>91</sup> With Nicholson's withdrawal, Turney was elected by fifty-three votes to Dunlap's forty-six, the latter picking up most of Nicholson's vote. After the election, Watterson and thirty other Democrats publicly charged Turney with corresponding with Whig leaders and pledging his support of Whig measures; in essence, Turney was read out of the party. In his published defense, Turney, while claiming he had been slandered, never denied the charges.

To test Turney's loyalty to party doctrines, the legislature passed resolutions requesting the state's congressmen and instructing the senators to uphold the presidential program; to vote against the assumption of state debts, a national bank, and distribution; and to work for the termination of the joint occupation of Oregon.<sup>92</sup> Upon receipt of these instructions, Turney announced that he would "scrupulously observe" them, with qualifications on the tariff and distribution

---

<sup>90</sup>Nashville Union, October 23, 24, 1845; White, Messages, IV, 21; William H. Sneed to T. A. R. Nelson, October 27, 1845, in Nelson Papers; Milo M. Quaife, ed., The Diary of James K. Polk (4 vols.; Chicago, 1910), I, 112-15. For the interrogatories, see Appendix A.

<sup>91</sup>White, Messages, IV, 30; Senate Journal, 1845, 139-40; Nashville Union, October 28, 1845. For Nicholson's letter as published in the Union, see Appendix B.

<sup>92</sup>White, Messages, IV, 27-48. Turney never recovered his party prestige after this episode. Ibid., 47-48.

issues. He then launched into a diatribe against his thirty-one enemies in the legislature, accusing Watterson of executing a political somersault to obtain a House seat in 1838, "with the aid and contrivance of Mr. Nicholson," and charging them all for seeking to destroy him for no other reason than that he had resisted party dictation. In this crime he asserted he was not alone. Nicholson, he claimed, had attempted, in collusion with six or eight Whigs, to bring about Grundy's defeat in 1839 and gain the Senate seat for himself. In this charge, Turney insinuated that Nicholson sought not necessarily Grundy's seat, but to defeat "any man that a certain gentleman, then high in office in Tennessee might desire to be elected and this gentleman was known to be in favor of Judge Grundy." This gentleman could be none other than Polk, then governor.<sup>93</sup>

These allegations Nicholson termed baseless and false in every respect, stating that it had never entered his mind to be a candidate against Grundy, that he never got six or eight Whig votes, and that he never would have sought a Senate seat by those means. On March 21, 1846, his supporters published a card which all thirty-one carefully signed--for Turney had prefaced his remarks with "Would to God, Mr. President, you had an intimate acquaintance with these thirty-one members"--and they did not want to remain anonymous.<sup>94</sup>

Extremely disappointed over the loss of the senatorship, Nicholson,

---

<sup>93</sup>Cong. Globe, 29 Cong., 1 Sess., 386.

<sup>94</sup>Nashville Union, March 3, 21, 1846.

somewhat unwisely for an otherwise prudent man, engaged in some personal editorializing, particularly from October 30 until November 29, until he became satisfied that the party as a whole sustained him. He was especially bitter toward western Tennessee Whigs, who had clamored before the election for representation since no West Tennessean had as yet served in the Senate. As Dunlap was from that section, Nicholson felt that the failure of the western Whigs to support him was partial proof of a corrupt bargain.<sup>95</sup>

During the fight over the senatorship, Governor Brown submitted a list of nominees, consisting of eight Democrats, including Nicholson, and four Whigs, for directors of the state bank. After approval from the legislature, Nicholson was elected president by the board. The bank at this time was in some financial stress with profits insufficient to meet its obligations, and the legislature considered closing those branch banks which were unprofitable. When it was suggested that the Athens branch be closed, Nicholson himself personally investigated that bank's financial status.<sup>96</sup> In 1847 he prepared a detailed report of the state bank's activities, which Governor Neill S. Brown utilized in his message to the legislature. This report indicated an estimated annual deficit of \$53,789. In order to meet the obligations placed upon it, Nicholson argued that the bank would have to earn 9 per cent

---

<sup>95</sup> Ibid., October 30, 1845, passim. Adam Huntsman wrote to Polk that he did not blame Nicholson for his post-election vituperativeness, but that his continued editorials were selfish and in bad taste. Huntsman to Polk, April 27, 1846, in Williams, "Huntsman-Polk Letters," 367.

<sup>96</sup> White, Messages, IV, 57, 84, 114-15.

annually, which was impractical, or the state would have to meet part of the deficit with revenue from the treasury. Tactfully, he suggested (1) that the state shoulder the burden of the interest on the debt, which would call for an increase in the tax rate; (2) that a sinking fund be established made up from the common school fund and from the treasury to buy up the internal improvement bonds and gradually reduce the debt; (3) that the annual distribution from the school fund be decreased to about \$78,000, or to the amount actually earned on the fund.<sup>97</sup>

In 1847, with a Whig governor and legislature, Nicholson was not selected for another term on the board. He was considered for supreme court judge for Middle Tennessee, but, after the circulation of a rumor of a bargain whereby he would get the bench and Bell the Senate seat, Nicholson asked Barclay Martin to withdraw his name.<sup>98</sup>

Following this decision, Nicholson's role in politics was somewhat altered. For the first half of the next decade, the Whigs dominated the state, so he was not often a candidate. While remaining a force in Tennessee politics, he centered his activities on journalism, strongly influencing the course of the Nashville Union before assuming the editor's chair of the Washington Union. In this capacity, largely the result of his support of Cass and his personal friendship with Franklin Pierce, Nicholson stepped into the national arena. Leaving Tennessee, he joined the inner circle of the Pierce administration.

---

<sup>97</sup>Ibid., 213-15; Senate Journal, 1847-48, App., 53-92.

<sup>98</sup>Nicholson to Martin, October 24, 1847, in Nicholson Letters.



### CHAPTER III

#### BEYOND TENNESSEE'S BORDERS: FROM NASHVILLE UNION TO WASHINGTON UNION, 1847-1857

Nicholson's tenure as editor of the Union had never been regarded as permanent,<sup>1</sup> for many of his friends had been confident of his election to the Senate. Among these was John P. Heiss, who had written him from Washington in the summer of 1845:

From all accounts I expect you will represent Tennessee in the Senate this winter. . . . You must make my house your home. On political matters and men we agree, and the time may come when we may act again together. . . . John C. Calhoun says you are the greatest man of your age in this country; and I find in my association with public men that A.O.P. Nicholson fame has gone much further than the borders of Tennessee.<sup>2</sup>

In 1847 the Whigs recaptured both the executive and legislative branches, and Nicholson laid aside further senatorial ambitions. Barring death or resignation the next available opportunity was four years distant with the expiration of Turney's term.<sup>3</sup>

His relationship with Polk continued an enigma. Once, during

---

<sup>1</sup>His retirement as editor was announced in the Union, December 31, 1846.

<sup>2</sup>John P. Heiss to Nicholson, June 29, 1845, in Nicholson Letters. This respect was mutual, for Nicholson urged Polk to recall Edward Everett as minister to Great Britain and send Calhoun, whose "truly American heart and gigantic intellect" could better serve the country. Nashville Union, May 3, 1845.

<sup>3</sup>During the intervening years Nicholson tended to court matters, the bank business, the promotion of the Nashville Railroad, and the completion of the Supplement to the Statutes, and aided in the formation of one of the first mutual insurance companies in Tennessee. Ibid., January 3, 14, 24, 1848.

Polk's presidency, he unsuccessfully sought a presidential commission by applying through Cave Johnson. However, the constant negative criticism which Polk endured for his many Tennessee appointments, particularly of Nashvillians, probably would have kept Nicholson from federal office.<sup>4</sup> Moreover, as a strict party disciplinarian, Polk was suspicious of any deviation from the established pattern, and any schism within the ranks would evoke a prejudicial response. Jackson's death and Polk's removal to Washington had created a vacuum in state leadership; and a consequent power struggle had evolved, with Nicholson as one of the contenders. Damaging to Nicholson as well as to the party was his old and unresolved quarrel with Turney. Not only had the latter, a man of inferior talents, determined to obtain the Senate seat in 1845, but once in Washington, he developed into a Polk subaltern, conniving for higher grade by constantly advising the president to be wary of Nicholson. At the same time, Nicholson was warned that if he trusted Polk, his confidence was misplaced.<sup>5</sup>

Politics aside, however, Nicholson maintained amicable relations with Polk. During the late forties, Nicholson, along with other attorneys, was retained by Polk in litigation growing out of his purchase of the Felix Grundy estate in Nashville. In this case, Polk relied heavily

---

<sup>4</sup>Cave Johnson to Nicholson, December 25, 1846, in Nicholson Letters.

<sup>5</sup>St. George L. Sioussat, "Tennessee and National Politics, 1850-1860," American Historical Association, Annual Report, 1914, I, 248-49; Hopkins L. Turney to Polk, September 12, 1847, in Polk Papers (LC); Quaife, Polk Diary, I, 319, 323, 328; J. Fowlkes to Nicholson, January 9, 1848, in Nicholson Letters.

on Nicholson's advice. The Nicholsons were among the last visitors to the Polk home after the president's retirement, and, at Polk's death, Nicholson delivered the eulogy, a portion of which was engraved on the burial monument and the address printed in the House Journal.<sup>6</sup>

The political rift between Nicholson and Polk was further widened over the possibility of a second term. Although Polk, as a compromise candidate in 1844, had indicated that he would not seek re-election, there was a movement among Tennesseans to sponsor his renomination.<sup>7</sup> Not only was Nicholson "in absentia," in this regard, but he continued to publicize Polk's prenomination promise while at the same time becoming one of the leaders of the Cass movement. Taking every opportunity available to put Lewis Cass before the people in Tennessee, Nicholson as editor of the Union printed Cass's Senate speeches and editorialized on them. As early as September, 1846, he had corresponded with Cass concerning the distribution of the Oregon speech to prominent Tennesseans, and he concurred in the latter's view that the recent treaty with England did not conform to the original Democratic platform plank.<sup>8</sup> After Nicholson left the Union, the new editor, E. G. Eastman, while favoring Cass, was dilatory in making a decided announcement of his candidacy, perhaps waiting to ascertain what Polk would do.

---

<sup>6</sup> Nicholson to Polk, June 1, November 17, 1848, and Polk to Nicholson, January 9, 1849, in Polk Papers (LC); Mrs. Nicholson, Reminiscences, 42; White, Messages, IV, 363-83.

<sup>7</sup> S. E. Benson to Nicholson, April 15, 1848, in Nicholson Letters.

<sup>8</sup> Nashville Union, April 30, July 23, 1846; Nicholson to Cass, September 22, 1846 in Nicholson Letters.

As a result, a rival Democratic journal, the Daily Centre-State American, began publication April 27, 1848, stamping on its masthead its support of Cass for president and Gen. Gideon Pillow for governor. Calculated by some to combat Nicholson's influence on the Union and to divide Democratic patronage, it ultimately became more pro-southern, committed both to slavery and its extension. After the Union's declaration for Cass, Turney and others accused Nicholson of using his influence on the paper to cripple Polk's chances.<sup>9</sup>

When the Wilmot Proviso, which would have excluded slavery in the Mexican Cession, raised new issues concerning congressional authority and the extension of slavery, Nicholson wrote to Cass for an expression of his views on the subject. While the object of the correspondence was to publicize Cass's availability, for the contemporary world and for ages to come it produced the famous Nicholson letter.<sup>10</sup> In reply, Cass indicated his belief that some indemnity in the form of land was forthcoming but emphasized that the method of attainment was a matter of presidential, rather than congressional prerogative. His attitude on slavery in the territories was encompassed in the doctrine of congressional non-intervention--an anti-Wilmot Proviso stand--which he

---

<sup>9</sup>S. E. Benson to Nicholson, April 15, 1848, in Nicholson Letters; Cave Johnson to James Buchanan, October 14, 1849, in James Buchanan Papers (Historical Society of Pennsylvania); Nashville Daily Centre-State American, April 27, 1848.

<sup>10</sup>Richard Hofstadter, William Miller, and Daniel Aaron, The American Republic (2 vols.; Englewood Cliffs, N. J., 1959), I, 492-93; W. L. G. Smith, The Life and Times of Lewis Cass: Fifty Years of Public Life (New York, 1856), 607-16.

elucidated as "Leave it to the people, who will be affected by this question, to adjust it upon their own responsibility, and in their own manner."<sup>11</sup> This popular sovereignty precept did not originate with Cass and is more often associated with a later advocate Stephen A. Douglas, but it did form the basis of the Democratic platform of 1848.<sup>12</sup>

At the national convention, which convened in Baltimore on May 22, the Tennessee delegates were among the Cass supporters, consisting mainly of southern and western Democrats and anti-Wilmot Proviso men. Cass was nominated on the fourth ballot. Unfortunately, however, for the success of the ticket, the Barnburner faction--the radical, anti-slavery wing of the party in New York--had been alienated. Forming a convention of their own, they nominated former President Van Buren. Later they united with the Free-Soilers to succeed ultimately in defeating the Cass ticket by carrying the pivotal state of New York.<sup>13</sup> During the campaign, Nicholson had engaged in correspondence with the Democratic leaders in other states. Canvassing the situation with W. Coventry Waddell, of New York, Nicholson was confident of victory even without New York's vote; he relied on the Free-Soil campaign and the known abolitionist sentiments of the Whigs vice-presidential candidate to effect more damage upon the Whigs than upon the Democrats. Since

---

<sup>11</sup> Ibid., 616; Nashville Union, January 21, 1848.

<sup>12</sup> Hofstadter, American Republic, I, 492.

<sup>13</sup> Edward Stanwood, A History of the Presidency from 1788 to 1897 (New York, 1898), 232-42.

the principle of non-intervention was popular in Tennessee, no one was more certain than he that the state was safe for Cass. No one could have been more disappointed at Taylor's victory.<sup>14</sup>

The Whig success at the polls and Taylor's elevation to the presidency put a temporary halt to Nicholson's political aspirations. A Cass victory, particularly with the right vote in Tennessee, might well have secured for him a prominent place in Washington officialdom. Instead, by gubernatorial appointment he spent much of the next three years on the bench, first substituting as chancellor for the ailing Terry Cahal and after the latter's death serving an interim appointment.<sup>15</sup> When Trousdale was elected governor in 1849, he submitted for legislative action his nominees for the bank directory with Nicholson's name at the top of the list. The bank had been since its inception a political cancer, principally because the balance between the parties was seldom weighted enough for a clear-cut majority. At this time, the Whig president, William Ledbetter, also among the Trousdale nominees but desirous of keeping his position, had the backing of a substantial number of legislators, including his own nephew who was chairman of the senate banking committee. Bolstered by their slim margin and resorting to flimsy allegations about Nicholson's previous management, the Whigs managed to block the Trousdale directory. Aired in the press and

---

<sup>14</sup>W. Coventry H. Waddell to Nicholson, January 31, February 15, April 14, 1848, in Nicholson Letters.

<sup>15</sup>Copy, original commission from Governor N. S. Brown, April 21, 1849, in Nicholson Family Papers; Nashville Union, April 1, 1849, April 21, 1851.



in the legislative halls, the charges against Nicholson were refuted by the head cashier, who had served under both Nicholson and Ledbetter. He had been recently removed by the directors for exposing a letter, written by Ledbetter, which indicated the bank could be used for political purposes. Often reprinted, and especially by the Union, the letter provided political fodder for the Democrats.<sup>16</sup> When convinced that the major discord centered in the two principals, Nicholson suggested that both withdraw and publish a joint letter to the governor, stating that

neither of us wishes to express any opinion as to the cause of these difficulties, but we are both satisfied that in the present excited condition of the parties it would be imprudent in either of us with an eye to the interests of the Bank to preside over its affairs.<sup>17</sup>

Confident of his hold on the dominant party in the legislature, Ledbetter refused; and Nicholson, left to his own devices, published the letter alone. By a majority recommendation, the Whig-dominated directory was continued.<sup>18</sup>

By 1850 the problems growing out of the acquisition of the territory from Mexico threatened to rupture the Union, with slavery the paramount question. When California applied for admission as a free state, the South became alarmed, for this addition would upset the balance in the Senate between slave and free states. Searching for some means to stabilize the country, Henry Clay proposed a series of compromise measures

---

<sup>16</sup>Ibid., January 11, 20, 21, 25, 26, 1850.

<sup>17</sup>Ibid., January 25, 1850.

<sup>18</sup>Nashville Union and American, June 26, 1853.



which would grant statehood for California; organize New Mexico on the basis of popular sovereignty; settle the Texas-New Mexico border; adopt a more rigid fugitive slave law; and prohibit slave trade in the District of Columbia with assurances to the South that slavery would not be abolished there without the consent of Maryland.<sup>19</sup> While these were before Congress, aroused southerners, on the call of Mississippi, assembled in Nashville in June to appraise opinions for united action.

The division of sentiment in Tennessee regarding the convention was reflected by the press. The Union, with Eastman as editor and Harvey Watterson as proprietor, sponsored the convention and issued a call for all Davidson County voters, regardless of party, to meet and elect delegates. Nicholson was a signer of the call.<sup>20</sup> The Whig press, on the other hand, not only opposed the convention but actually tried to impede the elections of delegates. When the convention assembled on June 3, in the McKendree Methodist Church (the only auditorium large enough), there were representatives from nine southern states with Tennessee having the largest delegation--100. Only in Tennessee did it seem to be a one-party affair, for Whigs as a whole were well represented. Prominent ultra-southerners were present--Beverly Tucker, Robert Barnwell Rhett, and Landon Cheves--but the tone was set by the moderates when William L. Sharkey, of Mississippi, was elected to chair the convention. While less bellicose than anticipated by the awaiting world,

---

<sup>19</sup>Hofstadter, American Republic, I, 492-96.

<sup>20</sup>Nashville Union, April 13, 1850.

the proceedings were spirited, and at times defiant, with the more radical delegates planning an ultimatum for an extension of the Missouri Compromise line to the Pacific. Tennessee representatives feared that this ultimatum, effectually nullifying the doctrine of non-intervention, was designed to kill the compromise measures completely. Of the big four in the delegation, Donelson, Pillow, Nicholson, and A. V. Brown, the latter two were placed on the resolutions committee, where they attempted with random success to mitigate its pronouncements. Although many of the resolutions adopted were somewhat aggressive in tone, the Tennesseans for the sake of harmony were willing to accept them. However, the published address to the people of the South, from the pen of Rhett, was far more extreme and objectionable than the resolutions had been, and the Tennesseans voted for it only after modifications had been made.<sup>21</sup> Prior to these alterations, Nicholson presented a minority report, which he had drafted and was signed also by Aaron V. Brown, William M. Murphy (Alabama), Arthur Forman (Florida), and Samuel C. Roane (Arkansas). Principally, they objected to the address on two counts: that it was beyond the scope of the convention's assignment and that it was critical of the Senate proposals before the final bill was passed.<sup>22</sup>

---

<sup>21</sup>St. George Sioussat, "Tennessee, the Compromise of 1850, and the Nashville Convention," Mississippi Valley Historical Review, II (1915), 336-39; Dallas Herndon, "The Nashville Convention of 1850," Alabama Historical Society Transactions, V (1904), 216-22; Cave Johnson to James Buchanan, June 6, 1850, in Buchanan Papers.

<sup>22</sup>Nashville Union, June 15, 1850. See Appendix C.

While Whig newspapers persisted in condemnation after the proceedings had ended, the Union defended the action of the convention and concluded it had accomplished its aim in bringing unanimity to the South.<sup>23</sup> Nicholson withstood the barrage of criticism levelled at him by the Whig press and published an apologia in the form of a letter to the editor of the Union, dated June 15, 1850.<sup>24</sup>

Nicholson informed the public that he had attended the convention with aspirations to check the extremists and to produce a unity of sentiment among southerners. For this reason, he had abandoned his dissent when the resolutions were modified and the minority report published. But he was by no means reconciled to the persistent opposition voiced against the Senate proposals. While he felt that there would be some delegates "looking to ultimate disunion or secession as a last resort," he was inclined from the beginning to the conviction that the majority would manifest continued devotion to the Union. Since only nine of the fourteen states were represented, he considered any ultimatums imprudent and inexpedient.

In urging more concord among southerners, he suggested that the extension of slavery was not the only problem begging solution in the South. Northern agitation was also directed at the peculiar institution itself. Only "a cordial unanimity of sentiment and purpose in the southern States" would be able to realize "the rights secured to us by

---

<sup>23</sup> Ibid., June 14, 1850; Sioussat, "The Nashville Convention," 338.

<sup>24</sup> Nashville Union, June 23, 1850.

the constitution." With this object in mind, Nicholson looked to the perpetuating of such forums to conciliate southern opinion and viewed the Nashville convention as a

mere preliminary or pioneer movement in the grand and noble scheme for the preservation of southern rights, and through their preservation the perpetuation of our Union. I therefore felt that the first great business of this first Southern Convention would be, by the moderate and conservative character of the proceedings and action, to put down forever, the fears, suspicions, insinuations or calumnies which it had to encounter. I regarded its next most important duty to be, to confine its deliberations and action to those subjects on which the southern mind could be harmonized and united, and scrupulously to avoid all topics which would have a necessary tendency to divide and distract the South.<sup>25</sup>

The first condition, he believed, had been met, but he was discouraged as to the second. For unanimity he had "yielded a reluctant assent" to the extension of the 36<sup>o</sup>30' parallel, for he was loath to retreat from the principle of non-intervention. In finally submitting to the wishes of the majority in the committee, he had requested the inclusion of an expression of appreciation to the members of Congress "who were laboring to secure an adjustment of the slavery question, and . . . the hope for some adjustment more in line with Southern wishes." When it was apparent that such a statement was unacceptable to the rest of the committee, he withdrew it.

As there had been no reference in the resolutions to the proposals then before Congress, Nicholson had assumed that there would be no mention of them in the address. He therefore took particular

---

<sup>25</sup>Ibid.

exception to Rhett's dictum that the convention regard the Clay proposals, not as a compromise, but as a "comprehensive scheme of emancipation." When Rhett threatened "renewed efforts" to vindicate southern rights and institutions, Nicholson countered with "The fact is indisputable that the abolitionists denounced the compromise with as much bitterness as the address does--it is between two hot and heavy fires--one from the north and the other from the south." Parenthetically, Nicholson was noting the paradox presented by the forces of the extremists which henceforth threatened moderation in every election and in each Congress.

Should California, as Rhett argued, be divided at the 36°30' parallel? Nicholson doubted whether it was any more constitutional for the portion north of the line to apply for statehood than for the whole. Nor could he validate the pretensions of Texas to the territory on her border; by ceding her claim to the central government in return for ample compensation, in reality, she lost nothing.<sup>26</sup>

The Nashville True Whig printed a thoughtful analysis of Nicholson's position and of his exposé. Calling him the leader of the Democracy in Tennessee, the editor therefore felt that his address robbed the convention "of any popular prestige it might have possessed." While Nicholson's argument was an able defense of the compromise, it could not vindicate his actions in the convention where he voted for the resolutions, served on that committee, and finally approved the address. After noting the inconsistency in his recorded votes and in his printed address, the editor deduced:

---

<sup>26</sup>Ibid.

These incongruities, as between his argument and his position, arise very naturally out of the desperate dilemma in which his own consistency is involved, as between his "reluctant" action, in the Convention, under the pressure of "the strongly made up sentiment" of his own nullifying coadjutors, and the free, deliberate untrammelled convictions of his own enlightened understanding.<sup>27</sup>

With the passage of the compromise measures in the Senate, the more radical of the convention participants hastily reassembled in Nashville for a seven-day session which was conducted in a decidedly more militant atmosphere. Most of the delegates were new, which merely meant that the moderates (like Sharkey) had failed to return. Tennessee's delegation while not as numerous as before was still led by Pillow, Donelson, Nicholson, and Brown, and their combined efforts to temper the proceedings this time met with little success. In lieu of the committee's recommendations, they introduced the Tennessee Resolutions, penned by Brown with oral emendations from Nicholson. Designed to give the compromise the benefit of a fair trial, the resolutions suggested some form of commercial reprisal as an alternative. In their support Nicholson had prepared an address but was blocked by parliamentary maneuvers from gaining the floor. After Cheves had delivered an inflammatory speech encouraging immediate secession, the convention adopted aggressive resolutions, including what amounted to an immediate call for a secession convention. In an atmosphere of near bedlam,

---

<sup>27</sup> Nashville True Whig, June 27, 1850. The Nashville Republican Banner of June 26 also reprinted Nicholson's letter with the comment that it was a "keen and discriminating criticism from an unexpected quarter."

Donelson tried to gain the floor, but was shouted down.<sup>28</sup> Abruptly, the convention adjourned sine die, or as Watterson quipped, "it died in its sins."<sup>29</sup>

Nicholson and Brown, denied an audience on the floor of the convention, published their addresses, the latter in the American and the former in the Union.<sup>30</sup> Nicholson, in reviewing the convention proceedings and report, recalled that it had breathed a spirit of hostility from beginning to end with disunion standing out as the undisguised object to be attained. For the convention to insist on airing all the grievances, including the compromise, was to open a Pandora's box of all the old wounds calculated to bring discord, not compromise. Noting that the convention represented a distinct minority, with seven slaveholding states not having sent delegates, he reasoned that it had no authority to call for a convention to consider immediate action toward secession. As he pointed out, the Tennessee Resolutions were designed to take two intermediate steps prior to undertaking more drastic action. These were to acquiesce in the compromise, predicated on the faith of the North to do likewise, and to inaugurate a policy of voluntary economic retaliation should the first fail. To Nicholson, economic self-interest would outweigh "abstract principles." At the very least, he

---

<sup>28</sup>Sioussat, "The Nashville Convention," 343-46; Nashville Union, November 15, 16, 18, 1850. On a vote by states for the convention's report, Tennessee was the only state to vote against it. Ibid., November 19, 1850.

<sup>29</sup>Ibid.

<sup>30</sup>Ibid., November 30, 1850; Sioussat, "The Nashville Convention," 346.



believed, prudence demanded that the South alert the North before taking any further action.

In comparing northern extremists, he viewed abolitionists as less dangerous than free-soilers, for the first "are motivated by a fanaticism which amounts to moral insanity" while the latter "are political adventurers who are seeking to turn to their own account the fanaticism of abolitionists."<sup>31</sup>

Nicholson's defense of the compromise contained a warning to southerners that the balance of free to slave states could not be maintained indefinitely, regardless of agitation by free-soilers and abolitionists. Slavery was limited by the laws of both nature and economics, and the slave increase would in time constitute a serious problem. For this reason, he advocated an expansion of the back to Africa movement based on individual emancipations.

But his most telling point he reserved for the doctrine of peaceable secession. Warning the gentlemen who upheld such a theory to reflect maturely before they "hoist the red banner of rebellion," he added:

We are told that South Carolina is now ready to lead the way. Will Georgia, or Alabama, or Mississippi stand pledged to follow her example or to sustain her in the experiment? Will the Federal Government consent that her secession shall be peaceable? She may pass her secession ordinance in peace, but from that day she will have no more peace. The federal executive will demand the execution of the laws of the Union, and the army and navy will be the instruments of enforcing it. . . . Is it not almost certain, sir, that the secession of

---

<sup>31</sup>Nashville Union, November 30, 1850.

one State, or any small number of states would be the beginning of a civil war which would spread itself throughout the South? Need I call on gentlemen to pause and reflect upon the horrors of such a war. Peaceable secession indeed. Sir, you had as well talk of the peaceable devastation of the country with fire and sword: the peaceable burning of towns; peaceable sacking of cities, peaceably drenching their streets in the blood of men, women, and children. . . .<sup>32</sup>

Even if such a rebellion were successful, Nicholson predicted that persisting discord would only cause further dissolution into a number of petty republics. He terminated this address, decidedly a plea for the Union, with a quotation from George Washington.<sup>33</sup>

The opposition press, calling Nicholson's address "The Manifesto of the Conservative Democracy in the State," compared it with Brown's more pro-southern dissent published in the American. While displeased with Nicholson's arguments placing the blame for the present difficulties at the door of the White House, Rosborough of the Whig was nonetheless commendatory of his repudiation of the constitutionality of secession. In examining the relative positions of the two Democrats, Rosborough observed that Nicholson had managed the jump back to Union from his earlier nullification stand while Brown was still "mired in the mud."<sup>34</sup>

This divergency between the two Democratic leaders augmented by other policy deviations was producing a rivalry which threatened party unity during the fifties as seriously as had the Turney-Nicholson

---

<sup>32</sup>Ibid.

<sup>33</sup>Ibid.

<sup>34</sup>Nashville True Whig, December 3, 12, 1850.

cleavage of the previous decade. To add to the discord was the feud between the two Democratic journals in Nashville. Beginning as a result of the previous canvass, it was embittered during the first session of the Nashville convention when Watterson fired Eastman, who transferred to the American. That organ, pro-southern, sponsored Brown and his brother-in-law, Pillow; while Watterson and the Union favoring the compromise backed Nicholson. Not until 1853 was this journalistic war abated by a merger effected largely through Nicholson's efforts.<sup>35</sup>

With the senatorial race of 1851 in the offing, the leading contenders were Pillow, Brown, and Nicholson, though there was some belief that Cave Johnson would be asked to run since the contention between the others seemed irreparable. Nicholson had the added disadvantage of opposition from the remaining Polk relatives, who had a decided aversion to him and were influential enough in the party to be effective in their rebuke. As the senatorship was a prize to be sought, Cave Johnson wrote James Buchanan that both Nicholson and Brown were actively attempting to get their own candidates elected to the legislature and thus ensure selection. After the election there was a feeling that their rivalry had contributed substantially to the Whig victory with that party subsequently naming one of its own members, former Governor Jimmy Jones, to the Senate.<sup>36</sup>

---

<sup>35</sup>Sioussat, "The Nashville Convention," 346; Cave Johnson to James Buchanan, March 30, 1851, in Buchanan Papers; Nicholson to E. G. Eastman, April 11, 1852, in Nicholson Letters.

<sup>36</sup>Cave Johnson to James Buchanan, October 14, 1849, March 30, 1851, November 20, 1853, in Buchanan Papers; Sioussat, "Tennessee and National Politics," 253.

If Nicholson lacked friends in Middle Tennessee, he had one firm ally in East Tennessee--Andrew Johnson. To the more aristocratic members of the party, this rugged individualist had no attraction, but Nicholson, having stumped with him, undoubtedly recognized his popular appeal. Johnson was in Congress, advocating his Homestead Bill, which had found little favor among the more conservative Democrats.<sup>37</sup> To gain publicity for the measure he wrote to Nicholson for a public endorsement, while admonishing him,

Nicholson you have but little to expect from the politicians of Tennessee, they in the main are against you, so just come down into the ranks with your true friends and we will do the best we can in the approaching contest.<sup>38</sup>

As early as 1840, when the two campaigned together, Nicholson had endorsed Johnson's views--expressive of Jacksonian democracy--that the public lands should not be considered as a source of revenue and that the independence acquired with a homestead would perpetuate the patriotic pioneer spirit. He also elaborated upon another democratic argument for homesteading: the emancipation of labor from capitalist usurpation and exploitation, for a homesteader in effect became his own employer. As the land went under cultivation and improvement, the government could in time exact more revenue in the form of taxes than by the original sale of the land.<sup>39</sup>

---

<sup>37</sup> Ibid., 255-56.

<sup>38</sup> Johnson to Nicholson, May 11, 1851, in Johnson Papers.

<sup>39</sup> Nashville Union, May 23, 1851. Nicholson's exposition on homesteading was read at a meeting of Land Reformers and New York Democrats in Tammany Hall. Washington Union, June 11, 1851.

The Nicholsons' move back to Maury County in 1850, while prompted primarily by Mrs. Nicholson's health, was perhaps further due to his disillusionment in Nashville, and for a while he was somewhat out of touch with party leaders.<sup>40</sup> During the next year he finished The Life and Character of Captain William B. Allen,<sup>41</sup> after the death of the author, W. P. Rowles. Allen, at twenty-two had been the youngest legislator when he volunteered his services in the Mexican War and died during the storming of Monterrey. A popular young leader, his death had been deeply mourned throughout the state. Nicholson, persuaded to edit the manuscript and prepare it for publication, undertook the project out of affection for a deceased friend.<sup>42</sup> During the same year a new Columbia newspaper, the Democratic Herald, made an appearance bearing an unmistakable imprint of his influence. But he was by no means divorced completely from the political scene, for some local Democrats looked to him to represent the county again in the legislature.<sup>43</sup>

By the fall of 1851 Tennessee was saturated with available candidates for consideration on a national ticket as vice president. Among those most frequently mentioned by the press were Nicholson, Brown,

---

<sup>40</sup>Cave Johnson to Buchanan, November 10, 1850, in Buchanan Papers; Nashville Union, November 30, 1850.

<sup>41</sup>W. P. Rowles, The Life and Character of Capt. W. B. Allen, of Lawrence County, Tennessee . . . (Columbia, Tennessee, 1853). The copy in the University of Tennessee Library is inscribed "This Book Presented to Mr. A. O. P. Nicholson By the Father of Capt. Allen."

<sup>42</sup>Ibid., preface.

<sup>43</sup>Cave Johnson to Buchanan, December 13, 1850, in Buchanan Papers; Nashville Union, March 25, 1851.

Pillow, both Johnsons, and Trousdale. As to the presidential nominee, the Tennessee leaders were by no means in agreement: for while Nicholson and Andrew Johnson backed Cass, Trousdale and Cave Johnson were for Buchanan, Brown supported Marcy, and Pillow vacillated between Marcy, Douglas, and Pierce. Because of his quarrel with Gen. Winfield Scott, the probable Whig candidate for president, and his subsequent court-martial, Pillow was the sentimental favorite of many Tennesseans for vice-president.<sup>44</sup> At one time Nicholson considered Douglas second to Cass in popularity but avowed that Marcy, Buchanan, or Houston would all have Tennessee's support. Regarding Scott as the Whig choice, he exuded confidence that the Democrats could win and to John P. Heiss wrote that if "we beat him it will be the first time that gun powder and humbuggerly have been whipped."<sup>45</sup>

Nicholson's strongest and most influential backers were John Marling, now editor of the Union, and Congressman Andrew Johnson. Speaking of Nicholson's availability, Marling remarked that his deference to others precluded any efforts on his own behalf. It was more than mere coincidence that the Union reprinted a letter, championing Nicholson, from the Lexington (Missouri) Western Chronicle. Written to the editor of the Missouri journal, the correspondent, probably Andrew Johnson, extolled Nicholson as a southern man with southern

---

<sup>44</sup>Sioussat, "Tennessee and National Politics," 254; Cave Johnson to James Buchanan, December 11, 1851, in Buchanan Papers; Roy F. Nichols, The Democratic Machine, 1850-1854 (New York, 1923), 71, 124-26.

<sup>45</sup>Nicholson to Heiss, November 30, 1851, in Heiss Papers.

interests, yet nevertheless a friend of the toiling masses of the North. After noting that Nicholson was a strict constructionist of the old Jefferson school and tutored in Jacksonianism, the editor of the Chronicle recommended a Cass-Nicholson ticket.<sup>46</sup>

When the Democrats convened in Nashville in January to choose their national convention delegates, the caucus was unable to agree on a candidate for the vice-presidency. A minority, backed by the convention chairman, Cave Johnson, favored Trousdale; the majority clamored for Pillow. The matter went to the floor of the convention. Nicholson, representing Maury County, had suggested a resolution to name some Tennessean as vice-presidential candidate but withdrew the suggestion, probably because of the disunity in the caucus. As chairman of the resolutions committee, he then reported a proposal that the convention, instead of sponsoring a particular name, instruct the state delegates to exert every effort to place some Tennessean on the ticket. In adopting this resolution, the convention further accepted others including a declaration for the preservation of the Union and for support of the compromise. Nicholson, after his selection as candidate for elector-at-large,<sup>47</sup> was called forth to address the convention. After paying tribute to the fallen leader, Polk, he predicted that the national convention would repudiate free-soilism and select to unite the party a

---

<sup>46</sup>Nashville Union, February 2, 1852; Johnson to Nicholson, December 13, 1851, in Johnson Papers.

<sup>47</sup>Nashville American, January 9, 1852; Andrew Ewing to A. J. Donelson, January 9, 1852, and Alfred Balch to Donelson, December 28, 1851, in Donelson Papers.



nominee who was above suspicion. In tune with the times, his remarks then took on a flavor of Young Americanism, as he urged the party to adhere to the Monroe Doctrine while expressing this country's warmest sympathies to others struggling for self-determination. At this time the Hungarian revolt was in full progress, evoking considerable sentiment in the United States. While Nicholson was referred to as a leader of the Young American movement in the state, he did not countenance any interference by the United States in the revolution in Hungary.<sup>48</sup>

Shortly after this convention, Nicholson went to Washington ostensibly to meet with national Democratic leaders seeking to harmonize the discordant factors within party ranks.<sup>49</sup> It is possible that this visit served a dual purpose. Sometime during the year he had become engaged in a private business venture, for which he travelled extensively. Col. Perry W. Porter, of Memphis, had invented a self-loading gun which he patented in 1851. Nicholson, after purchasing an interest in the patent, became one of the founders of a company to manufacture the gun.

The pre-campaign confusion in Tennessee was merely a microcosm of the national political scene, for when the Democratic convention assembled in Baltimore, no candidate was able to muster sufficient votes

---

<sup>48</sup> Washington Union, February 6, 1852.

<sup>49</sup> Ibid., February 17, 21, 1852.

<sup>50</sup> Ibid., May 25, 1851; Nashville American, December 28, 1852, January 20, 1853; Nicholson to W. J. Sykes, [January] 28, 1854, in Nicholson Letters.

for the nomination. Not until the forty-ninth ballot was a compromise reached with the selection of Franklin Pierce, a dark-horse candidate. In spite of the interest in Tennessee for a native son on the ticket, party plans dictated otherwise with the selection of William R. King, of Alabama.<sup>51</sup>

While Nicholson had hoped, and even participated in some "wire-pulling" within the state delegation, to bring about Cass's nomination, he was not dilatory in support of Pierce, having collaborated with him in party matters when they were colleagues in the Senate.<sup>52</sup> In general, too, the platform had his endorsement, particularly its declaration in support of the compromise of 1850, its adherence to popular sovereignty, or the doctrine of congressional non-intervention, and its admonition to abolitionists and other extremists.<sup>53</sup> In campaigning for elector-at-large, Nicholson ultimately appeared in all three grand divisions. While Guild toured East Tennessee, Nicholson, accompanied by Barclay Martin, canvassed Middle Tennessee. Having indicated early in the race his willingness to make a fair distribution of time with any Scott campaigners, Nicholson shared appointments in August with Gustavus A. Henry, the Whigs' "Eagle Orator." The Nashville American notified readers of the following appearances:

---

<sup>51</sup>Nichols, Democratic Machine, 143-44.

<sup>52</sup>Cave Johnson to James Buchanan, June 8, 1852, in Buchanan Papers; Nicholson to Pierce, July 21, 1852, in Franklin Pierce Papers (New Hampshire Historical Society).

<sup>53</sup>Nichols, Democratic Machine, 144.

Shelbyville	Monday, August 2
Manchester	Tuesday, August 3
Lewisburg	Saturday, August 7
Pulaski	Monday, August 9
Lawrenceburg	Tuesday, August 10
Waynesboro	Wednesday, August 11
Mt. Pleasant	Thursday, August 12
Columbia	Friday, August 13

Mr. Nicholson to speak  
at Waverly

Monday, August 16<sup>54</sup>

In September, when both appeared in West Tennessee, a partisan observer noted in a letter to the American that Nicholson's plain but elegant debate had cost Henry some of his eagle feathers. During October they were both in East Tennessee, but evidently not campaigning together.<sup>55</sup>

Since Scott was not generally considered popular in the state, and much of his Whig support only lukewarm, a general gloom pervaded the party's counsels and sparked optimism among the Democrats. Surprisingly, however, although Scott lost the election, he carried the Volunteer state.<sup>56</sup>

In an effort to reunite the embattled elements of the party, Pierce had decided to select his cabinet members from all groups of Democrats and from all sections of the country. Aside from a general announcement to this effect, the president-elect kept such close counsel that speculation was rife. Hardly any prominent Democrat was excluded from the numerous lists conceived by the press. Because of his continued

---

<sup>54</sup> Nashville American, July 14, 23, August 5, 1852.

<sup>55</sup> Ibid., September 18, October 12, 24, 1852.

<sup>56</sup> Ibid., November 9, 1852; Joseph Parks, "The Tennessee Whigs and the Kansas-Nebraska Bill," Journal of Southern History, X (1944), 309.

promotion of Cass, Nicholson was a logical choice from the Cass-compromise wing of the party; but he was handicapped somewhat by the failure of the Democrats to carry Tennessee. However, on behalf of the Cass interests, he made two trips north to confer with Pierce, first at Concord and, after the latter moved his headquarters, at Boston. On one of these trips, Pierce entrusted him with a confidential message to Senator R. M. T. Hunter, of the states-rights faction, about joining the cabinet as secretary of state. Though this prospect may not have been altogether pleasing to a compromise-Union man, Nicholson returned to Washington and interviewed Hunter, who consented to travel to Boston for consultation with Pierce. After this conference, attended also by Caleb Cushing, Charles G. Atherton (one of the Concord Cabal), and Nicholson, Hunter decided not to accept the post but to remain in the Senate. Apparently, either at that meeting or a subsequent one, Nicholson also declined a cabinet position as postmaster general, suggesting instead that Robert McClelland, another Cass Democrat, be considered.<sup>57</sup> There were indications that he would have accepted the treasury post and speculations that he would be nominated; but his trips north apparently were motivated by the Porter gun enterprise as well as by politics. Concerning Nicholson and the cabinet rumors, a Nashville Union correspondent wrote on February 20, 1853:

The last rumor here, and the one which meets with most favor, gives Mr. Nicholson, the Treasury Department. Whether this rumor has more foundation than its illustrious predecessors,

---

<sup>57</sup>Nichols, Democratic Machine, 169-77; Cave Johnson to William L. Marcy, December 4, 1852, and James W. Thomas to Marcy, December 17, 1852, in William L. Marcy Papers (Library of Congress); Andrew Johnson to Sam Milligan, December 28, 1852, in Johnson Papers.

I know not. I doubt it, however, from having good information that Mr. Nicholson has declined one place in the cabinet, and frankly signified his wish not to be included in any cabinet which might ultimately be determined upon. From my knowledge of the man, I give this information full credence. While others are leaving no means untried for the purpose of getting themselves or their friends into the Cabinet, Mr. Nicholson has kept his hands clean from intrigue and undercurrents, and has manifested not the slightest desire to be the recipient of government pap.<sup>58</sup>

Since John Marling was in Washington for the inaugural, which Nicholson also attended, it was probably the editor himself who wrote to the Union of the festivities and affirmed that "nothing but private business; of much importance and urgency," had brought Nicholson to Washington.<sup>59</sup>

Pierce's appointments, instead of conciliating the various warring factions by blending the two extremes, elicited sharp criticism from all sides. Especially bitter were the Cass-Union men who believed that their support had been crucial in nominating him and who now considered that their interests were withering under his neglect. In the light of these attacks, Pierce looked to the administration organ, the Washington Union, to enhance his public image. At the time, J. W. Forney, clerk of the House of Representatives, was serving as interim editor, having been installed in that capacity during the campaign. Robert Armstrong, the ex-candidate for governor of Tennessee, was

---

<sup>58</sup> Nashville Union, March 1, 1853. Nicholson was also rumored for secretary of Interior and as consul to Chile. Ibid., February 23, 1853; Nashville Union and American, May 31, 1853.

<sup>59</sup> Nashville Union, March 8, 1853. The private business was probably in behalf of the Porter sidearm.

proprietor. As early as April, Pierce indicated his desire that Nicholson take over the Union; but the latter was unable to make satisfactory arrangements with Armstrong and returned to Columbia.<sup>60</sup>

Back in Tennessee, Nicholson weighed the possibility of accepting the gubernatorial nomination, but the idea hinged upon the decision of Andrew Johnson. When Johnson, whom Nicholson regarded as the strongest man in the state, became a candidate, Nicholson refused to allow his name to be used in competition.<sup>61</sup>

In the meantime, the Washington Union hobbled along with Charles Eames, a doughface, and Roger Pryor, a fire-eater, as editors, with aid from Forney and an occasional editorial from Caleb Cushing, the attorney general. When plans were announced for establishing an opposition paper under the editorship of Beverly Tucker and the sponsorship of the southern Democrats, Pierce forced Armstrong to allow Nicholson to take over the old Donelson share. Pryor left after a disagreement over an editorial he had penned in praise of the Czar, a statement which was considered offensive by the Young Democracy; and Eames, a holdover from the Donelson days, was eased out shortly afterward. Harvey Watterson, Nicholson's friend and an old congressional crony of Pierce, became an

---

<sup>60</sup>Roy F. Nichols, Franklin Pierce: Young Hickory of the Granite Hills (Philadelphia, 1931), 276-79; Nichols, Democratic Machine, 151-52; Nicholson to Pierce, April 12, 1853, in Nicholson Letters.

<sup>61</sup>Nashville Union, April 25, 26, 28, 1853; White, Messages, IV, 513.

assistant editor. Forney remained, for plans to send him to set up an administration paper in New York never materialized.<sup>62</sup>

The Union, without the public printing contracts, was not a lucrative business. Although Armstrong had been elected printer for both houses during the era of good feelings immediately after the inaugural, by the time Nicholson joined the paper the peace had ended in acrimony over the presidential appointments. With Nicholson's maintaining a defense of these selections, Pierce decided that the fall election for printer would be a suitable test of administration strength. While easily elected in the House, Armstrong and the Union were defeated in the Senate by Tucker and the new Sentinel. In February, 1854, Armstrong died; and Pierce, anxious to advance Nicholson, made arrangements for him to purchase outright the Union interest from the heirs and to rent, with the option to buy, all the equipment used for the congressional printing.<sup>63</sup> The option undoubtedly hinged on the printing contracts. On February 25, Nicholson announced his candidacy for printer and indicated that if selected by the House, he would continue the arrangement "which will secure to the family of [Armstrong] the same benefits which would have accrued to them if he had lived."<sup>64</sup> With the appearance of this notice, neither the Sentinel nor the Washington

---

<sup>62</sup>Nichols, Pierce, 279; Nichols, Democratic Machine, 196. Whether Nicholson became editor in July, 1853, as Nichols states, or later, formal announcement was not made until September. Nashville Union and American, September 16, 1853.

<sup>63</sup>Nichols, Pierce, 315, 335.

<sup>64</sup>Washington Union, February 25, 1854.



National Intelligencer, the Whig journal, placed a bid for the award, and Nicholson was easily elected March 1 on the first ballot.<sup>65</sup>

Barely a month before the House election for printer, the discussions on the Kansas-Nebraska bill, particularly an amendment offered by Douglas to open the two territories to popular sovereignty, had further fractured the Pierce peace. Since these territories were in the portion of the old Louisiana Purchase north of 36°30', this amendment completely abrogated the Missouri Compromise. The administration, favoring the bill, had originally insinuated that the vote would be construed as a test of party loyalty. Shortly after Nicholson became printer, this view was modified with the announcement in the Union that those opposing some details of the measure would not be considered unfriendly to the administration. On the other hand, party patronage was not to be denied to those who supported it. The New York Herald, the most consistent northern critic of the Pierce government, caustically charged that the policy shift was the price of the printing.<sup>66</sup>

On the 26th of May, 1854, Nicholson and Forney co-signed a partnership agreement for equal interests in the Union and the executive printing contracts. As one-half of the congressional contractual proceeds went to the Armstrong estate, the remaining one-half was to be split equally between them.<sup>67</sup> Since Forney had been clerk of the House, his

---

<sup>65</sup>Ibid., March 2, 1854; Cong. Globe, 33 Cong., 1 Sess., 516.

<sup>66</sup>Nichols, Pierce, 335-36.

<sup>67</sup>Nicholson-Forney agreement, May 26, 1854. See Appendix D.

influence there may have been one reason for the partnership. Additionally, during his Washington years Nicholson complained constantly of being in debt, which might have been a factor. Whatever the reason, it was not until December 4, 1855, that Nicholson announced Forney as joint editor. By that time, the Union partnership was interested in the Senate printing contract, but Forney's proclivities for antagonizing Democrats, and particularly southern senators, embarrassed the administration. Only after Pierce was able to persuade Forney to withdraw from the printing and take charge of the paper was the Senate amenable to choosing Nicholson as printer.<sup>68</sup>

Earlier in June of the previous year, the House printing contract had been jeopardized when the Union launched an attack on the abolitionists. On June 8, over the signature "Old Fogy," a particularly vituperative assault was made on the "abolition incendiaries, Parker, Phillips, Giddings, and others" for violating the constitution as "apostles of sedition, violence, and murder."<sup>69</sup> Rich in simile if not in logic, Old Fogy questioned the right of this ilk to sit in Congress. On the same day Representative Giddings rose for a privileged question, directed that the abusive article be read, and then, over the protest of George W. Jones that Nicholson was not acting as an employee of the House but as editor of a newspaper, was permitted to present the following resolution:

---

<sup>68</sup>Nichols, Pierce, 454; Washington Union, December 4, 1855, February 1, 1856; J. W. Forney to Nicholson, August 26, 1855, in Nicholson Letters.

<sup>69</sup>Cong. Globe, 33 Cong., 1 Sess., 1360. "Old Fogy," a popular term, was the antithesis of Young Democrat, a believer in Manifest Destiny.

Whereas, A.O.P. Nicholson, Esq., printer of this body, and editor and proprietor of the Washington Union, in his paper of this morning has published an article most evidently designed to excite unlawful violence upon members of this body; therefore,

Resolved, that the said A.O.P. Nicholson, and other persons connected with the Washington Union, be expelled from this Hall.<sup>70</sup>

A somewhat lengthy debate ensued as to whether Giddings was in order, whether Nicholson was an officer of the House or merely a contractor, and whether as editor of the Union he could be expelled as a House officer. Finally, upon reaching a vote, the resolution was tabled for lack of a quorum. But the enraged Giddings was not content for the issue to be thus resolved. When, on June 13, he resubmitted his resolution with the phrase "and all other persons connected with the Union" deleted, he once more demanded the expulsion of Nicholson as editor and as responsible agent. Again the resolution, as amended, was tabled, this time by a vote of 100 to 32. Editorially, Nicholson had replied to the action of June 8 by declaring that he knew of no other language suitable to abolitionism than that of defiance and denunciation, and that if the loss of the printership were the price for such expression, he was willing to pay.<sup>71</sup>

Nor was this Nicholson's only tribulation as public printer. By a joint resolution June 20, 1854, Congress ordered a 20 per cent pay increase to the employees and officers of both houses.<sup>72</sup> Both Tucker and Nicholson, convinced that as employees and officers of Congress they

---

<sup>70</sup>Ibid.

<sup>71</sup>Ibid., 1382; Washington Union, June 9, 1854.

<sup>72</sup>Cong. Globe, 33 Cong., 1 Sess., 2323.

were included within the provision, withdrew a petition they had filed earlier for additional compensation. However, when the secretary of the treasury, in interpreting the resolution, omitted the two printers, Tucker pressed immediate claim, but Nicholson hesitated, reflecting upon the possible damage to the administration. In December he did join Tucker in a well-documented appeal to the House judiciary committee.<sup>73</sup> Undoubtedly, congressmen, while acknowledging the ambiguity of the language of the July 20 resolution, did not have the printers in mind, intending merely to raise those on fixed salaries. As Secretary of the Treasury Guthrie further pointed out, the award to these people would in no instance be more than \$500 while 20 per cent to the printers would amount to \$20,000. Nicholson himself claimed \$15,000. After the matter was again before Congress in January, 1855, and reviewed by Guthrie, Nicholson evidently acquiesced in their rejection while still believing in the validity of the claim. Eventually his appeal came before the U. S. Court of Claims, whether by his initiation or by some agent; and the court, with one dissension, sustained the secretary of the treasury and declared that Nicholson, as public printer, was a contractor rather than an employee or officer.<sup>74</sup>

How much he prospered from contracts on the side, by supplying congressmen with additional copies of their speeches, can only be

---

<sup>73</sup>Nicholson to Pierce, September 29, November 10, 1854, in Nicholson Letters; Nicholson and Tucker to Frederick P. Stanton, December 6, 1854, in Nicholson Letters.

<sup>74</sup>Senate Miscellaneous Document No 216, 35 Cong., 1 Sess.; Nashville Republican Banner, January 12, 1855.

conjectured; but his gross from government contracts, congressional and executive, is a matter of record. From March 1, 1853, to September 30, 1855, he received \$123,525.31 on the congressional contract and an additional \$10,127.12 in commissions from the executive departments.<sup>75</sup>

Moreover, patronage, as far as Tennessee appointments were concerned, fell in large measure into Nicholson's hands. Hopeful aspirants approached him for his good offices in obtaining such local posts as postmaster and marshal. A Nashvillian, acting on a rumor that Nicholson would receive the Spanish mission, requested that his son be selected as Nicholson's secretary, and a prominent party member from Lebanon, John K. Howard, desiring the post as secretary of the French legation, importuned him to use his influence with Pierce.<sup>76</sup> Early in the administration, Nicholson had been concerned about the number of appointments to the ultra- or states-rights wing of the party, headed by Aaron V. Brown. Convinced that this group was in the minority, he expressed concern that the compromise section of the party had been neglected. In writing to Pierce that he held no personal animosity to Brown nor toward the several members of that family who had become beneficiaries

---

<sup>75</sup>United States Department of State, Register of Officers and Agents . . . Together With the Names and Compensation of All Printers in Any Way Employed by Congress, or Any Department or Officer of the Government (Washington, 1855), 167-185. See Appendix E. In 1859 Nicholson was still receiving arrears amounting to \$20,454.47 for the 33rd and 34th congresses and \$3,441.30 for the 35th. Official Register (1859), 188.

<sup>76</sup>Boyd McNairy to Nicholson, March 10, 1853, and John K. Howard to Nicholson, September 7, 21, 1853, in Nicholson Letters.

of presidential favors, he nevertheless warned that "our party in Tennessee may suffer if his rights are pushed too far."<sup>77</sup> His suggestions that Marling and the Nashville Union be the recipient of the newspaper patronage and that ex-Governor Trousdale receive a good post were favorably received by Pierce. To meet the assault upon the administration as to the preponderance of ultra-men appointed to office, Nicholson urged that a survey be conducted to compare the relative strength of each faction and that offices be distributed according to those results.<sup>78</sup>

As a rule Nicholson was wary of counselling the president, but, while the French Spoliation Bill was before Congress, he advised Pierce not to take the responsibility of determining the validity of the claims by vetoing the bill. Since these claims, dating from the American Revolution and the shipping wars of the 1790's had been released by a treaty agreement with France, Nicholson felt that the federal government was then responsible to the individual citizens who had suffered damages. A similar measure had been vetoed by Polk; and Pierce, believing that the claims were mainly in the hands of insurance companies, considered the bill a raid on the treasury and planned to do likewise. After consultation with members of both parties in Congress and carefully studying the bill itself, Nicholson was convinced that the intent of the

---

<sup>77</sup>Nicholson to Pierce, April 12, 1853, in Franklin Pierce Papers (Library of Congress).

<sup>78</sup>Washington Union, February 11, 1854; Nicholson to Caleb Cushing, April 19, 1853, in Caleb Cushing Papers (Library of Congress).

act had been misconstrued. There was nothing in the measure which declared the justice of the claims, he advised Pierce. On the contrary, sufficient investigation warranted the establishment of a tribunal to sift through individual cases. Should the bill pass, the responsibility for deciding upon the legality of the claims would fall on the tribunal rather than on the president. Although Nicholson endorsed the bill in the columns of the Union, he was quick to assure the public that the views therein contained were his alone. When Pierce did veto the bill, Nicholson defended his right to do so.<sup>79</sup>

Armstrong's death in 1854 precipitated an interesting ceremonial event in the congressional halls in which Nicholson figured prominently. When Jackson was fatally ill in 1845, Nicholson had been summoned to the Hermitage where he was given the sword the Old Hero had carried at New Orleans, with instructions to deliver it to General Robert Armstrong, an old friend. With Armstrong's death, his son, desirous of presenting the sword to the American people as an historic relic, again sought Nicholson as an intermediary with the request that it be given to Congress for disposal. Fittingly, Nicholson turned to another old Jacksonian, General Lewis Cass, then senator from Michigan, to make the presentation in the Senate. A flourish of publicity concerning the ceremony brought so many visitors on the appointed day that the halls were filled and any available space left in the gallery was standing room only. Many of these guests were ladies; so a motion was made and

---

<sup>79</sup>Nichols, Pierce, 377; Nicholson to Pierce, February 10, 1855, in Pierce Papers (LC); Washington Union, January 19, 1855.



passed to waive the rules to allow ladies in the chamber itself. After Cass read the correspondence and made the presentation, Senator John Bell spoke and offered a resolution to ask House concurrence in a joint resolution accepting the sword, remitting thanks to the Armstrong family, and depositing the relic for safe-keeping in the state department. The House concurred in the joint resolution with Tennessee congressmen Samuel Smith and Felix Zollicoffer making addresses to be followed by one of the original Jacksonians, Thomas Hart Benton.<sup>80</sup>

As the administration's advocate, Nicholson felt it obligatory upon him as editor to press the party claims and measures, standing always on the platform adopted in 1852. He continued the slogan "Liberty, the Union, and the Constitution" which had appeared on the masthead when he first took charge. The hallmark of domestic legislation during the Pierce years was the Kansas-Nebraska bill, and reports and editorials in its support filled the pages of the Union during the months of March and April, 1954. To reinforce the doctrine of popular sovereignty encompassed in the bill, Nicholson reprinted on at least two occasions the famous Nicholson letter of Lewis Cass.<sup>81</sup> On this principle, and on the passage of the Kansas-Nebraska Bill, the Whig party was rent asunder. At the time the vote on the bill was announced, Nicholson had noted that John Bell was the only southern Whig senator against the measure.<sup>82</sup> There was no question that the Nebraska

---

<sup>80</sup> Nashville Union and American, March 6, 1855; Cong. Globe, 33 Cong., 2 Sess., 939-41, 946.

<sup>81</sup> Washington Union, February 21, March 28, 1854.

<sup>82</sup> Ibid., March 7, 1854.

territory would be free-soil, but the Kansas territory, lying adjacent to Missouri, was bitterly fought over by both pro-slaverymen and free-soilers. During this period northern abolitionists sponsored an Emigrant-Aid Company, spuriously chartered to develop the land, but in reality to settle it with free-soilers. Attacking the company charter, the Union reported that it was a blind for the "trading abolitionists who sought to transplant and found in Kansas a colony of anti-slavery men from New England" with the sole purpose of defeating the principle of popular sovereignty.<sup>83</sup>

During the latter part of 1854 the Union began to follow closely two movements--the new Know-Nothings and the abolitionists and their allies, the "Black Republicans." The former movement was joined by many of those Whigs who did not become free-soilers, but the mask of secrecy, anti-Catholicism, and anti-foreignism colored its activities and eventually spelled its doom.<sup>84</sup> To the editor of the Union both groups were the work of fanatics, charlatans, and bigots and both should be condemned for mixing religion and politics so that "pure and pious precepts of a holy faith are to be soiled in the mire of the partisan struggle."<sup>85</sup>

While conducting this vigorous and often vituperative campaign against the abolitionists and Republicans, the Union was assailed by radical state-rights journals, and the New York Herald, for its defense

---

<sup>83</sup>Ibid., April 12, 1856; Hofstadter, American Republic, I, 571.

<sup>84</sup>Washington Union, June 7, 1854.

<sup>85</sup>Ibid., June 10, 1854.

of Governor Andrew H. Reeder, the Pierce-appointed governor of Kansas, who had become involved in free-soil activities and land speculations. That the pro-slavery Missourians were fraudulently stuffing the ballot boxes in Kansas Reeder knew and tried to investigate, but his personal land ventures proved embarrassing to the administration, and for this reason, rather than any tendency to free-soilism, Pierce was forced to dismiss him. As Reeder's activities proved a nightmare to the administration, so Forney's in the same area were anathema to the Union. The New York Herald accused Forney, Reeder, and others of selling lands in small packages to Pennsylvania free-soil Germans rather than to southern slaveholders, not necessarily because they were interested in making Kansas a free-soil state, but because it was more lucrative.<sup>86</sup>

Nicholson was absent from Washington a good part of the summer of 1855, stumping Tennessee for Andrew Johnson's re-election, the first such success in twenty years for the Democrats. During the canvass Nicholson met his Union predecessor, Andrew J. Donelson, in a heated debate. Now a Know-Nothing, Donelson called the administration, among other things, a coalition of abolitionists and nullifiers. In a reply more caustic than was habitual with him, Nicholson attributed Donelson's venom to disappointment in not receiving the office of secretary of war. Calling him an apostate, who like all renegades consider themselves the sole arbiters of the party while others stray, Nicholson in jest termed

---

<sup>86</sup>Hofstadter, American Republic, I, 572; New York Herald, May 12, 21, 1855; Democratic Herald (Columbia), July 7, 1855.

Donelson the "uncontaminated" Jacksonian.<sup>87</sup>

Forney, in charge of the Union during Nicholson's absence with an occasional column from Cushing, was by now persona non grata.<sup>88</sup> Not only were his Kansas speculations too well publicized, but he was actively promoting Buchanan for the presidency and had become involved in a Nicaraguan colonization scheme. In the latter enterprise Nicholson, Sidney Webster, Pierce's private secretary, and others probably of official status in Washington also participated. A Texas entrepreneur named Henry L. Kinney had obtained something in excess of twenty-two million acres of land on the Mosquito Coast of Nicaragua on which he proposed to develop an agricultural settlement of American immigrants. To accomplish this, the Central American Company was organized and shares were offered at twenty-five dollars each, backed by 100 acres of land in the Kinney grant. Nicholson, Webster, and Forney all purchased shares. The Union enthusiastically endorsed the project in January, 1855, but shortly found innumerable critics opposing the venture as another filibustering expedition. William Walker had already started his well-known activities, but without the colonization pretension of Kinney. To counteract the charges of filibustering and demonstrate the colonizing intentions of the expedition, the Union published the correspondence between Marcy and Kinney and defended the right of expatriation on the part of individual citizens. Marcoleta, the

---

<sup>87</sup> Ibid., July 21, 1855.

<sup>88</sup> Forney's severance from the paper Nicholson regretfully announced in the Union, March 28, 1856. Subsequently, Hunter joined his father as associate editor. Ibid., July 4, 1856.

Nicaraguan minister, complained officially; Kinney was arrested on the eve of his sailing and the company collapsed.<sup>89</sup>

Like Fillmore, Polk, and Tyler before him, Pierce discovered that tenure in the White House is no guarantee to a second term, and his re-nomination became improbable. He was held accountable on all sides for the difficulties in Kansas, for the repeal of the Missouri Compromise, for not standing up to Great Britain on several occasions, for the failure to annex Cuba, and for the personal feuds which had rent his administration.<sup>90</sup> Although Nicholson did not announce Pierce's availability until May 9, 1856, he had been corresponding, at least with Pennsylvania Democrats, for their support of the president if the favorite son boom for Buchanan failed to carry the convention.<sup>91</sup> Nor did he discount the sentiment in his own state. Cave Johnson and A. V. Brown were, of course, the leaders of the Buchanan movement in Tennessee. S. R. Anderson, Nashville postmaster, advised Nicholson that mass support for the president could probably be obtained, but that party leaders, anxious for appointment like Brown, were casting about for some one else. One possibility broached in Democratic circles was the candidacy of Andrew Johnson, and Anderson predicted there would be a movement made in the legislature to nominate him. As a last suggestion, Anderson proposed that Nicholson "make the sacrifice of which

---

<sup>89</sup> Ibid., February 7, 1855; Nichols, Pierce, 398; William O. Scroggs, Filibusters and Financiers (New York, 1916), 82-101; W. Thayer to Nicholson [October 6, 1855?], in Nicholson Letters.

<sup>90</sup> Nichols, Pierce, 448-54.

<sup>91</sup> Ibid., 427; J. Glancy Jones to Nicholson, November 18, 1855, in Nicholson Letters.

you spoke in your letter" and run with Pierce; such a ticket he would enthusiastically endorse and was optimistic it could carry the state.<sup>92</sup>

When Buchanan was nominated, Nicholson tendered his services on the Union throughout the campaign and, shortly after the election, offered any disposition of the paper to suit the president-elect. His congratulatory letters to both Buchanan and Breckinridge, the vice president-elect, brought expressions of gratitude for his services to the party.<sup>93</sup> Particularly pleasing to Nicholson was the reply from Breckinridge, who warmly wrote:

You will carry with you in your retirement from the control of the "Union," the confidence and respect of the Democracy and I think in an especial manner, of those who have had the pleasure of your acquaintance.<sup>94</sup>

Selling the Union in November for a substantial sum which allowed him more financial independence than he had heretofore experienced, Nicholson returned to Columbia to measure men and events again from a local viewpoint but matured now by his national experience.<sup>95</sup> He remained in semi-retirement until 1859 when he became Tennessee's junior senator and continued his close association with Andrew Johnson.

---

<sup>92</sup>S. R. Anderson to Nicholson, October 20, 1855, in A. O. P. Nicholson Letters (Historical Society of Pennsylvania).

<sup>93</sup>Nicholson to Buchanan, November 6, 1856, and Buchanan to Nicholson, November 10, 1856, in Buchanan Papers; John C. Breckinridge to Nicholson, November 18, 1856, in Nicholson Letters.

<sup>94</sup>Ibid.

<sup>95</sup>Andrew Johnson to Sam Milligan, November 23, 1856, in Johnson Papers.

## CHAPTER IV

### TENNESSEE'S OTHER SENATOR, 1857-1865

The turbulent decade of the fifties, ushered in on the last compromise of three dying statesmen, would end with the total disruption of all democratic processes and explode in civil war. Extremists fired the engines until the conservatives could no longer apply the brakes. Democratic unity, split over Douglas's popular sovereignty, was by 1860 merely a facade; and men who had started the decade as Cass-Union Democrats were at the close forced to antithetical positions. Nowhere was this better illustrated than in the divergence of the two senators from the border state of Tennessee.

Two days after Buchanan was inaugurated, and about the time Nichol森 was terminating his affairs in Washington, a pronouncement by the supreme court rocked the nation. In the Dred Scott case, the court ruled that a slave was not a citizen and that the Missouri Compromise was unconstitutional. The Republican Party, founded in 1854 upon the very principle here controverted by the court--property rights versus human rights--pledged itself to oppose this edict and seek a new judicial decree.<sup>1</sup>

In numerous editorials during January and February, 1857, Nicholson had fought against this crusade of the abolitionists and Republicans. In an editorial on January 20, he discussed the issue of sectionalism,

---

<sup>1</sup>Hofstadter, American Republic, I, 576-77.



finding it due not to diverse systems of economics but to slavery and its morality. Slavery might be considered immoral in the North but in the South it was held to be consistent with morality and Christianity. Aside from this point, he firmly believed that a moral government should not supersede a political one. Governmental interference on a moral issue was "unwarranted usurpation," and sectional agitation the "illegitimate offspring of a connexion between morals and politics," when each should be confined to its own sphere.<sup>2</sup> Warning the abolitionists that trampling on the constitution to free the Negro would cause civil war, he further chastised them for not presenting a positive program for emancipation. How could they expect the black man, if freed, to have a future in the South where the white man feared amalgamation and degradation.<sup>3</sup>

Although the new Republican party had absorbed the old-line Whigs in the North, it had made few inroads in the South. Most Tennessee Whigs became Know-Nothings, and due to Bell and Brownlow, Gentry and Henry, the party enjoyed greater success than elsewhere in the South. Gentry had challenged Johnson for the governorship at a time when the latter was emerging as undisputed popular leader of the Democrats in Tennessee. The old Polk faction of Cave Johnson, A. V. Brown, and Gideon Pillow were not enthusiastic about the tailor from East Tennessee. Although Nicholson had drafted resolutions, adopted by a large Columbia gathering, which backed Johnson's administration, the

---

<sup>2</sup>Washington Union, January 20, 1857.

<sup>3</sup>Ibid., February 4, 7, 12, 1857.

state convention had tendered him only half-hearted endorsement.<sup>4</sup>

Johnson had been hopeful of receiving a favorite son expression from the Tennessee state convention in 1856; but his move caught Nicholson unprepared and his efforts were defeated by the Brown-Pillow-Buchanan faction.<sup>5</sup> As mentioned earlier, Nicholson was actively seeking support for Pierce and was contemplating a nebulous race for the vice-presidency. After the convention had chosen to send uncommitted delegates, Johnson wrote Nicholson:

I know those who acted with you were not your friends then and not now. I confess coming from you as it did for the time I felt mortified and especially when my heart told me that I had been your friend through evil and good report, never faltering for a moment. You knew from 1835 up to the sitting of the convention in Term that I had been your fast and undeviating friend. I say what I feel and know to be true. Let it all pass until I see you some time when and where we can talk it all over.<sup>6</sup>

In 1857, with James C. Jones's senatorial term expiring, Andrew Johnson became the logical candidate. Although Jones had become a Democrat and campaigned for Buchanan, there was little likelihood of his being chosen by the party. If the Democrats were elected with a substantial majority in both houses of the general assembly--the state was gerrymandered in such a way that such a result could hardly be greatly anticipated--many Democrats, including Nicholson, looked for the

---

<sup>4</sup>Mary E. R. Campbell, The Attitudes of Tennesseans Toward the Union, 1847-1861 (New York, 1961), 83-84; Columbia Democratic Herald, August 25, 1855.

<sup>5</sup>Herschel Gower and Jack Allen, eds., Pen and Sword, the Life and Journals of Randal W. McGavock (Nashville, 1959), 345-46.

<sup>6</sup>Johnson to Nicholson, June 27, 1856, in Johnson Papers.

election of two senators, the second to fill Bell's place when his term ended in 1859. Actually, Nicholson believed his own chances of election in the event the Democrats controlled the legislature were good, and that Bell would resign before the termination of his term. By June, he realized he had a competitor within the party--Gideon Pillow, also from Maury, who based his qualifications on the fact that he had Buchanan's support while Nicholson had been a Pierce man. Aside from the embarrassment of being challenged by a fellow townsman, Nicholson was convinced he could defeat Pillow, who would have the support of the Nashville clique but commanded little popular strength.<sup>7</sup>

His campaigning with Johnson during the summer of 1857 for the election of Isham Harris as governor was construed by some Democrats as "pipe-laying" for his senatorial election. During the canvass, Nicholson urged Tennesseans to support the Buchanan administration and the Democrats, for failure to do so would result in a Congress dominated by the Republicans.<sup>8</sup> With the election of Harris in August, the Democratic party also won the legislature. Grateful Democrats elevated Johnson to the Senate on October 8 by a straight party vote over Neill S. Brown and laid plans to make their victory complete with a second election.<sup>9</sup>

---

<sup>7</sup>Campbell, Tennessee Attitudes, 91; Johnson to Sam Milligan, November 23, December 10, 1856, in Johnson Papers; Nicholson to Franklin Pierce, March 29, June 3, 1857, in Franklin Pierce Papers (Library of Congress); Nicholson to Pierce, November 9, 1857, in Nicholson Letters.

<sup>8</sup>Gower and Allen, Pen and Sword, 420; Nashville Union and American, July 28, 1857.

<sup>9</sup>Campbell, Tennessee Attitudes, 91; Tenn. Senate Journal, 1857-58, p. 38.

Vociferous protests emanated from the opposition, but the Democratic caucus met on October 26 to choose another nominee. On the first ballot Pillow led with twenty-two votes to Nicholson's twenty-one and scattered votes for other candidates. Finally, on the sixteenth ballot, Nicholson was nominated and no one doubted that Andrew Johnson's influence was the deciding factor.<sup>10</sup>

Though there were no signs that the 1845 election when Nicholson was also the caucus nominee might be repeated, delay could not be tolerated. W. C. Whitthorne nominated him the next day when the joint convention met. Among opposition tactics was an attempt to postpone the election until November 3 in order to give Bell sufficient time to answer interrogatories communicated to him. Both Bell and Nicholson had refrained earlier from answering such questionnaires until their nominations were assured. At this point Whitthorne interjected:

Sir, what man in Tennessee does not know the opinions of Hon. A.O.P. Nicholson? He has clomb her mountains and trod her valleys for lo! these many years, and he holds not a sentiment upon these subjects which every man in Tennessee does not know to-day.<sup>11</sup>

William H. Polk, who had supported Pillow in the caucus, promised to vote for Nicholson as the party nominee but wanted him to answer the interrogatories in order not to leave the party vulnerable in some future contest. When the postponement move was defeated, the Know-Nothings, now becoming known as the Opposition, resorted to speeches

---

<sup>10</sup>Oliver P. Temple, Notable Men of Tennessee (New York, 1912), 379; Gower and Allen, Pen and Sword, 438.

<sup>11</sup>Nashville Union and American, October 29, 1859.

on the unconstitutionality of the election, but their efforts succeeded only in delaying the election until after a noontime adjournment. In the afternoon session, which convened at three o'clock, Whitthorne was granted the floor to read Nicholson's answers to the interrogatories. After the Democrats declared their disinterest in any answers from Bell and another motion to postpone until October 29 was set aside, three legislators refused to vote. One of these left the hall and two were excused from voting, the one on scruples of constitutionality and the other on grounds that in his belief the election was a party fraud. By final count, Nicholson received a total of fifty-eight votes--seventeen from the senate and forty-one from the house--to Bell's thirty-five and ex-Governor Campbell's one.<sup>12</sup>

There were varying reactions to Nicholson's election. In January, 1858, his friend Barclay Martin was removed as mail agent and a Pillow supporter appointed, indicating presidential disappointment. But in general, at least among the Democrats in the state, it was noted with satisfaction and considered a just reward for some thirty years of arduous service to the party. The selection of two senators was a source of considerable pride for the party.<sup>13</sup> Nor were Nicholson's notable qualities of character, scholarship and ability overlooked when his success as a senator was predicted. The most glowing endorsement of his candidacy

---

<sup>12</sup>Tenn. House Journal, 1857-58, p. 92; Term. Senate Journal, 1857-58, pp. 78-81; Gower and Allen, Pen and Sword, 438-39; Nashville Union and American, October 29, 1857. For Nicholson's answers to the interrogatories, see Appendix F.

<sup>13</sup>Ibid.; Gower and Allen, Pen and Sword, 451.



appeared in the Washington Union immediately after the August general election when it became apparent that the Democrats could choose two senators. The editor, after quoting the Washington Star on Nicholson's capabilities, added:

As a professional writer, he has no superior in this country; . . . . As a statesman in the largest sense of the term, or as a speaker, whether before the masses or a deliberative body, Judge Nicholson enjoys a high and an enviable reputation. When to these rare and commanding gifts are to be added those qualities of the heart which impart a peculiar charm to intellect, we have given a few of the reasons only why it is that the numerous friends of Judge Nicholson in Washington and out of Washington, take such a warm and abiding interest in his personal welfare or political advancement.<sup>14</sup>

For the next sixteen months Nicholson was forced into quasi retirement as attempts to instruct Bell from the Senate were unsuccessful. In reality the legislature had a slim case on which to proceed against Bell and resorted to his vote on the Kansas-Nebraska Bill three years earlier. At that time Bell had stated he would resign if his course elicited dissatisfaction and by joint resolution of February 10, 1858, the legislature in effect requested Bell to redeem his pledge.<sup>15</sup> Yet as the Republican Banner pointed out, Tennessee's junior senator, Andrew Johnson, had never taken a public stand on the issue of the repeal of the Missouri Compromise, which the bill encompassed, and his idea of squatter sovereignty was the very antipode of his party in the state. The Banner charged Nicholson

---

<sup>14</sup>Washington Union, August 15, 1857.

<sup>15</sup>Tenn. Acts, 1857-58, Res. No. VI; Campbell, Tennessee Attitudes, 82-83, 92.

with favoring the repeal of the Missouri Compromise at President Pierce's behest and also with endorsing squatter sovereignty. When Bell presented the Tennessee resolutions in the Senate, he made a lengthy address in his own defense, scuffled verbally with Johnson, and in the end kept his seat.<sup>16</sup>

Because of Bell's defeat and the debates on the instructing resolutions, the Banner crusaded against Nicholson on every occasion. When the U. S. Senate had difficulty in electing a printer, an editorial entitled "Another Tennessee Statesman after the Spoils," charged that there was a plan afoot to continue him in that capacity until someone else could be selected. Choosing his words with skill, the editor observed, "We see that our quondam congressman and defunct financier of the Bank of Tennessee distinction, is seeking consolation in the public printing."<sup>17</sup> Quoting from the New York Herald, the Banner alleged that Nicholson had received \$256,000 as public printer exclusive of the post office account and binding contract, which were "fat little jobs by themselves."<sup>18</sup>

Nicholson had never been an advocate of the Missouri Compromise. He had never considered it practical or constitutional if that document were interpreted to indicate Congress had authority to legislate on slavery. At the Nashville Convention, after his stand for non-intervention, he had reluctantly supported the decision in favor of the compromise and

---

<sup>16</sup> Nashville Republican Banner, November 21, 1847, March 5, 9, 1858.

<sup>17</sup> Ibid., December 20, 1857.

<sup>18</sup> Ibid., January 17, 1858.



its extension. At a state convention in 1856 he had asserted in strong, bold language that the Missouri Compromise had been the South's first mistake, for had she stood firmly then, as she was now prepared to stand, submitting to no aggression, there would be no sectional controversy in 1856.<sup>19</sup>

The doctrine of popular sovereignty was put to a severe test in Kansas, and the debates over the Kansas constitution split the Democratic party in 1858 between the Southern-Buchanan wing and the Northern-Douglas faction. On top of this crisis, the country was caught in another financial panic. In an industrial economy, such as that rapidly developing in the North, a depression would naturally be more severe than in a region largely agrarian such as the South. The run on the New York banks in which some 70 per cent of the country's bank reserves were deposited caused all but one to close, and the resulting chain reaction forced the closing of banks across the country.<sup>20</sup> Tennessee Democrats had never relinquished the idea of returning to specie payment, and, at a state convention in September, 1858, quickly adopted a committee report relating to the banking crisis. Reaffirming their conviction of the imprudence of rechartering any existing banks, they also recommended the liquidation of the Bank of Tennessee as soon as its charter expired. The committee, composed of Nicholson, Andrew Johnson, J. K. Howard, Edwin Keeble, and S. A. Smith, urged immediate

---

<sup>19</sup>Nashville Union and American, January 10, 1856.

<sup>20</sup>Hofstadter, American Republic, I, 578-79.

currency reform to "insure sound circulating medium, convertible at all times into gold and silver."<sup>21</sup>

This was Nicholson's single contribution to Tennessee affairs from the time of his election to the Senate until the state Democratic meeting in March, 1859, where Harris was renominated for governor. He had been to Washington for the brief called session of the Senate, where he had been courteously introduced by his colleague Johnson, and had eulogized A. V. Brown, the postmaster general, who had died March 8.<sup>22</sup> For the first time since the non-intervention doctrine had been proposed in Tennessee, an endorsement of it was missing from the party platform. Ironically, the old Whig-Know-Nothing, now Opposition party adopted a plank in favor of popular sovereignty when it met March 29 to nominate John Netherland for governor. In line with the recommendations of the committee the previous September, the Democratic convention included among its resolutions a statement against paper currency and a stand for hard money, along with its approval of the Dred Scott decision, and of the Harris and Buchanan administrations. The results of the election, closer than in 1857, gave Harris a second term with a Democratic legislature, by reduced majorities, but seven of the ten congressmen-elect were Opposition candidates.<sup>23</sup> Nicholson had campaigned rather arduously, for it was well publicized that one of the objects of

---

<sup>21</sup>Nashville Union and American, September 23, 1858.

<sup>22</sup>Gover and Allen, Pen and Sword, 512; Cong. Globe, 35 Cong., 2 Sess., 1685, 1692.

<sup>23</sup>White, Messages, V, 89-97.

the Opposition was to oust him, along with Johnson, from the Senate.<sup>24</sup>

Disunion was closer than most dared to admit when Congress convened in December, 1859. Less than two months earlier, John Brown had dealt a physical blow at slavery at Harper's Ferry and his capture, hanging, and subsequent martyrdom blended fact with fiction, raising passions on both sides of the Mason and Dixon line. On the first day of the session, Virginia's Senator James Mason introduced resolutions calling for a congressional investigation into the Harper's Ferry incident.<sup>25</sup> The Tennessee legislature, equally inflamed, passed five resolutions, one of which read:

Resolved . . . That we recognize, in the recent outbreak at Harper's Ferry, the natural fruit of the reasonable "irrepressible conflict doctrine," put forth by the great head of the Black Republican party, and echoed by his subordinates; and it becomes the imperative duty of national men of all parties throughout the Union, to announce to the world their sense of its infamy, and to unite in crushing out its authors as traitors to their country and as deadly enemies to the public peace, the rights of the States, and the preservation of our Republican Institutions.<sup>26</sup>

This resolution, along with one other of the five, Nicholson introduced into the congressional record on January 30, 1860, in one of his two major addresses.<sup>27</sup>

Before starting his remarks, Nicholson presented the Tennessee resolutions to serve as a warning to Northern conservatives that the

---

<sup>24</sup>Gower and Allen, Pen and Sword, 529; N. G. Taylor to T. A. R. Nelson, August 10, 1859, in Nelson Papers.

<sup>25</sup>Cong. Globe, 36 Cong., 1 Sess., 1, 5.

<sup>26</sup>Campbell, Tennessee Attitudes, 95; Tenn. Acts. 1859-60, Res. No. V.

<sup>27</sup>Cong. Globe, 36 Cong., 1 Sess., 623-28.

South and Tennessee considered the "irrepressible conflict" thesis as treasonable and to call upon reasonable men to unite to preserve the peace. Such Republicans as Seward saw an irrepressible conflict in the existence of antagonistic labor systems. Desiring to expose this hypothesis as a subterfuge, Nicholson reviewed the prevalent economic factors. Why, he questioned, should the two economic systems, based on cotton in the South and manufacturing in the North, be hostile rather than complementary? Slave labor and labor capital were the basis of southern economy and were suited to the environment. The production of cotton was useful to the manufacturing North as a raw staple to be utilized by free labor in producing materials necessary to the South; thus the two depended on each other. While conceding that free labor was appropriate for the northern economy, he asked why the South could not be allowed to entertain in peace its belief in slave labor as necessary to the region. He launched into the argument that concentration of wealth and profits oppressed free labor, which now clamored for relief. By a substitution process of self-protection, capitalists in turn warred against slave labor as the cause of free labor's distresses. To refute the contention that slavery impoverished the South, or that the South was poorer than the North because of its labor system, Nicholson quoted statistics from the 1850 census returns.<sup>28</sup> His next remarks he directed at William H. Seward, whom he considered responsible for the rapid growth of northern abolition sentiment. Quoting him that "The white man needs this continent

---

<sup>28</sup>Ibid., 624.

to labor upon" and paraphrasing him that to get it the white man will invade the strongholds of slave labor, Nicholson alluded to the cause and effect relationship between Seward's figurative invasion and John Brown's actual invasion. In his personal opinion, both invasions would fail for lack of manpower, and he asked further:

In whose name, then, and on whose authority, does he speak when he declares that "free labor [is] organizing itself to assume the Government of the Republic?" Not in the name of free labor in the South; not in that of the Constitution-loving free labor of the North; but in that of the Republican organization . . . speaking by the mouth of its great leader, which proclaims a war of extermination against slave labor . . . and which presents the alternative of peaceful submission or violent enforcement.<sup>29</sup>

Nicholson's constitutional argument probed beyond the inherent recognition of slavery to the expressed provision of the separation of religion and state. If a man substituted a religious conviction for constitutional law, he became twice guilty of violating the Constitution, "first by making it his object to abolish slavery in States where it legally exists; and second, in making his religious conviction the test of his political action." Here, he declared, was the real conflict, and if the Constitution was violated from religious beliefs then there would be an irrepressible and fatal conflict. That the South was more sinned against than sinning, he had no doubt:

Whilst the South has believed that slavery, as it exists in the southern States, is morally and politically right, we have not sought to make that a reason for extending it into the Territories. We have maintained that the Constitution recognizes slaves in the South as property, entitled to like protection with all other property;. . . . We have

---

<sup>29</sup>Ibid., 623.

been ready to abide by and acquiesce in the adjudication of these questions by the Supreme Court, and, since, their decision in our favor, we rely upon it as the highest constitutional evidence that our policy has been neither unreasonable, unjust, nor aggressive. We have never exacted from our friends in the North an admission of the correctness of our convictions as to the morality of slavery. We have claimed the right to exercise the full freedom of conscience on that as on all other questions of morality, and we have cheerfully conceded the same freedom to all others.<sup>30</sup>

Nicholson always gauged his remarks with the understanding that the northern wing of the Democratic party was not in collusion with the Republicans, who, he charged, had broken faith with the rest of the country. He referred to the statement of Senator Fessenden, of Maine, that the Republican party had been organized to prevent by "force of public opinion and private action" the extension of slavery into the territories. Then he drew an analogy between the statement and the settlement of Kansas where such public opinion and private action in the form of aid societies and Sharp's rifles had validated the Republican aim. To Nicholson the difference between the abolitionist and the Republican was of time and degree only, with the abolitionist exerting moral and physical force for immediate extermination of slavery and the Republican, by a slow starvation process, biding his time to add new free states for abolition by constitutional amendment. Warning the North that a strictly sectional, militant party could ultimately break up the Union, he concluded that however much Tennessee loved the Union and condemned disunionists his state would resist any aggression

---

<sup>30</sup>Ibid., 626.



which was inconsistent with the Constitution.<sup>31</sup>

In his second major address, Nicholson, at Johnson's request, defended the Homestead Bill. Since 1846, when he first introduced such legislation in the House of Representatives, Andrew Johnson had continuously resubmitted the measure. By 1859, the "Homestead," while always somewhat odious to the southeastern slave states, had become the victim of the present sectionalism. Free land for free labor, not slave, caused southern senators to shy away still further from support. The acquisition of Cuba had been the aim of the Democrats since the days of Polk and Pierce; and abolitionists and free-soilers, favoring Johnson's measure, damaged its chances by pitting it against the Cuba bill.<sup>32</sup>

On March 19 Johnson moved consideration of the bill and Nicholson rose to speak for it.<sup>33</sup> Since the House had already passed the bill with some amendments, Nicholson first qualified his support of the bill to its original form by objecting to additional provisions of the House and stating his intent to confine his remarks to the Senate version. He reviewed the history of public lands, from those ceded at the close of the Revolution to those acquired by later purchase. While the purpose of the territorial additions served to create new states, the earlier cessions had also provided proceeds to help fund the Revolutionary debt. He noted that after General Jackson had urged the propriety

---

<sup>31</sup>Ibid., 627-28. The Nashville Union and American of February 7 called this a "calm, dispassionate, unprejudiced argument" and Nicholson's "ablest effort."

<sup>32</sup>Robert W. Winston, Andrew Johnson: Plebeian and Patriot (New York, 1928), 130-37.

<sup>33</sup>Cong. Globe, 36 Cong., 1 Sess., 1219-23.



of abandoning the revenue principle, later purchases contained no such provisions. In any case, as Nicholson saw it, the public domain was to be regulated by Congress for the common good. He refuted the two billion dollar estimates made by those who argued that the land constituted the basis of a high public credit and should be held in reserve. He now reiterated his earlier position that the land under cultivation would ultimately return more revenue to the government. By increasing exports and imports, in like proportion, and by offering employment to the "laboring man in crowded States where competition for employment has reduced his wages to a scanty subsistence," the Homestead would promote national prosperity.<sup>34</sup> To those favoring distributional schemes he gave no comfort, for he felt that these were a violation of trusteeship as well as of the constitution. But he would not quarrel with the practice of bestowing grants, by common consent, for internal improvements such as railroads, since these tended to enhance the value of the lands and served as inducements to settle them. He estimated that twenty thousand families would be encouraged annually to settle homesteads, and this number would not constitute a drain on any old communities. Pioneer life was difficult and only those who were already destitute would find the courage to migrate.<sup>35</sup>

By this time Nicholson could not fail to recognize that the measure would appeal mostly to northerners, but he was convinced that new states would be admitted with or without homestead. Those who reaped the benefits of homestead would be no less opposed to slavery

---

<sup>34</sup>Ibid., 1223.

<sup>35</sup>Ibid., 1222.

in the west than in the east, but he hoped that as pioneers, "withdrawn from constant contact with professional agitators," they would be more moderate in regard to slavery. For this reason he promised not to withhold his support on the grounds of sectionalism.<sup>36</sup> A few days later Senator Green, of Missouri, asserted that Nicholson admitted the homestead would benefit anti-slavery societies. This Nicholson denied: "I said the natural course of things would carry more men from the free States into these territories than from the slave States."<sup>37</sup>

The homestead bill passed the Senate forty-four to eight over the negative vote of southern senators. Yet after Buchanan's veto, the necessary two-thirds could not be mustered.<sup>38</sup> This news was gratefully received by the opposition press in Tennessee, which referred to the measure as an abolition bill "conceived in iniquity and brought forth in sin."<sup>39</sup>

Sectional difficulties augmented debates to the extent that little constructive legislation could be passed. On February 2, 1860, Senator Jefferson Davis, of Mississippi, introduced a series of resolutions to protest personal liberty laws passed in the North and to demand additional guarantees for slave property everywhere. Nicholson and Johnson

---

<sup>36</sup>Ibid., 1223.

<sup>37</sup>Ibid., 1555.

<sup>38</sup>Ibid., 2043, 3272.

<sup>39</sup>Knoxville Tri-Weekly Whig, July 12, 1860, clipping in T. A. R. Nelson Scrapbook (Lawson McGhee Library, Knoxville), VI, 132.

both favored the resolutions.<sup>40</sup> On January 25, when Albert Gallatin Brown's resolutions to protect slave property in the territories had been vehemently debated between Wilson, of Massachusetts, and Clingman, of North Carolina, Nicholson twice attempted to move a postponement and cut off debate.<sup>41</sup>

Committee assignments had been made at the special session in March, 1859, at which time Nicholson had been appointed to the committees on revolutionary claims and on naval affairs. He made one report from the claims committee to recommend the passage of a relief bill which would cover not only the original claim but also interest amounting to nearly twice the claim. For this reason, and for the reliance on the credibility of witnesses after forty years, the bill merited more than the usual discussion with the Senate finally striking the interest to pay only the principal sum. The Senate did not wish to establish a precedent, and the bill passed over Nicholson's vote.<sup>42</sup>

While Congress was sitting, South Carolina and Mississippi unsuccessfully inaugurated a move for a southern states convention. In January, 1860, Alabama drafted a platform which rejected popular sovereignty, demanded adherence to the Dred Scott decision including the recognition of the rights of slaveowners in the territories, and claimed that the election of a Republican president was justification for secession. By the time the Democratic convention met in Charleston to nominate a

---

<sup>40</sup>Cong. Globe, 36 Cong., 1 Sess., 2343-52; Washington Constitution, June 19, 1860, clipping in Nelson Scrapbook, IX, 79-80.

<sup>41</sup>Cong. Globe, 36 Cong., 1 Sess., 576-78.      <sup>42</sup>Ibid., 1686.

presidential candidate, this platform had been adopted by South Carolina, Florida, Mississippi, Alabama, Texas, and Arkansas. They were determined that the northern wing of the party would not dictate Douglas' nomination.<sup>43</sup> Tennessee, its delegates pledged in a favorite son nomination for Johnson,<sup>44</sup> endeavored to bring harmony in the convention by proposing a resolution pledging protection of slavery in the territories and adherence to the court's decision. Both Johnson and Nicholson urged unification around the candidate selected. Before the balloting actually began most of the states-rights delegates had withdrawn over the failure to secure a platform suitable to their position. Unable to select a candidate, the convention adjourned to reconvene in Baltimore in June. Southerners who planned to attend did so in the expectation that the Tennessee resolution would be adopted. Discord again marred the proceedings and with the withdrawal of several states, mostly southern, Douglas was nominated. On the last day of this rump convention, June 23, a second convention was held in Baltimore to nominate Breckinridge.<sup>45</sup>

---

<sup>43</sup>Dwight L. Dumond, The Secession Movement, 1860-1861 (New York, 1931), 22-38.

<sup>44</sup>During the state convention there were suggestions that Nicholson's friends would try to get the delegation to favor Nicholson, and at least one newspaper, the Memphis Avalanche, urged that nomination. Johnson's son, Robert, was particularly solicitous that his father know such maneuverings were afoot and further "Whenever Mr. Nicholson gets from under the wing of your protection, he sinks, never to rise again." Robert Johnson to Andrew Johnson, January 22, 1860, and W. M. Lowry to Andrew Johnson, January 27, February 24, 1860.

<sup>45</sup>Dumond, Secession Movement, 55-64, 77-91; Campbell, Tennessee Attitudes, 117-18.

Johnson and Nicholson joined the Breckinridge Democrats and campaigned, often together, throughout the summer and fall. There were Douglas Democrats and John Bell Constitutional-Unionists canvassing also. All three groups attacked the Republicans, who had no organization in Tennessee and polled no votes. Bell's supporters in Tennessee were the most enthusiastic for their candidate. Johnson, having no affection for Douglas, was only lukewarm for Breckinridge. Actually, he probably belonged more in the Douglas camp along with Unionists Harvey M. Watterson and W. H. Polk.<sup>46</sup> The Memphis Appeal, a Douglas organ, announced the appearance of Johnson and Nicholson in that city by commenting:

We can't see why they should be traveling together, or rather why Nicholson should be following Johnson about wherever he goes. Certainly no one would suppose they belonged to the same party to compare their speeches.

After noting that Johnson was advocating measures and principles rather than the man and stating his embarrassment to find himself fighting other Democrats, the editor turned to Nicholson: "The Hon. A. O. P. Nicholson afterward came forward and spoke some time, making the stereotyped sectional appeal so common with his party and orators." As a parting suggestion, the Appeal urged Nicholson to re-adopt the Union sentiment he had expressed when he became editor of the Washington Union.<sup>47</sup> When Nicholson and Johnson spoke at Cleveland, Tennessee, the Banner remarked that the two gentlemen were laboring with such zeal, not so much to elect Breckinridge,

---

<sup>46</sup>Ibid., 125-27.

<sup>47</sup>Quoted in Nashville Republican Banner, October 20, 1860.

as to secure their own continuance in the Senate.<sup>48</sup>

On the eve of the election, it was apparent that the divided Democratic vote and the Bell vote would culminate in the election of the Republican candidate, Abraham Lincoln. The lower South had already warned that such a result would mean secession. Clearly, neither side had really weighed the consequences.<sup>49</sup> As early as August Johnson had anticipated such a result, had so communicated to Nicholson, and on the eve of the election was still interested in fusing the Breckinridge and Douglas electors.<sup>50</sup>

When Congress convened December 3, 1860, there was still hope that something in the way of compromise or constitutional amendment could be effected. Union sentiment was strong in the border states. In Tennessee throughout November and December numerous Union meetings had been held, and a considerable portion of the press pleaded for Union and compromise. The Nashville Banner reprinted Nicholson's anti-secession speech of a decade earlier.<sup>51</sup> From Washington on December 8, Nicholson addressed a letter to the editors of the Union and American, in which he reviewed the national situation urging a wait-and-see attitude on the part of Tennessee and the other border states. Although South Carolina had not yet seceded, he recognized that dissolution of

---

<sup>48</sup> Ibid., October 20, 28, 1860.

<sup>49</sup> Hofstadter, American Republic, I, 583-84.

<sup>50</sup> Campbell, Tennessee Attitudes, 130; Johnson to Nicholson, August 23, 1860, in Johnson Papers. Johnson had already taken a stand for the Union--Lincoln or not. Governor Harris, according to Johnson's biographer, conferred with Nicholson who he hoped could dissuade Johnson from making this declaration. Winsten, Andrew Johnson, 150-51.

<sup>51</sup> Nashville Republican Banner, November 17, December 6, 1860.



the Union was inevitable and predicted that South Carolina, followed by Florida, Georgia, Alabama, and Mississippi, would be withdrawn by March 4, 1861. Preventive measures in the form of guarantees voluntarily offered by the North he felt would not be forthcoming. Should southern senators absent themselves on March 4, the installation of the new administration would produce a Republican majority in Congress. With other conservatives he advocated a union of the border states to mediate for additional guarantees for the South while avoiding hostilities as long as possible. To Tennesseans, who he reasoned wanted no hasty or inconsiderate action, he proposed:

Let us move in the perilous crisis with firmness and determination, but not with hot haste. The responsibility upon the middle or border States is greater--on none greater than on Tennessee. If by our prudence and firmness we can be instrumental in preserving the Union, or in so maintaining peaceful relations, that a future reconstruction of a government embracing the whole or the largest portion of the present Confederacy will be practicable, we will have been fully compensated for any sacrifice of feeling we may now make in resisting the impulse to follow hastily the example of our more Southern sisters.<sup>52</sup>

The Banner, less bellicose than its neighbor the Union, also printed the letter and lauded Nicholson for his counsel for moderation.<sup>53</sup>

During December both Tennessee senators made major addresses in which their differences were clearly exposed. Johnson, in a two-day oration December 18 and 19 following Senator Wigfall's "Cotton is King" speech, assailed both the North and the South. No egalitarian where the Negro was concerned, he attacked the North for the personal liberty laws

---

<sup>52</sup>Nashville Union and American, December 12, 1860.

<sup>53</sup>Nashville Republican Banner, December 14, 1860.



existing in many of those states and for its assaults on the southern institution. But he stood firm against the right of secession, declaring that Lincoln's election was not just cause to break up the Union.<sup>54</sup> Nicholson's speech came on December 24, 1860, when the bill to admit Kansas was under debate.<sup>55</sup> He had not planned to discuss that issue but had scheduled the time previously. In this address, he definitely identified himself with the southern wing of the Democratic party, but he took time to praise the northern wing for buttressing southern rights for so many years, averting such a crisis until the present time. After recalling Senator Wade's earlier remarks that the South's course rested on groundless suspicions concerning the intentions of the Republican party, Nicholson admitted there did exist in the South the conviction that the Republicans were mortal enemies. This conviction, he argued, was not based on imaginative evidence but on the words of that party's own leaders, and he quoted from some of Wade's speeches to prove his point. Southern fears had been further aroused, he maintained, by the central idea of the Republican party, elaborated in the party platform, which would grant equality to all men--slave and master. Adopting this premise for the territories was just the beginning for with the control of the presidency and Congress, and with the admission of additional free states, the Republicans would pursue their course to exterminate slavery where it had existed. The South would be powerless

---

<sup>54</sup>Winsten, Andrew Johnson, 164-66.

<sup>55</sup>Cong. Globe, 36 Cong., 2 Sess., 185-89.

to prevent constitutional amendments abolishing slavery. This, in Nicholson's estimation, made Lincoln's election "tantamount to a declaration of war" against the institution so vital to the political, social, and economic well-being of the South. He doubted not that Lincoln believed in the constitution as he interpreted it, but his word and record revealed no inconsistency with the "central idea" of his party--the "ultimate extinction" of slavery.<sup>56</sup>

This speech, admittedly sectional in tone, was nonetheless a reasonable plea for the North to understand the basis of southern fears. A numerically stronger North would have the effect of rendering the South powerless in Congress although its members were all present and voting. All of the South demanded new and unalterable constitutional guarantees. He regretted that the cotton states acted precipitously instead of meeting in convention to consider the means for obtaining redress. This, he believed, would have served as a moral force on the North. As to the sentiment in his own state, Nicholson interpreted it as demanding guarantees which embraced the principles of property as postulated in the Dred Scott decision. His course was clear, for

Acting upon this conviction as to the predominant sentiment of my State, agreeing fully as it does with my own, I shall earnestly sustain every effort made here to secure such guarantees; and, failing in that, I will zealously cooperate in other measures that may be resorted to in the southern States for accomplishing the same end. Without indulging in profuse professions of devotion to the Union, it is enough for me to say that I shall exhaust all reasonable efforts for its preservation upon terms that will give assurance

---

<sup>56</sup>Ibid., 185-87.

that it will hereafter secure to all sections, and every State and every citizen the enjoyment of all their just rights; and when these have failed, I shall have no hesitancy in choosing secession or revolution, rather than acquiescence in or submission to the domination of sectionalism.<sup>57</sup>

Again, in an appeal to the border states, Nicholson asked them to meet in consultation, to mediate and to request the additional guarantees necessary. He still expressed the hope that secession was not irrevocable, by suggesting that the course taken by the cotton states was proposed to awaken the North rather than to represent "disunion per se."

As to the course of the federal government toward South Carolina, he advised against coercion to exert federal authority, for such action would precipitate war. The federal government as a union of sovereign states was not formed by force nor could it be so maintained. Should all peaceful means be exhausted, he recommended that the South be allowed to separate in peace. A peaceful dissolution, he believed, left some hope for a future reconstruction.<sup>58</sup>

Nicholson's counterpart in the House, J. H. Thomas, also of Maury, expressed similar opinions that Tennesseans, believing in the right of revolution if not in secession, would join the South should a suitable adjustment not be made. The South asked only for "equality in the Union, or independence out of it."<sup>59</sup>

Senator Johnson's speech had evoked considerable reaction, laudatory and abusive, both in Tennessee and elsewhere, but the paucity of

---

<sup>57</sup> Ibid., 188.

<sup>58</sup> Ibid., 188-89.

<sup>59</sup> Campbell, Tennessee Attitudes, 164.

comment on Nicholson's makes it more difficult to assess its effect.<sup>60</sup>

A partisan view of his address, copied from the New York Tribune, appeared in the Banner. The speech was characterized as

vastly inferior in matter and tone to that of his colleague, Andrew Johnson. It was a halting performance throughout, half secession and half union, with a pro-slavery direction, showing him to be under the manipulation of Messrs. Slidell, Davis, and the Disunion managers, who started this movement as a political game, but are now unable to control their own work, when it has become desperate and dangerous.<sup>61</sup>

The Crittenden proposals, referred to special committees in both houses, would have met some southern demands, including the re-establishment of the Missouri Compromise line and a constitutional amendment barring any future congressional interference with slavery in the southern states. The extremists in both committees joined to outvote the moderates and the compromise was stalemated.<sup>62</sup>

During January, 1861, Nicholson was active in attempts to implement a plan, endorsed by Crittenden and Breckinridge, for a border state convention to meet in Baltimore on February 13. A petition, circulated by Nicholson among the senators and congressmen of Delaware, Maryland, Virginia, Tennessee, North Carolina, Kentucky, and Missouri, asked them to request their state legislatures to consider the convention and

---

<sup>60</sup>There are numerous letters in the Johnson Papers. No such letters exist for Nicholson and copies of the Nashville Union and American, which would report and comment on his speech, are unavailable. Mrs. Campbell suggests that Nicholson probably received few letters because his speech did not violate prevailing sentiment in Tennessee. Ibid., 158.

<sup>61</sup>Nashville Republican Banner, December 29, 1860.

<sup>62</sup>Hofstadter, American Republic, I, 588; Dumond, Secession Movement, 160-61.

select delegates. The plan probably aborted after the North Carolina senators failed to sign pending a call for a state convention, and the Virginia senators did likewise.<sup>63</sup> Ultimately, Virginia issued a call for a peace conference which met in Washington on February 4 to adopt proposals similar to Crittenden's. Both suggestions for compromise were discussed on the last day of the Senate session, at which time Nicholson indicated his preference for the adoption of the Crittenden resolutions while Johnson voted for the acceptance of those of the peace conference.<sup>64</sup>

Sometime during this critical period Nicholson had prepared but apparently not presented six resolutions which would protect slavery where it existed, including a recognition by free states of the institution with a pledge of faith not to obstruct its legality. In asking for "a return to that spirit of fraternal forbearance and toleration which characterized the conduct of the fathers of the government," the resolutions declared that the course pursued by sectional organization was a violation of the South's constitutional rights.<sup>65</sup>

Nicholson remained in Washington throughout the special session called immediately after Lincoln's inaugural and lasting until March 22,

---

<sup>63</sup>Diary of Thomas Bragg, typescript, in the Thomas Bragg Papers (Southern Historical Collection, University of North Carolina Library).

<sup>64</sup>Dumond, Secession Movement, 227-28; Cong. Globe, 36 Cong., 2 Sess., 1405.

<sup>65</sup>Undated draft in Nicholson's hand in Nicholson Family Papers. See Appendix G.

1861. As both he and Johnson boarded at the Kirkwood House and had been political intimates for over twenty years, no doubt each tried to influence the other's position.<sup>66</sup> Outside of East Tennessee, Nicholson probably represented the attitudes of the majority in the state. Yet the course of each senator is readily understood. Johnson came from upper East Tennessee, a mountainous region with few large farms. In his county there were only 307 slave owners with an average of four slaves. Nicholson, on the other hand, came from an area of landed-gentry. Maury County had 1500 slaveholders; 492 of these held ten or more slaves.<sup>67</sup>

On February 9, pursuant to a call by the legislature, Tennesseans went to the polls to vote on the calling of a convention to consider what action the state should take. The vote was decidedly for remaining in the Union--70,000 voting against a convention and 58,000 for. At the same time, the Tennessee electorate voted for a slate of Union delegates in the event a convention was held. A breakdown on the vote for convention revealed that East Tennessee was nearly four to one against, West Tennessee nearly three to one for, and Middle Tennessee more evenly balanced with 1382 majority against a convention. In Nicholson's Maury County the vote was 2145 for a convention to 628 against.<sup>68</sup>

---

<sup>66</sup>Cong. Globe, 36 Cong., 2 Sess., 1433; Winston, Andrew Johnson, 167; William H. Boyd, comp., Boyd's Washington and Georgetown Directory (Washington, D. C., 1860), 230.

<sup>67</sup>Campbell, Tennessee Attitudes, 256-59. These statistics are based on the 1860 census.

<sup>68</sup>Ibid., 175-79; Nashville Patriot, March 7, 1861; White, Messages, V, 271-72.



Nicholson journeyed home at the end of March and spent much of his time, until the firing on Ft. Sumter, pursuing his border state union idea with speeches and letters. He considered Lincoln's war proclamation unconstitutional.<sup>69</sup> Moreover, he was surprised to discover that his old Democratic friends in the North, including Pierce and Cushing, completely sustained Lincoln in his coercive policy and entertained no doubts concerning its constitutionality. Writing to Charles Greene, of Massachusetts, he was deeply grieved and appalled that there were no "sober second thoughts" and that the North seemed to "be seized with a phrenzy that demands to be appeased by blood." By this time he was firmly convinced that the North had been misled as to Tennessee's real position, both by the course of his colleague and by the anti-convention vote in February. He also thought that the North had counted too heavily on the neutrality of Virginia, North Carolina, Kentucky, possibly Maryland and even Illinois. To Greene, he repeated his opinion that the state as a sovereign entity had a right to resist oppression and to resort to revolution.<sup>70</sup>

Most conservatives in Tennessee shared this view. They had hoped to retain the status quo, had favored the Crittenden proposals, and waived

---

<sup>69</sup>Nicholson to T. A. R. Nelson, September 9, 1872, in Nelson Papers. This letter, giving Nicholson's pre-war views, was written as a result of possible federal action to remove any former Confederates who were holding state office. See Appendix H.

<sup>70</sup>Nicholson to [Charles G.] Greene, May 5, 1861, in Nicholson Letters. Mrs. Campbell identifies the recipient as James Green, senator from Missouri. Campbell, Tennessee Attitudes, 252, fn. 72. Clearly, this is to Charles Greene, former editor of the Boston Post and a member of the Pierce cabal. Nichols, Democratic Machine, 47, 163, 175.



any endorsement of the doctrine of secession. Separation could only be regarded in revolutionary terms. After the firing on Sumter a number of these men, including John Bell and Cave Johnson, had urged the governor to refuse to send troops for suppression of the rebellion and to resist by force of arms if it became necessary. When they realized neutrality could no longer be maintained--that Tennessee could not remain independent or unite in a central states confederation--they recommended disunion and affiliation with the southern Confederacy.<sup>71</sup>

Nicholson considered reconciliation impossible after Lincoln's proclamation, but he opposed originally any attempts to raise an army in Tennessee to be used against the federal government until the people of the state had a chance to vote whether they wished to withdraw from the Union. He thoroughly believed in their sovereign right to abrogate by popular demand all ties with the Union, however, and not be guilty of treason in resisting military operations.<sup>72</sup> While the legislature was sitting in secret session, a state Southern Rights convention was held in Nashville. At this time Nicholson made a forceful appeal to all present to accept the guidance of the legislature, in authorizing the governor to raise troops for a provisional army, and to vote against submission.<sup>73</sup>

---

<sup>71</sup>J. Milton Henry, "The Revolution in Tennessee, February, 1861, to June, 1861," Tennessee Historical Quarterly, XVIII (1959), 99-119; White, Messages, V, 273.

<sup>72</sup>Nicholson to T. A. R. Nelson, September 9, 1872, in Nelson Papers; Nicholson to Isham G. Harris, June 24, 1861, in Nicholson Letters.

<sup>73</sup>Nashville Union and American, May 12, 1861; White, Messages, V, 319-21.

After Tennessee voted to separate, he drafted a letter to Governor Harris, declaring his tacit compliance in the course adopted by the people and the legislature:

Our people have asserted no new or doubtful theory of government--they have resorted to no controverted doctrine of constitutional construction--but they have appealed in the most deliberate and solemn manner practicable to a fundamental, unalienable, inherent and sacred right--the right of self-defense and of revolution.<sup>74</sup>

After Tennessee's declaration of independence, he made no attempt to reach Washington for the special session of Congress which convened in July, 1861.

By resolution on July 11, 1861, Nicholson, along with Mason and Hunter of Virginia, Clingman and Bragg of North Carolina, Sebastian and Mitchell of Arkansas, and Hemphill and Wigfall of Texas, was expelled from the Senate by a vote of 32 to 10. A substitute motion to strike the names of the missing senators from the roll and declare their seats vacant was defeated 32 to 11. The resolution implicated these men in the "conspiracy for the destruction of the Union and Government" by their failure to "advise the Government of its progress or aid in its suppression." Andrew Johnson voted with the minority. During the discussion James Bayard (Delaware) noted that the senators thus named were acting with their states in a revolutionary process, and he was unable to condemn them individually. Two of them, Milton S. Latham (California) commented, never endorsed the right of secession, but

---

<sup>74</sup>Nicholson to Isham G. Harris, June 24, 1861, in Nicholson Letters.

thought it improper once their state seceded to re-occupy a U. S. Senate seat.<sup>75</sup>

In a rebuttal to the Senate's action, Nicholson printed an article on state sovereignty in the Nashville Union and American. Beginning with an historical review of the position of the thirteen colonies, later states, as separate, distinct sovereignties, he moved to the formation of the government under the Constitution. "From the beginning to the end of the movement for a Constitution, every step was taken by the States as sovereignties," Nicholson noted, with each state delegation voting as one. Ratification was by each separate state. When North Carolina and Rhode Island failed to ratify immediately, they continued as separate, independent sovereignties. He defined sovereignty as the supreme power which belongs "alone to the people" with the government to whom the people have delegated its powers acting merely as agents or trustees. This, he felt, was a pertinent distinction. "The idea of communicating sovereignty to an agent is an absurdity," he continued, "because sovereignty can exist alone in the people according to our system of government." To support his contention that the government was dependent "every hour of its existence" on the voluntary action of the states, he referred to the composition of the Senate, "the great conservative wheel in the machinery." This body could conduct no business without a quorum and for this they are dependent upon the action of the state legislatures. In other words, the Senate was subjugated

---

<sup>75</sup>Cong. Globe, 37 Cong., 1 Sess., 62-64. The Nashville Press and Times in 1866 stated that Nicholson petitioned the Senate for compensation for the period from his retirement in March until his expulsion. Quoted in Union Flag (Jonesboro), January 19, 1866.

to the people of the separate states.<sup>76</sup>

To justify the South's course, Nicholson now endorsed the compact theory and the right of a state to renounce the compact with impunity. Modifying his earlier belief in the right of revolution, he compared it with the right of renouncing the compact:

the former is not a perfect right until the revolution is accomplished and acknowledged by their sovereignty; the latter is perfect whenever the source of the sovereignty, the people, makes the renunciation. The one is the successful resistance to sovereignty; the other is the rightful exercise of sovereignty.

Of Lincoln's proclamation, he noted that it had extinguished "the last spark of Unionism" in Tennessee. Since a majority of 60,000 "in the fullest vote ever given by the State," had decided on June 8 to withdraw from the Union, "citizens of Tennessee owe no further allegiance to the United States." By concurring in the sentiment of his state, he could not be guilty of rebellion.<sup>77</sup>

This was the nadir of Nicholson's career. He had no place in either government--federal or confederate. Although he had communicated to Harris his acquiescence in the right of the people to separate from the Union, his course prior to the mandate of June 8 had not been satisfactory to the more ultra southern leaders, and his services were not requested by the Nashville government. Federal authorities twice imprisoned him, in 1862 and again in 1865, as a southern sympathizer.<sup>78</sup>

---

<sup>76</sup>Nashville Union and American, August 8, 1861.

<sup>77</sup>Ibid.

<sup>78</sup>Nicholson to Abraham Lincoln, March 28, 1865, copy, in Nicholson Family Papers. See Appendix I.

His personal losses, like those of his class and station in the South, were exorbitant. Of his three sons who served the Confederacy, one was killed in Georgia and another captured and held at Johnson's Island, Ohio, for more than a year and a half.<sup>79</sup>

In March, 1863, after the fall of Forts Henry and Donelson, Johnson was appointed military governor of Tennessee; he left immediately for Nashville with instructions to crush the rebellion and to set up an experiment in state reconstruction.<sup>80</sup> During that same month the Federal troops reached Columbia and occupied it until September. A correspondent of the New York Times who followed Johnson to Nashville to view the reconstruction process reported that there were a number of able and prominent men who had indicated a willingness to help in the reconstruction. Nicholson, Cave Johnson, William B. Campbell, William H. Polk, and William B. Stokes were named as having been unionists. Calling Nicholson a "moderate, conservative man, opposed to nullification" who had deferred to the state's action in not returning to the Senate, the reporter further noted that Nicholson had taken no part in the rebellion. A Baltimore friend had written to the Times of Nicholson's desire to aid in the restoration.<sup>81</sup>

---

<sup>79</sup>By the 1860 census Nicholson had real estate valued at \$80,000 and a personal estate worth \$50,000. 1860 Census, Tennessee, Maury County, pp. 69-70. Andrew J. Nicholson, aged 18, was killed at Resaca, Georgia, and A. O. P. Nicholson, Jr., was held at Johnson's Island. Nicholson Family Papers; A. O. P. Nicholson, Jr., to Andrew Johnson, September 11, 1863, December 25, 1864, in Johnson Papers.

<sup>80</sup>Winsten, Andrew Johnson, 223-24.

<sup>81</sup>Quoted from New York Times in Seventh Brigade Journal (Columbia), April 8, 1862. The Baltimore friend was probably John Kettlewell, a newspaper man and a frequent correspondent of Nicholson's during the Pierce days.

In spite of such professions, Nicholson was arrested and imprisoned in the summer of 1862 by General James Negley, in command of the Federal troops occupying Columbia. Feeling that he could not conscientiously sign the oath presented to him, Nicholson chose banishment rather than further imprisonment and was ordered south beyond Union lines to remain for the duration of the war. He spent most of the next two years around Florence, Alabama, probably staying with some of Mrs. Nicholson's relatives, and did little in the way of war effort except to make two or three speeches.<sup>82</sup> His lack of civil or military connections obscures most of this period of his life. Although the Confederates held Columbia from September, 1862, until they were withdrawn to support Bragg at Chattanooga in July, 1863, Nicholson made no attempt to return home. However, when Hood liberated Columbia during his Franklin-Nashville campaign of November, 1864,<sup>83</sup> he decided to submit to federal authorities and stay in Columbia with his family. The kindly way in which Johnson had received Mrs. Nicholson when she called on him sometime in 1864 motivated Nicholson to request that he be allowed to remain, unmolested, without requiring him to "enter into bonds which are revolting to my feelings," while at the same time he indicated his willingness to assume any obligations "which legitimately attach to a non-combattent [sic]

---

<sup>82</sup>Nicholson to T. A. R. Nelson, September 9, 1872, in Nelson Papers; Gower and Allen, Pen and Sword, 664. There is no record of these speeches. McGavock wrote in his journal of August 21, 1862: "Reached Montgomery this morning and met at the hotel A O P Nicholson--Judge Martin Mr. Sykes en route for Chattanooga." Ibid.

<sup>83</sup>Maury Democrat, April 3, 1919.

citizen of a subject country."<sup>84</sup> Before receiving an answer to his petition, he saw a copy of the amnesty oath and decided that its provisions did not violate his convictions. He was therefore reconsidering his position when he was arrested, and taken to Nashville, ostensibly as hostage for a Union man who had been captured and taken south by Forrest. Johnson visited him while he was in military prison and made arrangements for his release. Civil authorities then charged him with conspiracy for having been a United States senator and removed him from general amnesty. The intervention of Johnson with a special pardon in August, 1865, removed him from this indictment.<sup>85</sup>

With his estate in shambles and his former livelihood denied him, he resumed the practice of law along with many former Confederates who found themselves in this same predicament.<sup>86</sup>

---

<sup>84</sup>Nicholson to Andrew Johnson, December 28, 1864, in Johnson Papers.

<sup>85</sup>Nicholson to Johnson, January 25, December 1, 1865, in ibid.; Nicholson to Abraham Lincoln, March 25, 1865, in Nicholson Family Papers.

<sup>86</sup>Figuers, "Two Lawyers," 129.



## CHAPTER V

### THE CLOSING YEARS: FROM BAR TO BENCH, 1865-1876

The pattern of reconstruction in Tennessee deviated from that found elsewhere in the South. There was no carpetbag government, no congressional reconstruction. Instead, reconstruction was carried out by home-grown Radicals, composed mainly of former East Tennessee Unionists and headed by the redoubtable Parson Brownlow. Nicholson, although pardoned, was affected when the Radical legislature enacted proscriptive measures, disfranchising all ex-Confederates while giving the ballot to the emancipated Negro. In order to perpetuate Brownlowism and its brand of reconstruction, the legislature gave the governor virtual control over the elective processes and authorized him to declare martial law.<sup>1</sup>

One weapon the legislature considered but did not ultimately use was to disbar all ex-Confederates from legal practice. This threat was of real concern to Nicholson. Writing to Johnson in December, 1865, to acknowledge his kindness during the war and in the granting of a special pardon, he commented,

After waiting some months and becoming satisfied that I could do so with safety, I assumed the practice of the Law. I have not found it so easy, as I hoped, to procure a living business, but by close attention I still hope to be able to live, unless the Legislature should take away my license as they propose to do. If the

---

<sup>1</sup>Thomas B. Alexander, Political Reconstruction in Tennessee (Nashville, 1950), 18, 27-32, 69-78, et seq.; Folmsbee, et al., Tennessee, II, 97-124.

pending bill, rendering lawyers incapable of practicing should become a law, I shall have either to migrate to some other state, or take the chance between starving or making a living by manual labor.<sup>2</sup>

For those--ex-Confederate and Unionist--who adhered to the Lincoln-Johnson policy, the Brownlow government became only something to be endured. In the fall of 1865 numerous mass meetings were held throughout the state to voice approval of the Johnson administration and its plan of restoration. At such a meeting in Columbia Nicholson was joined on the speakers' rostrum by ex-Confederate generals, Pillow and Whitthorne, and resolutions in support of the president were adopted. Cave Johnson spoke before a similar gathering in Clarksville. In many instances two-thirds of those attending were ex-Confederates, which exposed the meetings to criticism.<sup>3</sup> A state convention of anti-Radicals and Unionists was held in Nashville, and the idea of a new political alignment composed of conservative men took form. Nicholson and other Democrats and ex-Confederates attended as "back-seat" delegates, endorsing the proceedings by their silence. In writing to Johnson about the convention, Nicholson commended him for his veto message of the Freedmen's Bureau Bill, and then after referring to the bureau as a "useless institution," he made the following comment about the Negro:

For a time the Negroes were backward about hiring but for the last months there has been a marked change. I must

---

<sup>2</sup>Nicholson to Johnson, December 1, 1865, in Johnson Papers.

<sup>3</sup>James W. Patton, Unionism and Reconstruction in Tennessee, 1860-1869 (Chapel Hill, 1934), 205-207; Gideon J. Pillow to Andrew Johnson, September 5, 1865, E. H. East to Johnson, September 23, 1865, George W. Jones to Johnson, November 5, 1865, in Johnson Papers.

say that they are conducting themselves, as a general thing, with unexpected propriety. The idle and worthless portion of them will soon die out or get into the prisons. The race is doomed to an early extinction but in the meantime they will perform a great deal of valuable work.<sup>4</sup>

A political organization such as that envisioned by the Nashville conservatives had its nucleus in the National Unionist Convention which met in Philadelphia, August 14, 1866.<sup>5</sup> Following the publication of the call for this convention, district assemblies to select delegates convened in each of Tennessee's congressional districts. Nicholson presided before the group in Columbia, which, after passing resolutions in commendation of the Johnson administration and the objects sought by the forthcoming convention, chose Nicholson and D. B. Thomas to represent the sixth district. In his speech, Nicholson spoke of the loyalty of the citizens of Maury, of their acquiescence in the finality of the Union victory as represented by Appomattox, and of their hope for the early restoration of "constitutional liberty." He expected that the convention would exert moral force and have a salutary effect on the nation.<sup>6</sup> The Philadelphia convention, a coalition of Democrats and conservative Republicans, was denounced by the radical press as a "copperhead convention," "the Jeff Davis-Johnson convention," and "the arm-in-arm convention," for its inclusion of such notable ex-Confederates as Governor James Orr of South Carolina. Expressing

---

<sup>4</sup>Nicholson to Johnson, February 27, 1866, in ibid.

<sup>5</sup>William Ernest Smith, The Francis Preston Blair Family in Politics (2 vols.; New York, 1933), II, 362.

<sup>6</sup>Nashville Republican Banner, August 5, 1866.

opposition to the Freedmen's Bureau and the passage of the fifteenth amendment before the rebel states were readmitted, the delegates recommended a conciliatory course toward the South.<sup>7</sup>

As conditions improved economically and the conservative element grew in Tennessee, Brownlow and the Radicals relied more on the franchised Negro vote while disfranchised white citizens saw in the Ku Klux Klan an instrument with which to overthrow the Radicals. By 1868 the Klan movement had reached full fruition. While the KKK was not actually condoned by most law-abiding Tennesseans, neither was it fully condemned. A public meeting addressed by Nicholson adopted resolutions advising against such rule by violence while at the same time excusing the members of the Klan as "good, patriotic and conservative men, who desire solely to subserve the public interest."<sup>8</sup> When virtual anarchy existed in neighboring Wayne County as a result of a clash between Negroes, aided by Radical posses, and the Klan, Nicholson made a plea to Johnson for federal intercession.<sup>9</sup>

Brownlowism came to a rather abrupt end in 1869 when the Parson was elevated to the U. S. Senate and the acting governor, DeWitt Senter, who inherited control of the election machinery virtually threw the polls open to everyone to insure his own election to the executive seat.

---

<sup>7</sup>Smith, Blair Family, II, 362-68.

<sup>8</sup>Alexander, Political Reconstruction, 182.

<sup>9</sup>Robert P. Cypert to Johnson, August 18, 1868, endorsement by Nicholson, same date, in Johnson Papers.

Attempts by Radicals to have the election reversed failed when the Grant administration refused to interfere. With this beginning the new legislature immediately set out to undo the Radical legislation by repealing the anti-KKK Act, the state guard act, and by submitting to the voters a call for a constitutional convention, which was overwhelmingly approved by the electorate.<sup>10</sup> Maury and Williamson counties were to share a flatorial delegate. Nicholson, after consulting with Williamson leaders and urging David Campbell to run, finally announced his own candidacy when Campbell deferred to him.<sup>11</sup>

Shortly before Nicholson published<sup>12</sup> his card announcing his candidacy, the Columbia Herald advocated him for senator. Referring to his sterling qualities of intellect, culture, and integrity, the editor found these attributes missing in the present senators, David T. Patterson and Parson Brownlow. The New York Herald, taking note of this journalism, accused the old-line Democrats of Tennessee of combining to head off Johnson's election to the Senate.<sup>13</sup>

As the legislature was in session when the constitutional convention assembled, the delegates utilized the courthouse for their six-week's deliberations. Of the sixty-nine attending, most were property owners, former slaveholders, and conservatives. Nicholson, as senior

---

<sup>10</sup>Alexander, Political Reconstruction, 215-30.

<sup>11</sup>Columbia Herald, November 19, 1869, October 7, 1870.

<sup>12</sup>Ibid., November 19, 1869.

<sup>13</sup>Ibid., September 3, October 8, 1869.

statesmen, had the honor of calling the convention to order on January 10, 1870. Upon his proposal, Bolling Gordon, the only member who had also been a delegate to the constitutional convention of 1834, became temporary chairman, and Col. John Ford House, acting secretary. Following the refusal of George W. Jones to serve as permanent chairman, John C. Brown, younger brother of Neill S. Brown and later governor, was chosen. The first few days were consumed in deciding on committees, which were substantially those suggested by Nicholson on the first day, selecting their members, and referring to them the proper recommendations. Nicholson was appointed to chair the committee on elections and right of suffrage with committee members, H. R. Bate, Neill S. Brown, Warren Cummings, W. V. Deadrick, James Fentress, Sharrill Hill, Bolling Gordon, A. A. Kyle, David M. Key, W. H. Williamson. As a further assignment he was placed on the judiciary committee along with J. B. Heiskell, chairman, John Baxter, J. W. Burton, and John Netherland. Other committees dealt with the bill of rights, legislative department, executive department, finance, internal improvements and corporations, and miscellaneous subjects.

Since the major purpose of the convention was to repeal radicalism without drawing federal interference, the most important single item put before the delegates was the question of Negro suffrage.<sup>14</sup> On the eighth

---

<sup>14</sup>Folmsbee, et al., Tennessee, II, 129-30; Alexander, Political Reconstruction, 230-33; George W. Stanbery, II, The Tennessee Constitutional Convention of 1870 (Master's thesis, University of Tennessee, 1940), 58-59; Nashville Union and American, January 11, 12, 13, 1870.



day of the convention, Nicholson rose to give the majority report from the committee on elections and suffrage, with the following recommendations:

1. that the Negro be secured in the continued exercise of the elective franchise.
2. that the proposition to submit the question of Negro suffrage as an independent section, to be voted on separately, be rejected.
3. that the poll tax, if assessed, be made "precedent to the exercise of the franchise."
4. that the legislature be empowered to pass all necessary laws to "secure the freedom of elections and the purity of the ballot box."

Accompanying these recommendations was a paragraph the majority submitted in lieu of section 1, article IV of the 1835 constitution. As Fentress, Williamson, Bate, and Cummings had dissented from the majority and wished to present a minority report, Nicholson requested that the majority report be tabled until the convention received the other.<sup>15</sup>

On the following day the minority report was laid before the convention. It maintained that the Negro was of the lowest order and incapable of intelligent franchise; that God had decreed the Negro was inferior; and that political equality at the ballot-box would lead to jury service, office-holding, and eventually to social equality. Noting that several states, mostly in the North, had recently held a vote on

---

<sup>15</sup>Ibid., January 19, 1870; Journal of the Proceedings of the Convention of Delegates . . . (Nashville, 1870), 92.



the Negro franchise as a separate proposition, the minority proposed therefore that Tennessee do likewise. Nicholson moved that one hundred and fifty copies of this report be printed.<sup>16</sup>

On the thirteenth day, after Nicholson had urged that the two reports be the order of the day, George W. Jones moved the passage of the minority report. Because this was the most important topic in their deliberations, Chairman Brown waived the five-minute rule and announced that unlimited debate would be permitted. The minority, among other arguments, feared that the inclusion of the question of Negro suffrage would cause the voters to reject the whole.<sup>17</sup> The discussion, often heated, continued for three days. Nicholson waited until all who wished to speak had done so before he rose, standing by his desk in the center of the hall, to make the concluding argument for the majority report.

In a quiet appeal he cautioned the delegates that their actions were closely watched by Washington. As the theory of white man's government had been surrendered at Appomattox, he remonstrated with his young committee colleagues that the 1870 convention was neither the time nor the place to speak of states rights and Negro inferiority. Even if "these truths were not dead . . . they could not be sustained against the united opinion of the North." Expediency, because the Negro had been emancipated and made a citizen by the U. S. government, and justice because the Negro now voted demanded that the franchise be extended. He felt that the manner in which the Negro had been emancipated, leaving

---

<sup>16</sup>Ibid., January 20, 1870.

<sup>17</sup>Ibid., January 25, 1870.

him homeless, was a criminal act. The burden of past obligations he personally owed to a portion of the race would not allow him to "withhold from the colored man the little boon of suffrage." Disagreeing with the contention that the franchise would confer the right to serve on juries or to hold office, he quietly ridiculed the doctrine of social equality.<sup>18</sup> His words, dispassionate and thoughtful, were effective. When the minority report was voted down, the margin of its defeat--52 to 20--was attributed to Nicholson's remarks.<sup>19</sup>

The Cincinnati Commercial reflected out-of-state approval of Nicholson's speech,

coming as it did from [one] who is himself an ex-Rebel, ex-slaveholder, and ex-champion of the Constitution as it was, coming at such a time, and under such circumstances, and withal, with so much vigor, clearness, ability, and eloquence, it is no wonder it fell with telling effect upon the side of justice and humanity.<sup>20</sup>

In addition to his effort on behalf of the Negro voter, Nicholson contributed to the deliberations in other areas, principally the judiciary. He offered three resolutions: that with the adoption of the constitution the judges, attorneys-general, and district attorneys would all vacate; that these offices would be filled by executive appointment with the advice and consent of the senate; and that nine special judges (three per division) be appointed with limited commissions to help clear the supreme court docket. When made the special

---

<sup>18</sup> Ibid., January 28, 1870.

<sup>19</sup> Ibid.; Columbia Herald, February 4, 1870.

<sup>20</sup> Quoted in ibid., February 28, 1870.

order of the day February 1, the first resolution passed easily. After a substitute proposal for a general election to fill these offices was voted in lieu of his second resolution, Nicholson requested that the third be tabled.<sup>21</sup>

On the eve of adjournment, several members realized they had failed to obviate an amendment passed by the Radical legislature--that of the appointment of county officers by the governor. This provision, particularly offensive to conservative Tennesseans who had been kept from the polls by the Brownlow appointments, was negated by one Nicholson drafted, and the convention adopted unanimously, which called for the election of such local offices.<sup>22</sup>

The convention had been successful in preparing a document to restore civil government to Tennessee without incurring the wrath of official Washington. Nicholson's considerable prestige as a senior statesman was further enhanced by his moderating influence on the convention's deliberations. However, his pragmatic approach had a counterbalance in the actions of his old Jacksonian friend, George W. Jones, who espoused the theory of a white man's government and supported the minority report. When the poll tax provision was added, Jones feared its effect would disfranchise white laboring classes. On the eve of adjournment, therefore, he resigned his seat and refused to sign the completed document. Paradoxically, Nicholson had been more closely

---

<sup>21</sup>Ibid., January 30, February 2, 1870; Convention Journal, 182; Stanbery, Constitutional Convention, 70.

<sup>22</sup>Ibid., 76-77; Convention Journal, 405. Nicholson had also reported from the committee on elections the change in general elections from August of odd years to November of even years with the legislature to convene in January instead of September. Ibid., 115.

allied in the convention with his former political enemies, John Netherland and Neill S. Brown.<sup>23</sup>

On March 10, Nicholson spoke for the constitution at a Columbia rally, and the county voted 3,264 to 322 for its adoption. Statewide, the count was for the constitution by 98,128 to 33,872.<sup>24</sup> By this vote the courts were vacated, and almost immediately Nicholson's name was vigorously advanced as a candidate for the supreme court from the middle division. Not only was he recommended by his own local bar, but also by the Centreville (Hickman County) bar, and his nomination was taken for granted by numerous individuals.<sup>25</sup> He sought the opinion of the lawyers in the area as to possible candidates and the best method of selecting them, and from James Fentress, his young colleague at the convention, he received this candid reply:

I believe there is hardly any lawyer in Middle Tenn. who as far as industry, ability, and courteous dignity fit a man for the position, is better fitted for it than yourself. But in the freedom of truth: and not of dictation, allow me to say that the habits of thought in the politician--the disposition to conciliate--to compromise--to suspend the force of a general principle, or modify its logical results, because seemingly for the best interests of the people . . . have a tendency unless strictly guarded to confuse us in the application of general principles of law.<sup>26</sup>

---

<sup>23</sup>Ibid., January 25, February 24, 1870; Alexander, Political Reconstruction, 231-32.

<sup>24</sup>Columbia Herald, March 11, April 1, 1870; Folmsbee, et al., Tennessee, II, 133.

<sup>25</sup>Columbia Herald, March 25, April 29, May 6, 1870; John V. Wright to Nicholson, April 28, 1870, Edwin H. Ewing to Nicholson, April 25, 1870, in Nicholson Letters.

<sup>26</sup>James Fentress to Nicholson, May 31, 1870, in ibid.

After apologizing for being a frank and indiscreet young man, he stated that Nicholson's value as a judge could not be doubted, "unless it be from the goodness of your heart in attempting to modify the application of a principle to prevent a seeming & present public injury or great private hardship."<sup>27</sup>

As there were so many aspirants for the court, a state convention of the Conservatives was called in July to select the following: T. A. R. Nelson and James W. Deaderick for the eastern division, Nicholson and Peter Turney for the middle division, and J. L. T. Sneed and T. J. Freeman for the western division.<sup>28</sup> Of the slate, the Memphis Appeal was particularly laudatory, and of Nicholson it wrote: "Like the prophet by the river of old, he stands between two ages--the champion and the representative man of the one, the seer and interpreter of the other."<sup>29</sup> When the election was held on the first Thursday in August the slate obtained the approval of the electorate.<sup>30</sup>

During the summer of 1870, Congress was debating a general Disabilities Bill to remove political ineligibility from about 5,000 potential candidates covered by the fourteenth amendment. Although Nicholson firmly believed that his special presidential pardon of August, 1865,

---

<sup>27</sup> Ibid.

<sup>28</sup> Columbia Herald, July 15, 1870. Nelson received 408 votes, Deaderick, 327, Nicholson 255, Turney 231 1/2, Sneed, 209 1/2, and Freeman, 220 1/2. Ibid.

<sup>29</sup> Quoted in ibid., July 29, 1870.

<sup>30</sup> Nashville Union and American, August 31, 1870. All of the Conservatives amassed more than 100,000 votes, while Radicals received less than 5,000.

had eliminated any restrictions on his holding office, he wrote to both Joseph Fowler, in the Senate, and Samuel M. Arnell, Radical congressman from Maury, for their support for the inclusion of his name in the bill. In the House, Arnell endorsed Nicholson's petition and appended to his recommendation a similar one from citizens of Maury. In his appeal, Nicholson had based his arguments upon a supreme court ruling that a pardon in full released one from punishment and blotted out any guilt. If the pardon were granted before conviction, it further removed any penalties and disabilities. In the Senate, Fowler tried in vain to insert Nicholson's name. There was too much opposition from Radical congressmen to include any one who had resigned U. S. service to join the Confederacy and Nicholson's name was withdrawn from consideration.<sup>31</sup> Quo warranto charges against him were still on the docket in 1872 when the United States Supreme Court ruled that a presidential pardon was absolute and could not be overturned by Congress.<sup>32</sup>

Nicholson, as a member of the legislature in 1835, had first-hand knowledge of the reorganization of the judiciary after the Constitution of 1835. From 1835 to 1852 the supreme court passed through what

---

<sup>31</sup>Columbia Herald, July 15, 22, 1870. On February 24, Arnell introduced Bill No. 1324 "to remove the political disabilities of A. O. P. Nicholson" which was read twice, consigned to committee, and apparently expired there. Later, on June 29, Fowler presented a similar bill in the Senate which also died in committee. Cong. Globe, 41st Cong., 2nd Sess., 1544, 4993.

<sup>32</sup>Nicholson to T. A. R. Nelson, August 12, 1871, in Nelson Papers; Columbia Herald, February 23, 1872. The quo warranto proceedings questioned "by what authority" he was discharging his duties in violation of the fourteenth amendment. Ibid., December 9, 1870.

members of the bar were prone to call the golden era in the state's judicial history. At that time the justices were appointed by the legislature for twelve years. In 1853, a constitutional amendment reduced the term to eight years and changed the mode of selection, making the jurists responsive to the electorate. As mentioned, Nicholson and other members of the judiciary committee had been in favor of reestablishing the precedent of appointment of the judges but were overruled by the convention. Two other practices for the court were continued by the constitution of 1870; the locations remaining Knoxville for the fall term, Nashville for the winter, and Jackson for the spring, and the use of special judges whenever a justice needed to recuse himself. Innovations by the new constitution included a change in the number of justices from three to five. However, a special schedule appended to the constitution provided that the court initially would be composed of six jurists, two from each grand division and that the first vacancy after January 1, 1873, would not be filled, thus reducing the court to a permanent five. While the court consisted of six members, it could be divided three jurists to a section with the concurrence of two necessary for a decision. This provision, no doubt, was deemed expedient in order to clear the court's docket of the great accumulation of cases arising from the war and reconstruction.<sup>33</sup>

After reorganizing, with Nicholson elected chief justice by his

---

<sup>33</sup>Samuel Cole Williams, Phases of the History of the Supreme Court of Tennessee (Johnson City, 1944), 46, 76-80. See also Williams, "Phases of Supreme Court History," Tennessee Law Review, XVIII (1944), 323-39.



associates as specified by the constitution, the court met for the first term in Knoxville in the fall of 1870. Immediately, it adjourned to reconvene in two sections. No separate minutes were kept; and since all judges signed the general minutes, without some contemporary account available there is no way to determine how they divided themselves for that term. With the cooperation of the Knoxville bar, they cleared some four hundred cases in a span of two months. When they met in Nashville, there were over twelve hundred civil cases on the docket, some filed as early as 1867. Nicholson, Deaderick, and Sneed sat in one section in the supreme court room, trying 1867-68 cases of the seventh circuit, while Nelson, Freeman, and Turney sat in the federal court room to hear those of the same period from the sixth circuit. Although Nicholson had originally expressed doubts as to the success of sectionizing, the practice was continued. When the court met in Jackson, Nelson, Sneed, and Freeman sat in one division with Nicholson, Turney, and Deaderick in the other, which indicated that they varied their grouping.<sup>34</sup>

Many of the civil cases revolved around the de facto status of the Confederacy. These included suits against ex-Confederate soldiers for wartime damages, for appropriation of property such as animals, and for payment rendered in Confederate money. As the Radical court had held citizens liable for such damages committed in the name of the Confederacy, one of the first doctrines expounded from the Conservative

---

<sup>34</sup>Columbia Herald, December 9, 1870, June 22, 1871; Williams, Supreme Court, 81. Williams, after an exhaustive search could only guess that the sections were divided Nicholson, Nelson, and Freeman in one section with Deaderick, Turney, and Sneed in the other. Ibid., 80-81.

court was the de facto status of the Confederate government, which thus removed innumerable parties from judgments. The court early ruled that mere general fear of refusing to accept Confederate money, without specific threat, was insufficient grounds for instigating litigation.<sup>35</sup> However, in areas occupied by General Nathan B. Forrest, more duress had to be acknowledged since Forrest was accustomed to circulating military handbills stating that "any person who shall refuse to receive Confederate money . . . shall be subject to fine and imprisonment, or confiscation of property."<sup>36</sup> One case, reviewed by the court, involved Joseph Bogle, who had spurned Confederate money in exchange for his land. According to him, one of Forrest's men had threatened that the general "would hang him four feet from the ground." A lower court had decided in Bogle's favor and the supreme court upheld the judgment on the basis of uncompromising duress.<sup>37</sup> In another case, an ex-Confederate soldier had been sued after the war for appropriating a horse while under military orders. The lower court had decided against him and he appealed. The supreme court, reversing the lower court's verdict, remanded the case for a new trial. Nicholson delivered the opinion.<sup>38</sup>

The chief justice drafted the court's decision in two rather classic cases, one of which was noted by the New York Times. In Richard

---

<sup>35</sup>Thomas B. Alexander, Thomas A. R. Nelson of East Tennessee (Nashville, 1956), 147, 149.

<sup>36</sup>Joseph Bogle v. C. A. Hammons, et al., 49 Tenn. 136 (1870).

<sup>37</sup>Bogle v. Hammons, et al., 49 Tenn. 136 (1870).

<sup>38</sup>James W. Revis v. John Wallace, 49 Tenn. 658 (1871).

Dove v. The State, a jury in the lower court found Dove guilty of murder, but since evidence as to the soundness of the defendant's mind had been introduced, recommended life imprisonment. In summation Nicholson reviewed the defense testimony. Dove had received an injury which could have caused brain damage, as testified by three doctors; he was taciturn, gloomy, appearing drunk on occasion without having been drinking, and frequently talked to himself. The state produced witnesses to attest to his violent temper, to his frequent threats to kill someone--though no one in particular, and to his lazy and indolent traits. Nicholson ruled that the burden of proof of insanity rests upon the defense, for the law must assume a man is sane until the contrary is proven. Society, he declared, must insist that in cases where sanity is doubtful the defense establish the fact beyond any reasonable doubt. He further suggested that in such cases the question of sanity be dealt with first, for the law otherwise had the sole duty to determine whether a crime had been committed and whether guilt had been established beyond reasonable doubt.<sup>39</sup> In reviewing the opinion, the Times recommended that the New York courts adopt such a view because the insanity plea was too often used and too seldom warranted.<sup>40</sup>

As a result of the war, the number of farm or draft animals had been drastically reduced. Consequently, the legislature had passed an exemption law to keep horses, mules and oxen from creditors. Did a

---

<sup>39</sup>Richard Dove v. The State, 50 Tenn. 348 (1872).

<sup>40</sup>New York Times, January 22, 1872.

jackass fall under the law? In the case of Richardson v. Duncan, the lower courts had ruled for the creditor, a constable, by stating that a jackass was not covered by the law.<sup>41</sup> The supreme court found otherwise. Nicholson, in delivering the opinion, contended:

The generous object of the Legislature would be defeated if we should "strike in the bark," and declare that they intended by their legislation to exclude from its benefits all those heads of families who, either from choice or necessity, plowed jackasses instead of horses, mules, or oxen.

After quoting Webster's definition that a jackass belongs to the species equus, in the horse family, Nicholson concluded: "His value for agricultural purposes was one of the lucky developments of the late war."<sup>42</sup>

In November, 1871, barely fifteen months after the court was organized, Nelson abruptly resigned. In his letter of resignation to Governor Brown, he alluded to some controversies related to the bench. One had to do with an adverse ruling by the court on a case from which he had recused himself, having served as counsel in a lower court. On that occasion Nicholson had read the opinion, backed by the rest of the court, which reversed a lower court's decision.<sup>43</sup> Nicholson deeply regretted Nelson's action and after seeing the letter of resignation wrote him:

It was the most painful official act of my judicial experience to decide that case against you--and yet I could not

---

<sup>41</sup>Madison Richardson v. Ansel Duncan, 49 Tenn. 220 (1870).

<sup>42</sup>Richardson v. Duncan, 49 Tenn. 220, 222 (1870).

<sup>43</sup>Nicholson to Nelson, November 30, 1871, in Nelson Papers; Alexander, T. A. R. Nelson, 156.

see in the case any ground, either upon the law or upon the facts, on which to doubt. I had to choose between my clear convictions of duty and my strong personal regard for you. . . . Could we suspend the case, having no doubt as to the correctness of our conclusion at the request of a brother Judge who was of counsel? There was no division of sentiment, but we all agreed that it was due to the character of the court that we should not subject ourselves to the imputations of hesitating in the discharge of our duty because the application came from a brother Judge.<sup>44</sup>

Evidently Nelson had also sharply disagreed with Justice Freeman, a situation which Nicholson had hoped to settle before the next meeting of the court. On still a third occasion the chief justice had shown annoyance with a dissent by Nelson, which was mentioned in the resignation letter. Assuring him that any temper display was of no lasting consequence, Nicholson manifested concern that Nelson should have misinterpreted the situation. With considerable compassion, Nicholson, attributing Nelson's distress to his worry about his son, David Nelson, then under indictment for murder, continued their friendship.<sup>45</sup>

On January 3, 1873, while attending the Nashville term, Nicholson fell and broke a leg. Under doctor's orders he remained in Nashville when the court adjourned and convened in Jackson for the spring term. Though bed-ridden, he was not totally incapacitated, and members of the legislature who called on him ascertained that he could still perform official duties. With this report, the legislature by joint resolution

---

<sup>44</sup>Nicholson to Nelson, November 30, 1871, in Nelson Papers. Nicholson had also written of "those warm personal feelings of attachment for you which I then cherished and never ceased to cherish." Ibid.

<sup>45</sup>Ibid.; Alexander, T. A. R. Nelson, 152-56.

established a special court of arbitration to facilitate the removal of as many cases remaining on the Nashville docket as parties involved were willing. Using the chief justice as its core, the court was formed by the addition of two judges, J. E. Bailey and J. W. Head, who were appointed by the governor. The decisions rendered became part of the supreme court's minutes.<sup>46</sup> As to salary considerations, the legislature had provided that "the Chief Justice and said two lawyers, shall receive as compensation for their services, the amount now allowed by law to the Supreme Judges of this State."<sup>47</sup> As a result of this legislation, for two months Nicholson served technically as an employee rather than an officer of the state, for which service he drew compensation while still receiving his regular salary as chief justice on sick leave. The criticism, mostly from the press, which this double remuneration generated, extended well into the following year. Attorney-general J. B. Heiskell had ruled that Nicholson was entitled to both. Unfortunately, some of his friends, unknown to him, had collected money to cover his medical expenses and this fact was contorted by critics as an effort to keep him from accepting the additional pay and to avoid exposure. In the face of this censure, Nicholson finally published a card stating his intention to hold the extra money until the next session of the general assembly could determine whether he was entitled to it.<sup>48</sup>

---

<sup>46</sup> Nashville Union and American, December 13, 1874; Tenn. Acts, 1873, Res. No. XLV.

<sup>47</sup> Ibid.

<sup>48</sup> Nashville Union and American, December 9, 13, 1874; Columbia Herald and Mail, December 9, 11, 1874.

Once on the court, Nicholson eschewed any further career in politics, although his name was mentioned again in 1874 as a senatorial possibility.<sup>49</sup> He could not dodge his responsibility to the conservative cause altogether as the well-publicized Chase letter verified. The supporters of Chief Justice Salmon P. Chase were actively engaged in 1871 in advancing his claims for the presidency. At a meeting in Parkersburg, West Virginia, Democrats adopted resolutions recommending Chase for president and endorsing the Vallandigham platform, referred to as the new departure doctrine, for it relegated all war issues to the past. A friend of Nicholson, after participating in the meeting, wrote him for an expression of his views.<sup>50</sup> In reply Nicholson stated his belief that the southern people would favor Chase, who he personally felt was able, based on the platform presented. As most southern Democrats were disfranchised, and not therefore likely candidates themselves, he contended they would prefer that the northern wing of the party select the nominees on a platform the South would support.<sup>51</sup> The Memphis Appeal, Nicholson's late advocate for the court, now harshly reprimanded him for the publication of the letter and accused him of using it to influence the U. S. Supreme Court to dispose of the indictment still pending against him. In his defense, the Columbia Herald pointed out that since the court was composed mainly of Radicals the publicity would

---

<sup>49</sup>Ibid., May 1, 1874.

<sup>50</sup>Columbia Herald, September 1, 1871.

<sup>51</sup>Nicholson to M. C. C. Church, August 6, 1871, in ibid. The letter also appeared in the New York Times, August 26, 1871. See Appendix J.



have instead a deleterious affect on Nicholson's case.<sup>52</sup> When the Brownsville States presumptuously read him out of the party for his new departure viewpoint, the Herald declared that Nicholson was a great leader of the party when the editor of the States was still in "swaddling clothes" and further suggested that the States should be "reconstructed and thrown into a territory."<sup>53</sup>

An incident in 1874 indicated that the voice of moderation was still needed in Tennessee. The Klan, its political usefulness terminated, continued to harass the countryside in sporadic violent outbursts no longer approved by most citizens. On August 25, 1872, sixteen Negroes who had been jailed in Gibson County on the charge of conspiracy were kidnapped by seventy-five masked men. Four of the Negroes were killed before the rest escaped. Local sentiment was violently anti-Klan, and Governor Brown offered rewards and other state assistance to ferret out the murderers.<sup>54</sup> In Columbia an indignation meeting was held. Nicholson, pleased that the governor had acted promptly, appealed to the people to support civil authority in suppressing such inexcusable mob-law and violence. Among the resolutions passed by the group was one tendering "to our distinguished citizen, Hon. A. O. P. Nicholson, our thanks for his wise and timely counsel in this critical emergency."<sup>55</sup>

---

<sup>52</sup>Columbia Herald, September 15, 1871.

<sup>53</sup>Ibid., September 8, 1871.

<sup>54</sup>Ibid., September 4, 18, 25, 1874. By September 25, forty-one had been arrested and indicted. Ibid., September 25, 1874.

<sup>55</sup>Ibid., September 11, 1874.

When Andrew Johnson was on tour in his campaign for the Senate in 1874, he stopped in Columbia to visit with the Nicholsons. The two old Democrats, whose personal friendship spanned more than forty years, probably saw each other for the last time.<sup>56</sup> The following July, Johnson was dead, and Nicholson's health was failing. Never robust, he had always been an indefatigable worker, accomplishing more than most in an eight-hour day. His health, impaired by the war, was further damaged by the long hours and the extra heavy dockets of the court. During this time he still continued his practice and appeared in chancery court on numerous occasions.<sup>57</sup> By January, 1876, he could no longer serve on the bench. The end came not unexpectedly at five o'clock in the late afternoon of March 23. The court, en masse attended the funeral on March 25, along with many of Nicholson's friends from the Nashville bar and government officials. The Louisville and Nashville Railroad, in deference to this man who had contributed so much to the development of the common carriers in Tennessee, ran a special train from Nashville to Columbia for the use of all those dignitaries who wished to attend the funeral.<sup>58</sup>

---

<sup>56</sup> Nashville Union and American, October 14, 1874.

<sup>57</sup> Nicholson to Nelson, August 12, 1871, in Nelson Papers. Nicholson had mentioned spending a week of oppressive work in chancery court, and, while he tried to follow Nelson's advice, complained, "you know how insatiate all the demands of a frightened client." Ibid.

<sup>58</sup> Columbia Herald, January 14, March 24, 31, 1876; In Memoriam: A. O. P. Nicholson, 56 Tenn. 882 (1872 [1876]). This eulogy, erroneously bound in an 1872 volume, also notes that Nicholson had received an LLD from the University of East Tennessee and that he had been named an honorary chief of the Choctaw Indians, having served as their counsel.

In memorial services held by the court, Deaderick, the new chief justice, ordered that Nicholson's chair be removed for permanent preservation to the state library and that the bells of Nashville, Knoxville, and Jackson be tolled for one hour on March 24. His place on the court remained permanently vacant in accordance with the provisions of the constitution.<sup>59</sup> Of the numerous tributes from the court, this one from Justice Sneed reflects the veneration Nicholson received from his colleagues and contemporaries:

If there was in any public station a more perfect model of unfaltering fidelity to any public trust, the annals of this country do not furnish it. . . . I bid the gentle <sup>60</sup> spirit of this great and good man an affectionate farewell.

At the time of his death, Nicholson was the dean of Tennessee's statesmen. Although he had spent most of his active life in politics, he was more suited by temperament to a judicial career, and it is perhaps appropriate that he dedicated his last years of service to his state as chief justice.

---

<sup>59</sup>56 Tenn. 882, 887 (1872 [1876]). In his tribute, Justice Turney, the son of Nicholson's old antagonist, lamented "My mourning for him is as that of a son for the loss of his father."

<sup>60</sup>56 Tenn., 882, 884, 886 (1872 [1876]).

## CHAPTER VI

### AN APPRAISAL

Any assessment of Nicholson's public career, which spanned forty years of pivotal action on both the state and national scene, must center primarily on his political activity. After distinguishing himself in the legislature while still in his twenties and becoming the youngest senator in the Twenty-Seventh Congress, he emerged with his outlook broadened and his appetite whetted for a return to the U. S. Senate. His editorial career, his most lucrative, established him as the official spokesman for one governor and one president. His closing years as chief justice of the state brought him a reverence not often accorded to those whose political life has been spent so often on the losing side.

Yet, Nicholson is hardly known in United States history except as a footnote for the famous Nicholson letter, and scarcely better known in Tennessee. Though highly articulate and politically astute, he was not a particularly good self-advocate and was generally more eloquent in behalf of others. While ambitious, and even though accused of being selfishly so, he nevertheless lacked the all-consuming and often ruthless drive by which men attain the highest levels of political achievement. Until he ran for the supreme court in 1870 he had never offered himself in a state-wide bid for public office.

In a state noted for its unsophisticated politics and unorthodox campaign tactics, the urbane Nicholson appears out of place. As one scholar observed of him: "The camp meetings and wrangling debates were

somewhat foreign to his personality and spirit."<sup>1</sup> But he was nonetheless a popular Democratic speaker, particularly in East Tennessee where both the Chattanooga Advertiser and the Knoxville Argus had been his strong supporters. During the campaign of 1840, when Nicholson toured with Andrew Johnson, Eastman of the Argus reviewed the remarks of both but devoted most of his space to Nicholson.

One brief impression of his oratorical style was recorded in the Jonesboro Sentinel by Landon C. Haynes who compared Nicholson's delivery with that of James C. Jones:

. . . the circumstances no doubt, which he believed would render him more acceptable to the people was, his attempt to ape the Hon. A. O. P. Nicholson in his mode of jesticulation [sic] as well as in the modulation of his voice, and as the best proof of this, he passed a very high compliment upon the mode of address, as well as the abilities of the Hon. A. O. P. Nicholson, as a public speaker.<sup>2</sup>

To another contemporary, however, Nicholson was not a "hurrah speaker" but the "easiest, plainest speaker" using simple, pointed language with little change of tone, and low quiet gestures.<sup>3</sup>

There were many occasions throughout his career when Nicholson seriously considered leaving the political wars to others, but either pressure from Democratic leaders or personal inclinations motivated his return. Contributing to his discouragement was the low-ebb of the political tide for the Democracy in Tennessee, for as Jackson's hold on the

---

<sup>1</sup>Alexander, "Presidential Campaign of 1840," 32.

<sup>2</sup>The Tennessee Sentinel (Jonesboro), May 8, 1841.

<sup>3</sup>Figuers, "Two Lawyers," 132.

state subsided, the opposition rose and managed to control more than half of the state elections and all of the national canvasses from 1836 until 1856. Furthermore, he had the misfortune of serving in the legislature during the Whig years, 1835-39 and 1843-45, but was absent during the Democratic years, 1837-41 and 1845-47, when the speakership would have been awarded to him.

Despite this fact, he had tremendous prestige among the opposition and his ability to maintain amicable relations with Whig leaders within the state was a rarity during a period characterized by bitter partisanship. Since Tennessee Whiggery arose from disaffected Jacksonians many of whom were Nicholson's personal friends and legal associates he did entertain some attitudes not altogether consonant with Jacksonian Democracy--attitudes which would subject him to charges of apostasy. He corresponded with John Bell, the most prominent Whig in Tennessee, who wrote him in 1847, "I now take the liberty . . . without asking the consent of my party, to say to you in confidence a few things I would only say to a personal friend--and such I regard you." After commenting on party matters, both Democratic and Whig, Bell continued, "Write me & I will continue to write," and signed himself "Your friend."<sup>4</sup>

In contrast to this relationship with individual Whigs were Nicholson's difficulties within his own party, difficulties which apparently started early in his career. Entering politics as a supporter of Hugh Lawson White, Nicholson was probably influenced by fellow Maury

---

<sup>4</sup>John Bell to Nicholson, December 30, 1847, in Nicholson Letters.

countian, Polk, and affiliated with the Jacksonians when the break between Republicans occurred in 1835. From the time he withdrew from the congressional race in 1839, his relationship with Polk vacillated. As Polk, the party leader, was a strict disciplinarian, Nicholson no doubt was expected to serve a rigorous apprenticeship and any early ambitions had to be laid aside. After his quarrel with Hopkins Turney and his breach with Aaron V. Brown, Nicholson was evidently excluded from the Polk line of succession. It was not until Andy Johnson, himself a maverick to the Nashville clique, managed to gain ascendancy and insure Nicholson's election to the Senate that justice was done.

Intra-party strife aside, Nicholson was one of the real workhorses of the party in the state. Rarely did he miss a call to render service on the stump, often at great personal and financial sacrifice; and hardly any Democratic gathering in either Maury County or Nashville was conducted without his presence--as chairman, as speaker, or as draftsman of the platform, resolutions, and preamble. Moreover, because of his fluency with words and his tremendous capacity for work, Nicholson was frequently called upon to draft official party messages.

As a Democrat, Nicholson was not so much a Jeffersonian intellectual as an educated Jacksonian. Although he appeared before mechanics' meetings and defended the "Homestead," he was not a leveller. Far broader of vision than most fellow Democrats, he strongly advocated, both publicly and privately, the cause of internal improvements within the state, and without his energetic support, the bank and internal improvement bill of 1838 would never have passed the house. But perhaps his most



important contribution in this area was his sponsorship of the Nashville and Chattanooga Railroad.

On national matters he was more in accord with other Democrats. His numerous addresses championing the cause of fiscal conservatism indicated his distrust of paper currency, the national bank, distribution, the tariff, and the national debt. While normally a strict constructionist, he could and did modify his stand whenever he believed a change was beneficial or, as in the case of the establishment of the bank, unavoidable.

When the Democratic party, particularly the southern wing, was inflamed with the spirit of Manifest Destiny, Nicholson from his editorial chair enthusiastically endorsed this fervent nationalism. A War Democrat, he commended Polk's course in Mexico and demanded a settlement with Great Britain which included all of Oregon; moreover, later as a Pierce Democrat he continued to support Manifest Destiny, differing only with the president on the policy toward Nicaragua. His stand for Cass and the Compromise of 1850 marked the height of his nationalism. Prior to this time he had not been doctrinaire about states rights, even holding on one occasion that federal laws superseded those of states,<sup>5</sup> and his moderate counsel at the Nashville Convention with his refutation of the doctrine of secession was impartially applauded. Nor did he become one of those southern nationalists during the fifties who glorified everything southern and recommended southern economic

---

<sup>5</sup>Cong. Globe, 26 Cong., 2 Sess., App. 190.

independence. His interest in Tennessee railroads had stemmed from purely local considerations. It was the activity of the abolitionists which slowly consumed his nationalism. Seeing in them the instrument to divide the Union, Nicholson dipped his editorial pen in righteous indignation which bordered on the irrational and obscured his vision to the recklessness of the southern fire-eaters. Gradually he lost sight of his own argument for the limitation of slavery and adopted the extreme southern position on that issue. The failure of northern conservatives, in whom Nicholson rested his confidence, to defeat the fanatics in the North, was a bitter pill. Rather than submit to federal coercion, which he considered unconstitutional, he accepted Tennessee's affiliation with the Confederacy and defended the doctrine of state sovereignty.

In the realm of editing, Nicholson's experience was literally confined to his two years on the Nashville Union and four years on the Washington Union. But his influence in state journalism was far-reaching. Although there were numerous editors of the Union from 1835 to 1853, Nicholson must be considered as a central figure when the history of the paper is eventually recorded. Whenever he was in Nashville, he was never lax in lending a hand, and the Democratic Statesman, which he established for Aaron V. Brown's campaign, was in no small measure responsible for the Democratic success of that year.

Nicholson's journalism, while not pungent, was lucid and convincing. The historian Allan Nevins reports that the Washington Union exerted real influence in the passage of the Kansas-Nebraska Bill when

most of the country's press was against it. If, as suggested by Pierce's biographer Roy Nichols, the Union was not effective as a publicity agent for the president, it should be observed that this administration was one of the weakest in history.<sup>6</sup> Though zealous and faithful to Pierce, Nicholson was not as forceful an editor as "Father" Ritchie, whom he admired, or Horace Greeley, or Henry J. Raymond. But at least in the case of the latter two, Pierce was anathema; it was easier to be forcefully against him than for him.

The two political offices for which Nicholson had greatest aspirations--U. S. senator and a seat on the bench--were his in time. He was never really interested in the governorship possibly because the salary did not warrant the effort, and he spurned the cabinet post which was often sought for its local patronage possibilities. His career in the Senate was far too brief and the country far too sectionalized for much constructive comment. But this can be said--he was not an innovator, he had no personal crusade like the "Homestead," and he launched no major legislation.

Nicholson's influence is nowhere better seen than in his efforts for the reconstruction of Tennessee. The present state constitution, which Nicholson himself believed would be redone in another decade, remains as a monument to his moderation. His speech against disfranchising the Negro stemmed the tide of the conservative revolt, and he fought in

---

<sup>6</sup>Allan Nevins, Ordeal of the Union (2 vols.; New York, 1947), II, 133; Nichols, Pierce, 455.

vain to remove the courts from the realm of politics. His impartiality and conciliatory nature were evident in his insistence that even the minority should be heard.

His election to the court and subsequent selection as chief justice, a position he deemed the topmost rung of his professional ladder, brought him particular satisfaction in his closing years. As lawyer, he frequently left the cross-examining to another while he made the summation to the jury. As jurist, he commanded the respect of the court by his dignified demeanor. Coming to the tribunal at a time when its docket was clogged with litigation growing out of the war and reconstruction, Nicholson was overworked; so his opinions are the essence of brevity. Besides briefs on the regular docket, he reviewed many other cases, rendering decisions on them.<sup>7</sup> Because of his work in compiling the statutes, he was an authority on Tennessee law.

While Nicholson's public career can be fairly well-documented, it is difficult to find the man behind the career. Personal correspondence is non-existent; and Nicholson regrettably never had the diary or journal habit. In letters to Robert Caruthers, he manifested concern when one his own children was ill, and a glimpse of him as a family man can be gained from Mrs. Nicholson's Reminiscences. Virtually obscured within the pages of the Maury County record books for the circuit and chancery courts are brief items which attest to his deep sense of family

---

<sup>7</sup>Figuers, "Two Lawyers," 133; Robert M. McKay, "Life and Character of Chief Justice A. O. P. Nicholson," Bar Association of Tennessee, Proceedings, IV (1885), 162.

commitment. Not only did he look after the welfare of his nieces and nephews securing to them some of their father's property which he managed to recover after all the debts were paid, but he evidently provided counsel for his mother. His oldest son, Osborne, was emotionally unstable and Nicholson apparently became his legal guardian, putting up security for some of Osborne's business contracts.

Three attributes which struck contemporaries were his self-control, modesty, and courtesy. Seldom dogmatic, he was by nature more of a compromiser than a zealot and was generally tactful and considerate of any opponent. Even though he never officially joined a church, his speeches, particularly those he delivered before non-political groups, imparted the moral tone of his age.<sup>8</sup>

In the Nicholson family papers there is a brief summary of Nicholson's life before 1852 which ends with this self-assessment: "The foregoing is a sketch of one who is forever reminded that he is but a carpenter's son and therefore that humility in his aspirations befit the humility of his origin." This introspection was written before he was elected to the Senate and to the supreme court. Certainly neither his high aspirations nor his notable achievements were indicative of his humble origin.

---

<sup>8</sup>The material relating to Nicholson's personal affairs, some from Maury County records, is in the Nicholson Family Papers.

**BIBLIOGRAPHY**

## BIBLIOGRAPHY

### A. PRIMARY SOURCES

#### 1. Public Documents--U. S.

Congressional Globe. 26, 27, 29, 33, 36, 41, Congresses.

Register of Officers and Agents, Civil, Military, and Naval in the Service of the United States . . . Together With the Names of All Printers in any way Employed by Congress or any Department or Officer of the Government. Washington, 1855.

U. S. Senate Miscellaneous Document No. 216, 35 Congress, 1 Session.

United States Statutes at Large, V (24-26 Congresses).

#### 2. Public Documents--Tennessee

Acts of the State of Tennessee, 1833-38, 1843-45.

Journal of the Proceedings of the Convention of Delegates . . . to Make a New Constitution . . . January 10, 1870. Nashville, 1870.

Tennessee House Journal, 1833-38 (Microfilm); 1857-58 (Printed).

Tennessee Senate Journal, 1843-44 (Microfilm); 1857-58 (Printed).

#### 3. Court Reports

Joseph Bogle v. C. A. Hammons, et al., 29 Tennessee Reports 136 (1870).

Richard Dove v. The State, 50 Tennessee Reports 348 (1872).

James W. Revis v. John Wallace 49 Tennessee Reports 658 (1871).

Madison Richardson v. Ansel Duncan, 49 Tennessee Reports 220 (1870).

In Memoriam: A. O. P. Nicholson, 59 Tennessee Reports 882 (1872 [1876]).

#### 4. Miscellaneous Unpublished Documents

Maury County Records, Maury County Courthouse, Columbia Tennessee

Chancery Court Minute Book B, January, 1876-December, 1876.

Circuit Court Minute Books, May, 1858-January, 1859; May, 1866-May, 1868.



Deed Books, 2B, 2R.  
 Estate Settlements, P, November, 1875-December, 1883.  
 Minute Book B, January, 1876-December, 1876.  
 Record Book C, 1823-1824.  
 Record of Wills, 1807-1873.  
 Will Book, A-1.  
 Will and Minute Book X, Vol. 1, 1832-1837.  
 Wills and Minutes E, Vol. 1.

United States, Seventh Census, 1850. Original Schedules (Microfilm).  
 Population, Tennessee, Maury County, Columbia.

United States Work Projects Administration, Tennessee Records of Maury  
 County, Circuit Court Minute Book, Vol. A, 1810-1815. Nashville,  
 1938.

## 5. Manuscript Collections

Historical Society of Pennsylvania, Philadelphia

James Buchanan Papers  
 A. O. P. Nicholson Letters

Library of Congress

William Allen Papers  
 Blair and Rives Papers  
 Caleb Cushing Papers  
 Andrew Jackson Donelson Papers  
 Andrew Jackson Papers  
 Samuel H. Laughlin Papers  
 William L. Marcy Papers  
 Franklin Pierce Papers  
 James K. Polk Papers

Southern Historical Collection, University of North Carolina Library,  
 Chapel Hill

Thomas Bragg Papers  
 Robert L. Caruthers Papers  
 George Washington Jones Papers  
 A. O. P. Nicholson Papers

Tennessee State Library and Archives, Nashville

John P. Heiss Papers  
 Miscellaneous Manuscripts  
 James K. Polk Papers

## Miscellaneous

E. G. Eastman Manuscripts. Dr. E. E. Anderson, Nashville.  
 Andrew Johnson Papers. University of Tennessee Library, Knoxville.  
 Thomas A. R. Nelson Papers. Lawson McGhee Library, Knoxville.  
 A. O. P. Nicholson Letters. New-York Historical Society, New York.  
 Nicholson Family Papers. Miss Mary Nicholson, Columbia, Tennessee.  
 Nicholson Collection. W. B. Nicholson, Nashville.  
 Franklin Pierce Papers. New Hampshire Historical Society, Concord.  
 James K. Polk Papers. Vanderbilt University Library, Nashville.

6. Unpublished Materials

Thomas A. R. Nelson Scrapbook. Lawson McGhee Library.

7. Published Journals and Diaries

Gower, Herschel, and Jack Allen, eds. Pen and Sword, The Life and Journals of Randal W. McGavock. Nashville, 1959.

Quaife, Milo Milton, ed. The Diary of James K. Polk during His Presidency, 1845 to 1849. 4 vols. Chicago, 1910.

8. Published Correspondence: Books

Basset, James S., ed. Correspondence of Andrew Jackson. 7 vols. Washington, 1926-35.

9. Published Correspondence: Periodical Articles

Parks, Joseph H., ed. "Letters from Aaron V. Brown to A. O. P. Nicholson, 1844-1850," Tennessee Historical Quarterly, III (1944), 170-79.

\_\_\_\_\_. "Letters from James K. Polk to Samuel H. Laughlin, 1835-1844," East Tennessee Historical Society's Publications, No. 18 (1946), 147-67.

\_\_\_\_\_. "Letters from James K. Polk to Alfred O. P. Nicholson, 1835-49," Tennessee Historical Quarterly, III (1944), 67-80.

\_\_\_\_\_. "Some Tennessee Letters during the Polk Administration," Tennessee Historical Quarterly, III (1944), 275-81, 352-61; IV (1945), 76-82.

\_\_\_\_\_. "Some Tennessee Letters, 1849-1864," Tennessee Historical Quarterly, IV (1945), 234-55.

Williams, Emma Inman, ed. "Letters of Adam Huntsman to James K. Polk," Tennessee Historical Quarterly, VI (1947), 337-69.

10. Miscellaneous: Published Works

Boyd, William H., comp. Boyd's Washington and Georgetown Directory. Washington, D. C., 1860.

Caruthers, Robert L., and A. O. P. Nicholson. A Compilation of the Statutes of Tennessee of a General and Permanent Nature . . . to which is Appended a New Collection of Forms. Nashville, 1836.

Clark, Walter, ed. The State Records of North Carolina. 26 vols. Goldsboro, North Carolina, 1886-1907.

Nicholson, A. O. P. Address Delivered Before the Two Literary Societies of the University of North Carolina, June 1, 1853. Raleigh, 1853. [Pamphlet.]

Nicholson, A. O. P., comp. Statute Laws of the State of Tennessee of a General Character; Passed since the Compilation of the Statutes by Caruthers and Nicholson . . . Including the General Acts Passed in 1847-1848 Compiled from the Printed Acts. Nashville, 1848.

Rowles, W. P. The Life and Character of Capt. W. B. Allen of Lawrence County, Tennessee. . . . Columbia, Tennessee, 1853.

Tucker, R. S., comp. Early Times in Raleigh. Addresses Delivered by the Hon. David L. Swain. . . . Raleigh, 1867.

11. Newspapers

Columbia Miscellaneous Papers, November 17, 1810-December 23, 1904. Microfilm, Tennessee State Library and Archives.

Columbia Herald, 1865-1876.

Early Miscellaneous Newspapers (Jonesboro), 1804-1912. Microfilm, University of Tennessee Library.

Knoxville Argus and Commercial Herald, June 27, 1839-December 22, 1840.

Nashville American, 1848-1853.

Nashville Daily Gazette, 1857-1860.

Nashville Patriot, 1860-1861.

Nashville Republican Banner, 1840-1842, 1850, 1857-1858, 1860.

Nashville True Whig, 1839-1843, 1850.

Nashville Union, 1835-1853.

Nashville Union and American, 1853-1876.

New York Herald, May-December, 1855.

New York Times, 1872.

Washington Intelligencer, February 22, 1853-August 10, 1853.

Washington Union, January 1, 1852-May 1, 1857.

## B. SECONDARY MATERIALS

### 1. General Works

Hofstadter, Richard, William Miller, and Daniel Aaron. The American Republic. 2 vols. Englewood Cliffs, New Jersey, 1959.

Morison, Samuel Eliot, and Henry Steele Commager. The Growth of the American Republic. 2 vols. New York, 1962.

### 2. Tennessee History

Alexander, Thomas B. Political Reconstruction in Tennessee. Nashville, Tennessee, 1950.

Campbell, Claude A. The Development of Banking in Tennessee. Nashville, 1932.

Campbell, Mary E. R. The Attitude of Tennesseans toward the Union, 1847-1861. New York, 1961.

Century Review, 1805-1895, Maury County. . . . Columbia, Tennessee, 1905.

Folmsbee, Stanley J. Tennessee Establishes a State University: First Years of the University of Tennessee, 1879-1887, in the University of Tennessee Record, LXIV (1961).

\_\_\_\_\_. Sectionalism and Internal Improvements in Tennessee, 1796-1845. Knoxville, 1939.

Folmsbee, Stanley J., Robert E. Corlew, and Enoch L. Mitchell. The History of Tennessee. 4 vols. New York, 1960.

Patton, James W. Unionism and Reconstruction in Tennessee, 1860-1869. Chapel Hill, North Carolina, 1934.

Temple, Oliver P. Notable Men of Tennessee from 1833 to 1875. . . . New York, 1912.

Turner, William Bruce. History of Maury County, Tennessee. Nashville, 1955.

White, Robert H. Messages of the Governors of Tennessee. 6 vols. Nashville, 1952-

Williams, Samuel Cole. Phases of the History of the Supreme Court of Tennessee. Johnson City, Tennessee, 1944.

### 3. Special Studies

Battle, Kemp P. History of the University of North Carolina. 2 vols. Raleigh, North Carolina, 1907-12.

Dumond, Dwight L. The Secession Movement, 1860-61. New York, 1931.

Jackson, Joseph. Encyclopedia of Philadelphia. 4 vols. Harrisburg, 1931-33.

Nichols, Roy F. The Democratic Machine, 1850-1854. Vol. CXI in Columbia University Studies in History, Economics and Public Law. Edited by Faculty of Political Science. New York, 1923.

Robbins, Roy M. Our Landed Heritage: The Public Domain, 1776-1936. Gloucester, Massachusetts, 1960.

Scroggs, William O. Filibusters and Financiers: The Story of William Walker and His Associates. New York, 1916.

Stanwood, Edward. A History of the Presidency from 1788 to 1897. New York, 1898.

### 4. Biographies

Alexander, Thomas B. Thomas A. R. Nelson of East Tennessee. Nashville, 1956.

Caldwell, Joshua W. Sketches of the Bench and Bar of Tennessee. Knoxville, 1898.

McCormac, Eugene Irving. James K. Polk: A Political Biography. Berkeley, California, 1922.

Nichols, Roy F. Franklin Pierce: Young Hickory of the Granite Hills. Philadelphia, 1931.

Parks, Joseph H. John Bell of Tennessee. Baton Rouge, 1950.

Sellers, Charles Grier, Jr. James K. Polk, Jacksonian, 1795-1843. Princeton, 1957.

Smith, W. L. G. The Life and Times of Lewis Cass. Fifty Years of Public Life. New York, 1856.

Smith, William Ernest. The Francis Preston Blair Family in Politics. 2 vols. New York, 1933.

Speer, William S. Sketches of Prominent Tennesseans. Nashville, 1888.

Winston, Robert W. Andrew Johnson: Plebeian and Patriot. New York, 1928.

#### 5. Unpublished Studies

Stanbery, George W., II. The Constitutional Convention of 1870. Master's thesis, University of Tennessee, 1940.

#### 6. Periodical Articles

Alexander, Thomas B. "The Presidential Campaign of 1840 in Tennessee," Tennessee Historical Quarterly, I (1942), 21-43.

Campbell, Mary. "Tennessee and the Union, 1845-1861," East Tennessee Historical Society's Publications, No. 10 (1938), 71-90.

Clark, Thomas D. "The Development of the Nashville and Chattanooga Railroad," Tennessee Historical Magazine, Ser. 2, III (1935), 160-68.

Figuers, H. P. "Two Lawyers of Our Town," Bar Association of Tennessee Proceedings, XXIV (1905), 124-33.

Goodpasture, Albert V. "The Boyhood of President Polk," Tennessee Historical Magazine, No. 1 (1921), 36-50.

Green, John W. "Some Judges of the Supreme Court of Tennessee," Tennessee Law Review, XVII (1943), 789-804.

Hamer, Marguerite Bartlett. "The Presidential Campaign of 1860 in Tennessee," East Tennessee Historical Society's Publications, No. 3 (1931), 3-22.



- Hamilton, Holman. "Democratic Senate Leadership and the Compromise of 1850," Mississippi Valley Historical Review, XLI (1954), 403-18.
- Henry, J. Milton. "The Revolution in Tennessee, February, 1861, to June, 1861," Tennessee Historical Quarterly, XVIII (1959), 99-119.
- Herndon, Dallas T. "The Nashville Convention of 1850," Alabama Historical Society Transactions, V (1904), 203-37.
- Lambert, Robert S. "The Democratic National Convention of 1844," Tennessee Historical Quarterly, XIV (1955), 6-12.
- McKay, Robert M. "Life and Character of Chief Justice A. O. P. Nicholson," Bar Association of Tennessee Proceedings, IV (1885), 158-64.
- Moore, Powell. "James K. Polk and Tennessee Politics, 1839-1841," East Tennessee Historical Society's Publications, No. 9 (1937), 31-52.
- \_\_\_\_\_. "James K. Polk and the Immortal Thirteen," East Tennessee Historical Society's Publications, No. 11 (1939), 20-33.
- \_\_\_\_\_. "James K. Polk: Tennessee Politician," Journal of Southern History, XVII (1951), 493-516.
- \_\_\_\_\_. "The Political Background of the Revolt Against Jackson in Tennessee," East Tennessee Historical Society's Publications, No. 4 (1932), 45-66.
- \_\_\_\_\_. "The Revolt Against Andrew Jackson in Tennessee, 1835-1836," Journal of Southern History, II (1936), 335-59.
- Parks, Joseph H. "The Tennessee Whigs and the Kansas-Nebraska Bill," Journal of Southern History, X (1944), 308-30.
- Sioussat, St. George L. "Tennessee and National Politics, 1850-1860," American Historical Association Annual Report, 1914, I, 245-58.
- \_\_\_\_\_. "Tennessee, the Compromise of 1850, and the Nashville Convention," Mississippi Valley Historical Review, II (1915), 313-47.
- Washburn, Clara Bracken. "Some Aspects of the 1844 Presidential Campaign in Tennessee," Tennessee Historical Quarterly, IV (1945), 58-74.



**APPENDICES**

APPENDIX A

Questionnaire from Tennessee Democratic Senators,  
1845, and Nicholson's Reply

Nashville, Oct. 21, 1845.

Gentlemen: Your names now being before the Legislature of this State for the vacant seat in the United States Senate, we, the undersigned respectfully ask categorical answers to each of the following interrogatories:

1. Are you in favor of re-establishment of a Bank of the United States?
2. Are you in favor of the modification of the Tariff Act of 1842?
3. If elected would you vote to distribute the proceeds of the sales of the public lands amongst the States?
4. Would you vote to receive the Constitution of Texas?
5. Would you extend the laws and jurisdiction of the United States over our citizens in Oregon?
6. Would you obey instructions, or resign?

An early reply is requested.

Your ob't servants,

(21 signatures)

Nashville, Oct. 22, 1845.

Gentlemen:--I have this moment received your letter propounding me a series of questions on political subjects. In compliance with your request I proceed to answer them in their order.

1. I am opposed to the re-establishment of a Bank of the United States.
2. I am in favor of reducing and modifying the Tariff Act of 1842 to the revenue standard.
3. I am opposed to the distribution of the proceeds of the land sales.
4. I am in favor of ratifying the Constitution of Texas.
5. I am in favor of extending our jurisdiction over the Oregon Territory.
6. I acknowledge the right of the Legislature to instruct Senators, and their duty to obey or resign.

Very respectfully,

A. O. P. Nicholson

White, Messages, IV, 41.

APPENDIX B

WITHDRAWAL AS DEMOCRATIC NOMINEE FOR SENATE, 1845

Nashville, Oct. 25, 1845.

Hon. J. E. Thomas:

Dear Sir:--In compliance with the expressed will of a large majority of my political friends in the General Assembly, I consented that you might present my name before that honorable body as a candidate for United States Senator. You are aware that I never would have consented to occupy that position except with the sanction of the body of the democratic members. The manifestation of confidence reposed in me by four-fifths of the democratic members, as exhibited on the various ballots for Senator, imposes upon me a debt of gratitude so large that I can never hope fully discharge it. If an assurance of my continued exertions with increased industry and energy in sustaining the principles which we advocate as a party will afford any gratification to my friends, you can tender to them that pledge.

You are aware (whatever opinions are entertained by others) that my consent to be presented as a candidate for Senator was yielded with reluctance, and that there has been no moment of time since my name was first used in connection with the office, when I would not have cheerfully resigned all pretensions to it to any other person that might have been designated by our party. My ambition was more than satisfied with the knowledge that I was deemed worthy by my political friends to fill a station so elevated.

I have witnessed with the deepest pain the difficulties which have sprung up in connection with the Senatorial question. Whilst I do not claim an exemption from those political aspirations which animate the bosoms of all honorable men, I can safely say that my ambition is not of that kind which could impel me to place my own success in competition with the harmony of my party.--Having once placed my name at the disposal of my friends I have not felt authorized to interfere with its use until the present time. The conviction has been forced upon my mind that, without the aid of whig votes, my election cannot be secured. I see causes operating upon the minds of our political opponents which create an inseparable barrier to their support. They are laboring under the impression that I am the favorite candidate of the President of the United States, and it has been industriously propogated that his influence has been exerted in my behalf. As far as I know or believe, there is no foundation for such an impression. It is true that I have sustained the present administration with zeal and industry--not, however, because the Executive chair is filled by Mr. Polk, but because

its doctrines and measures are such as meet my hearty approval. I could never accept a seat in the Senate merely to echo the will of any President, and the bare suspicion that such would be my position (however unfounded in fact) makes me the more ready to request you to withdraw my name as a candidate from before the Convention.

Very respectfully,  
Your obedient servant,  
A. O. P. Nicholson.

Nashville Union, October 28, 1845.

## APPENDIX C

### Nashville Convention: Minority Report, June, 1850

The undersigned constituting a minority of the committee on Resolutions, being unable to concur fully and entirely in the Report adopted by the majority, respectfully submit to the Convention the following brief statement of the grounds on which they are constrained to withhold their approval of the majority report.

1. The resolutions reported by the majority for the consideration of the Convention received our cordial sanction, and we fully concur in recommending their adoption.
2. When the committee had agreed upon a series of resolutions for the consideration of the convention, we doubted our authority under the terms of our commission to accompany them by an address to the people of the southern States represented in the convention. We were strongly inclined to the belief that our rightful duties were discharged by preparing and recommending the resolutions, and that the business of preparing an address was reserved for the further consideration and direction of the Convention. With these impressions we were unwilling to concur in reporting any address without further directions from the convention.
3. We are unable to give our full assent to the address prepared and adopted by the majority, and we deem it due to ourselves to state that our objections mainly apply to that portion of the address which discusses the plan of adjustment of the slavery question reported in the Senate by the committee of thirteen, and now pending in that body. In many of the objections taken to that plan of adjustment and in much of the reasoning by which these objections are enforced we cannot concur. Whilst we are not prepared to approve the entire plan proposed by the Committee of Thirteen, in the shape in which it was recommended by them, we are not prepared to conclude that it cannot and will not be so modified and amended as to be acceptable to those we represent as well as to ourselves.

Upon these grounds, without going into any detail, we have felt ourselves constrained to accompany the report of the majority with the explanation of our position.

A.O.P. Nicholson, Tenn.  
Aaron V. Brown, Tenn.  
William M. Murphy, Alabama.  
Arthur J. Forman, Florida.  
Sam C. Roane, Arkansas.

Nashville Union, June 15, 1850.

APPENDIX D

NICHOLSON-FORNEY PRINTING CONTRACT AGREEMENT, 1854

This agreement, made this 26th day of May, 1854, between A. O. P. Nicholson, of the City and County of Washington, District of Columbia, of the one part, and John W. Forney, of said city and county aforesaid, of the second part, witnesseth, that whereas, by a certain writing, dated the 28th day of February, 1854, it was agreed between Arnold Harris, of the city and county aforesaid, acting as administrator of Gen. Robert Armstrong, deceased, and the aforesaid A. O. P. Nicholson for himself, that, first, the material of every kind used in the printing and publication of the "Union" newspaper, in said city, together with all other matters of value pertaining to the same, and second, all the type, presses, machinery, and material of every kind used in printing Congressional documents, and all other matter necessary to carry on all of said work, both upon the newspaper and documents above named, which the said Robert Armstrong owned and possessed at the date of his death, and which were contained in the building known as the "Union" office, in said city, should be valued and appraised by four disinterested parties in said agreement named, and that, after such appraisement, the said A. O. P. Nicholson should first have the privilege of purchasing absolutely all the material used in the printing and production of said Union newspaper, and all other matters of value pertaining in the same, at the price fixed by said appraisers, and, second, that the said A. O. P. Nicholson should, in like manner, have the privilege of purchasing absolutely all the type, presses, machinery, and material of every kind used in the printing of Congressional documents at the appraised value thereof; or, if the said A. O. P. Nicholson should decline such purchase named in the second clause, then and in that case the said Nicholson should have the privilege of renting all of said type and material of every kind used in the printing of said Congressional documents during the Thirty-third Congress, and that, as compensation or rent for the use by said Nicholson of said material last named, the said Nicholson should, after paying all the expenses of whatever character incurred in the printing, folding, and delivery, as required by the act of the 26th August, 1852, of all such Congressional work, pay to said Arnold Harris, Administrator as aforesaid, one equal half part of the entire net profits of all such Congressional printing, which should be to said Harris in full satisfaction of such rent and usage of such material.

And whereas the said A. O. P. Nicholson hath agreed to purchase absolutely the type and material as mentioned in the first clause of said agreements, and hath elected, in accordance with the privilege contained in the second clause of said agreement, to rent from the said Arnold Harris, Administrator as aforesaid, for the entire Term named, and upon the stipulations and for the amount therein agreed upon, all of such material, of whatever sort or kind, used in the printing and

execution of such Congressional work as shall be delivered to him in his capacity as Printer of the House of Representatives of the United States, as was owned by said Robert Armstrong at the date of his decease: Now, therefore, the said A. O. P. Nicholson, of the first part, various considerations him thereunto moving, doth by this agreement constitute and acknowledge the said John W. Forney, of the second part, a full and equal partner with himself, in all the profits and losses arising or accruing in any manner under the aforesaid agreement with the said Arnold Harris, or under the said Nicholson's election as Printer of the House of Representatives of the United States: that is to say, that said Forney shall have equal rights with said Nicholson in the conduct of all the business of said Printing establishment; that he, the said Forney, shall be responsible for one-half the indebtedness of said "Union" newspaper establishment named in the first clause of the agreement with said Harris aforesaid, both for its purchase and the conducting thereof, and shall receive one-half the net profits thereof after the payment of all expenses necessarily incurred in the conduct of the same; and, second, that after the payment of all necessary expenses consequent upon the Congressional printing and the payment of said Nicholson to said Harris, Administrator as aforesaid, of one equal half part of the net profits of said Congressional printing, then the balance of such profits being one-half, shall be equally divided between said Nicholson and said Forney, or one-quarter of the entire net profits of said Congressional printing to each.

And it is further agreed between the said Nicholson and the said Forney, that, after paying the expenses necessarily attending the execution of all Printing for the Executive Departments which may be placed in the hands of said Nicholson for execution by the Superintendent of the Public Printing, the entire net profits of such Printing shall be equally divided between them, the said Nicholson and Forney, one equal part to each.

And it is further understood between said Nicholson and said Forney, that this agreement or partnership shall take date and be in full force and effect from the date of the election of said Nicholson as Printer to the House of Representatives of the United States.

And it is further agreed between the said Nicholson and the said Forney that if, at any time hereafter, any dispute or misunderstanding shall arise between them as to the true intent and meaning, either direct or implied, of any provision contained in this agreement, they will submit the matter in dispute to the arbitrament of Gen. Franklin Pierce, and A. G. Seaman\*, and their decision and award shall be binding, without appeal, upon each of them.

The witness of all which, we have hereunto set our hands and seals this 26th day of May, A.D. 1854.

In presence of  
(Signed) Jno. L. Dawson

(Signed) A. O. P. Nicholson  
(Signed) J. W. Forney.

\*Superintendent of Public Printing

New-York Historical Society.



APPENDIX E

NICHOLSON'S PRINTING CONTRACTS  
1853-1855

Page	Department or Bureau	Order	Amount
167	State, Secretary's office	Advertising deaths	77.75
170	Treasury, secretary's office	Proposals--stationery	554.25
	Interior, secretary's office	Proposals--stationery	28.12
	Indian office--Advertising	sales--Indian goods	128.10
	Public Buildings	Advertising	39.75
	Penitentiary	Notices	20.25
	Pension office	Printing notices	221.00
172	Gen. Land Office (1854-2 qtr)	Advertising sales	398.13
173	Same (1854-3 qtr)	Same	567.15
175	Same (1854-4 qtr)	Same	267.37
178	Same (1855-2 qtr)	Same	119.56
	Same Same	Same	99.25
179	Same (1855-3 qtr)	Same	197.25
180	War, Secretary's office	Advertising	11.25
	Commissionary Gen.'s	Advertising	45.75
181	Post Office	Advertising	7,366.19
	(Armstrong already receiving \$11,450.87)		
185	Congress (printing from Oct. 1, 1853 to Sept. 30, 1855)		
	Senate (32nd Cong.)		1,868.60
	Same (33rd Cong.)		2,246.97
	(Armstrong already receiving \$7,407.95)		
	House (32nd Cong.)		
	(Armstrong already receiving \$25,395.57)		
	Same (33rd Cong.)		119,409.74
169	Nicholson also the "By Authority of" printer of the laws, etc. 33rd Cong. (Armstrong already receiving \$494.00)		186.00

Register of Officers and Agents, Civil, Military, and Naval in the Service of the United States. . . . Together With the Names and Compensation of all Printers in any way Employed by Congress or any Department or Officer of the Government (Washington: A. O. P. Nicholson, Public Printer, 1855).

APPENDIX F

REPLY TO WHIG INTERROGATORIES, 1857

Nashville, Oct. 27th, 1857

Gentlemen:

In reply to your communication of the 13th made by [to] Mr. Ewing, Gen. Pillow, Col. Guild, Judge Dunlap and myself, it was said "that if any one of us should be selected as the candidate of our party, for the Senate, it will then be his duty as well as his pleasure to take such action on the communication as he may deem proper." On last evening, I was selected as the candidate of the democratic party, and as such I respectfully submit the following as my reply to your several interrogatories.

As to my position upon the questions propounded by you in your 1st, 2d, and 3rd interrogatories, embracing as they do the question of alien suffrage, so-called, the extension of the naturalization laws, and the questions incidental thereto, which have formed an issue between the party you represent, and the democratic party to which I am attached, you are of course aware that I hold to the doctrines of the democratic party. My position on these questions, was elaborated in various speeches in different portions of the state in the late canvass, and extensively calculated [circulated] in published form. I make a similar reply to your 4th, 5th, 6th, and 7th interrogatories, and am therefore opposed to a distribution of the proceeds of the public lands or of the lands themselves to the States, to "aid in the construction of roads and canals." To your 8th, I state that I am not in favor of re-opening the African Slave trade. To your 9th, I state that I see no occasion for repealing the neutrality laws, though I hold this is an open question, which may be controlled in future by the policy pursued by other governments. In reply to your 10th interrogatory I have to say that I do not hold to the constitutional right of secession, inasmuch as, in my opinion, secession is a revolutionary remedy, which, however, intolerable oppression or aggression upon the rights of any State or people may justify. To you[r] 11th interrogatory, I reply that I do believe that the Legislature has the right to instruct Senators in Congress and that it is their duty to obey or resign.

As to your last interrogatory, I reply that the amendment[s] of the federal constitution referred to by you as favored by Mr. Jefferson and Gen Jackson and more recently by Gov. Johnson, have always met the approval of my judgment, but in view of the existence of the Black Republican organization with its aims and purposes, I cannot commit

myself to the policy, at least so long as in my judgment the present danger of sectional collisions exists, of advocating a change of the federal constitution for the purpose of incorporating with it those amendments.

I beg leave to express the hope that the foregoing answers to your interrogatories will be found satisfactory.

Very respectfully,

A. O. P. Nicholson

Mr. McConnico & others.

Nashville Union and American, October 29, 1857.

## APPENDIX G

### RESOLUTIONS ON SLAVERY [n.d.]

1. Resolved: That the jurisdiction over the subject of slavery belongs exclusively to the several states in which it may be recognized as a legal institution; and therefore any interference with it by Congress is a violation of the right of sovereignty reserved by the state.
2. Resolved: That each State of the Confederacy by assenting to the Constitution of the United States has pledged its faith as a member of the brotherhood of sovereignty to recognize and maintain the legality of the institution of slavery in every other state so long as such other state shall so recognize it; and therefore, every refusal or failure to enact laws necessary for the recognition & maintenance of its legality in slave-holding states, is a breach of the faith so pledged; and every enactment which denies the legality of the institution in those states where slavery exists or which obstructs the enforcement of its legality is not only a breach of plighted faith but an aggression upon the rights of such states.
3. Resolved: That the agitation of the subject of slavery in states where it does not exist for the purpose of producing impressions against the institution in states where it does exist and in opposition to the known wishes and sentiments of the people therein, is an exercise of the freedom of speech and of the press which is in violation of the obligation of comity and respect existing between members of a common confederacy of equal common states.
4. Resolved: That the existence of a permanent political organization in the non-slave-holding states based exclusively upon a sentiment of hostility to that institution, whether that sentiment is manifested by measures designed to confine it within its present limits with the view of finally making its abolition a matter of interest or whether by measures adopted with the view of obstructing the natural laws of immigration & hastening the admission of new non-slave-holding states for the purpose of securing sufficient political power to abolish slavery by means of an amended Constitution,--such a political organization is necessarily sectional in its composition, aggressive in its character, destructive of those fraternal relations essential to the permanence of the Confederacy, violation of the right guaranteed by the Constitution to all the states, and, wherever carried to its legitimate results, forcing the states in which slavery is recognized to choose between the abolition or a dissolution of the federal union,

5. Resolved: That there is no conflict of interest or of sentiment between voluntary and enforced labor that is incompatible with social and political fraternity and equality--as is clearly illustrated in the formation of our federal union, in the successful administration of the federal government for more than a half a century and especially in the uninterrupted harmony and peace which have prevailed from the beginning in these states where both systems of labor exist.
  
6. Resolved--That the only efficient and permanent remedy for the evils now existing and the dangers now threatening a disruption of the Confederacy is to be found in a return to that spirit of fraternal forbearance and toleration which characterized the conduct of the fathers of the government and in the faithful exclusion of the question of slavery from all political organization and in an honest and unwavering adherence to the principles of the federal Constitution.

Nicholson Family Papers.

APPENDIX H

LETTER TO T. A. R. NELSON, 1871: NICHOLSON'S BRIEF  
OF HIS POLITICAL VIEWS AND ACTIONS, 1861-65

Knoxville

Sept. 9, 1872

Judge Nelson

Dear Sir:

In compliance with my promise I submit for your consideration a brief statement of my political views & action, in connection with the late rebellion.

I was a member of the U. S. Senate and continued to discharge my duties as such until the close of the called-Session of the Senate which met immediately after the inauguration of Mr. Lincoln. I was present in my seat during that extra-session & participated in all its proceedings. After its adjournment I returned home & went actively to work, privately and publicly, to mould public sentiment in favor of a union of sentiment & action, in the border states--Viz: Arkansas, Tennessee, Virginia & North Carolina--by which they might decline to follow the Southern States which had seceded, until further efforts might be made to effect a compromise. I believed that the Southern States were acting precipitately & that they could not hope to maintain their position without the co-operation of the border States-- & that if the border States declined to follow them & could inaugurate negotiations with the Northern States that promised to result in a compromise, the Southern States would recede from their position & that the Union might either be restored or an amicable separation might be adjusted.-- I was making speeches, & corresponding to effect these objects, when Sumter was fired upon & Mr. Lincoln's War Proclamation was issued. The effect of that Proclamation (which I regarded as unauthorized by the Constitution) was to raise a storm of indignation & excitement which not only rendered all further efforts on my part useless, but threw a cloud of odium over me, for what I had done, under which I labored during the war.

Although I thought the Southern States were rash & unjustified in seceding upon the mere election of a Sectional President, yet my sympathies were all with the South & I believed that the Constitutional rights of the Southern States had been violated by the action of several Northern States, and that their rights would probably be

still further violated. But I was so ardent a Union man that I was not willing to resort to revolution until every effort had been made to avert such a catastrophe.

I was a believer in the doctrine that the States were sovereign & that in forming the Federal Union they had reserved the right to judge of violation of the compact of the Federal government; & that under this reserved right the States could rightfully withdraw from the compact when they believed it had been violated. But I was not willing to assert this right as long as there was any hope that the Southern States could have their rights secured in the Union. When Mr. Lincoln issued his War Proclamation I considered that all hope of reconciliation was passed, & that Tennessee would be driven by public sentiment to co-operate with the Southern States. I disapproved & opposed all attempts to get up military organizations against the U. S. government until the State should determine by the vote of her people whether she would remain in the Union or withdraw from it. I believed her people had the reserved right to withdraw, & after they had done so her citizens would not be guilty of treason in resisting the military operations of the Federal government. Having now regarded secession as a constitutional right I never could approve or recommend it as such-- I did believe, however, in the sovereign right of a State to resort to revolution & that this right had never been delegated. In the exercise of this right I was ready to acquiesce, & when the State resorted to it, I felt that my allegiance was then due to the government formed after the withdrawal from the Union. I considered that I had no further right to a seat in the U. S. Senate, & that if I attempted to claim that seat, that I would subject myself to the penalties of treason to the state.

As matter of fact, when Mr. Lincoln convened Congress in extra-session in July, the State of Tennessee had declared her independence & had formed a new government, and it would have subjected me to the penalties of her law, if I had attempted to reach my seat in the Senate at Washington. I made no such attempt, but retired to private life, taking no part in public affairs but awaiting the progress & result of the contest.

After I was imprisoned mostly as a Southern sympathizer & sent South by Military Orders I was earnest in my Southern sympathies & endeavored as far as I could to have a united Southern sentiment. To this end I made two or three public speeches, in which I deprecated the rashness which had brought on the war, but argued, that as war was being carried on, it was best that all Southern men should unite & act together in its prosecution.



I think this statement will give you a clear view of my connection with the rebellion as I am able to give, without going into details.

Very Respectfully

A. O. P. Nicholson

P.S. I have a Special Pardon by Prest Johnson in Augt 1865.

T. A. R. Nelson Papers.

APPENDIX I

APPLICATION FOR SPECIAL PARDON, 1865

TO HIS EXCELLENCY ABRAHAM LINCOLN  
PRESIDENT OF THE UNITED STATES

The subscriber, A. O. P. Nicholson, a citizen of Maury County, Tennessee, respectfully submits the following statement for the purpose of obtaining the benefits of the Amnesty Proclamation.

He was a member of the U. S. Senate, from Tennessee at the time the Southern States seceded from the Federal Union. He was opposed to the secession of these states, believing that the preservation of the Union was a matter of so much importance that further efforts to effect a compromise ought to be resorted to.

He remained in his seat in the Senate until the close of the Extra Session of that body called upon the Inauguration of your Excellency. He returned home after the adjournment of the Senate, and opposed the secession of Tennessee until the issuance of your Excellency's Proclamation in April 1861, calling on Tennessee to furnish her quota of troops to the Union. The subscriber soon discovered, that his position was not satisfactory to the more ultra portion of southern leaders - they regarding him as too hopeful of maintaining the Union, and too backward in acquiescing in the resort to peaceable revolution. Finding himself thus situated, the subscriber determined to retire from public life, and to leave the responsibility of the revolution to those who had undertaken on both sides to control and manage it. In accordance with this determination, after the war commenced he remained quietly at home, until the summer of 1862, when he was arrested by order of Gen. Negley on the charge of being a southern sympathizer, and committed to prison. After remaining in prison for nearly a week, he was ordered by Gen. Negley to go south of the Federal lines, and there remain during the war. He obeyed the order, and remained south of the Federal lines until December 1864, living in retirement and holding no connection with either the civil or military departments of the Confederate government. In December 1864 he received such intelligence as to the condition of his family that he determined to return home and submit himself to the jurisdiction of the U. S. In reaching home he was fully confirmed in this determination. He opened a correspondence with Gov. Johnson, then in Nashville, notifying him of his purpose to remain at home and submit to all the obligations for the suppression of the alledged [sic] rebellion of the Southern states. Believing in the sovereignty [sic] of the states and consequently in the right of peaceable revolution by the people of a state, the subscriber was opposed to military coercion and believed that war could only be declared by Congress against these states as foreign governments.

He looked upon the proclamation as a step, which forced the people of Tennessee to choose betwixt fighting against the United States, or the Southern States. He was opposed to fighting against the United States, because that would be rebellion, Tennessee being still in the Union. He was opposed to fighting against the Southern States, because he regarded the war as unconstitutionally commenced, and because he believed that the Southern States had seceded on account of real grievances. He thereupon acquiesced in the movement for an appeal to the sovereignty of Tennessee, in order that the people might decide in their sovereign capacity, whether they would resort to the right of peaceable revolution, or continue in the Federal Union. In this appeal the people determined by an overwhelming vote to separate themselves from the Federal Union; and believing that in so determining the sovereignty of the state was legitimately exercised, the subscriber regarded his seat in the U. S. Senate as vacated by the sovereign act of the state; and for that reason, and for that only, he declined to appear at the session of Congress called in the summer of 1861. He desires to be explicit in negating [sic] the idea, that he left his seat in the Senate for the purpose of aiding or promoting the alledged rebellion, but to be understood as declining to resume it, in obedience to what he regarded as a legitimate exercise of popular or sovereign power. He will add that such was his devotion to the Union, that he was advocating a plan of concerted action by the middle slave holding states, for the preservation of the Union, at the very time when the war was commenced. He believed, that by the exercise of reasonable forbearance on the part of the United States, the middle slave holding states could be induced to adhere to the Union, and in the course of a short time that the southern states could be induced to rejoin them. The subscriber believes that he communicated these views to Hon. Seward, before he left Washington, and he refers to them now to show the sincerity of his devotion and to perform all the duties that devolve legitimately upon a citizen living in conquered territory; and desiring to be informed by him, of the terms on which he could remain at home. At that time the subscriber had not seen his Amnesty Oath, then being administered to citizens, but before he received an answer from Gov. Johnson he had an opportunity of seeing the Oath.

Upon examining its provisions, he was satisfied that it imposed none other than the obligations and duties, which every citizen remaining in the Federal lines, was bound to observe. He determined at once to apply for the benefits of the Amnesty Proclamation, and was making his arrangements to visit Nashville, for that purpose, when he was arrested; by order of Gen. Thomas, and taken to Nashville where he was informed by the Provost Marshal that he was held as a hostage for a citizen by the name of Furrán, who had been recently captured near Murfreesboro, Tenn. and carried south by Gen. Forrest.

The subscriber was therefore committed to prison, and held there for four weeks, altho Mr. Furrán (or Fullen as his name is) returned home three days after the subscriber was imprisoned. At the end of four weeks the Marshal of Middle Tennessee, with a Capias from the

Federal Court, called on the military authorities to turn the subscriber over to the civil authorities, to answer an indictment for conspiracy. This was done, and the subscriber admitted to give bail for his appearance at Nashville on the 16th of April, to answer the charge of conspiracy. The existence of any indictment against him was unknown to the subscriber, until he was demanded by the Marshal, altho he is informed that it had been found several months since. It was his expectation and purpose to apply for the benefit of the Amnesty, as soon as he should be released from prison, but he learned that he was debarred from so doing, by reason of the pendency of the indictment.

The subscriber is wholly ignorant of the facts, on which the charge of conspiracy was based, nor does he even know the witnesses on whose testimony the indictment was found.

He does not admit any guilt nor does he feel conscious of having committed any act which could be tortured into the crime of conspiracy. But he feels, that he has suffered enough, to induce him to seek for quiet and repose and therefore he throws himself upon the magnanimity and clemency of your Excellency and to that end he prays that your Excellency will grant him a special pardon which he can plead in bar of the indictment for conspiracy and as in duty bound he will ever pray etc.

A. O. P. Nicholson

March 28th 1865

Department of Justice  
August 9, 1870

A true copy of the original on file in this Department.

M. F. Pleasant  
Ch. Clk.

Nicholson Family Papers.

APPENDIX J

NICHOLSON'S CHASE LETTER, 1871

Columbia, Tenn., Aug. 6, 1871.

M.C.C. Church, Esq.:

Dear Sir--

I have examined with care the printed copy of the platform on which the friends of Chief Justice Chase propose to present his name to the national Democratic Convention for nomination to the Presidency. You are aware that since the people of Tennessee called me to the position which I now occupy as Chief Justice of the State, I have deemed it my duty to abstain from all political movements and to devote my whole time to my official trust. The judgment, therefore, which I shall express as to the Chase platform and its acceptability to the Southern Democracy will rest much more upon my general view as to the Southern character and Southern sentiment than upon any knowledge on these subjects acquired in the last twelve months.

I regard the principles and policies laid down in the resolutions on which you ask my opinion as eminently sound and orthodox, and those only on the success of which we can hope to prevent our Government from becoming a confirmed central despotism. Relying upon my knowledge of Southern character and sentiment, I have no doubt that the great body of the Southern people would cordially support Chief Justice Chase or any honest statesman standing upon this platform.

I do not think that the Southern Democrats have any decided preference as to the persons to be nominated for President and Vice President. They look to the Convention for the selection of two honest statesmen, with the adoption of a sound Democratic platform, and on such a ticket there will be substantial unanimity. I think that I can safely add that Chief Justice Chase, by his firmness, independence and ability in the discharge of his official duties, has secured the decided confidence of the Southern Democracy.

But, if I am not much mistaken in the Southern sentiment, it is the general impression that the selection of candidates ought to be made by the Northern Democrats, and that the Southern Democrats would neither suggest or advocate any preference for the nomination to be made. This course is indicated as wise on the part of the Southern Democrats, because of the firm conviction that there exists in the Northern mind a jealous suspicion of Southern statesmen, which would render it imprudent in them to take any prominent part in indicating or selecting candidates.

For the same reason I think the Southern Democrats are preparing to acquiesce generally in the nomination of both candidates from the Northern States. Indeed, it would not be easy to find in the Southern States a statesman fitted for either position whose connection or sympathy with the late war would not cause his nomination to become a ground of weakness to the ticket. I give it to you as my judgment that the Southern Democrats in general deem it their duty in the present state of political affairs to wait in silence the action of their Northern friends, having full confidence that they will adopt such a platform and make such nominations as will command the cordial support and co-operation of the Southern Democracy.

Very Respectfully,

A. O. P. Nicholson

Columbia Herald, September 1, 1871.