

**JAMES MADISON IN OKLAHOMA: THE FOUNDING
FATHER AND THE FATE OF THE TRIBES**

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Located in Tulsa, Oklahoma, the Thomas Gilcrease Institute of American History and Art is the repository of the most comprehensive collection of American Indian and Western Art in the United States. The Gilcrease Museum (as it is better known) also houses an impressive collection of related archives and artifacts, features special exhibits, and hosts a variety of programs for scholars and the public. Seated in the Osage foothills near the Arkansas River and surrounded by gardens, the Gilcrease Museum is widely hailed as the cultural crown jewel of Oklahoma.

Overwhelmed by the richness of the collection, the casual visitor may fail to notice those artworks that fall outside the Native American and Western genres. Thomas Gilcrease, the Tulsa oilman who founded the museum, was not only an avid but an eclectic collector, and his museum features paintings by famous American artists such as Mary Cassatt, Winslow Homer, John Singer Sargent, and James McNeill Whistler. There is also a painting that may appear slightly out of place among the many great works of Western art: a portrait of James Madison (c. 1792) by Charles Willson Peale, which was acquired by Mr. Gilcrease in 1958.

Given the fame of both Madison and Peale, who painted almost every leading figure of the Revolutionary generation, there was good reason to acquire the portrait. Since the acquisition it has been widely reproduced and is among the most familiar likenesses of the Founding Father. When it was executed around 1792, Madison had not yet acquired the title “Father of the Constitution,” but he was among the best-known statesman in America and a leader in the House of Representatives. By this time he and Thomas Jefferson had

joined in opposition to Alexander Hamilton, whom Peale also rendered in oil. When Jefferson became president in 1801, Madison would serve as his secretary of state, then succeed him as president. After two terms and forty years of public service, Madison retired to his estate in Virginia, where he died in 1836, “the last of the Fathers.”

For all his fame and importance as a Founder, the presence of Madison’s portrait in the Gilcrease is still something of an anomaly. After all, Madison never travelled west of the Appalachians and died more than a half-century before Oklahoma became a territory. Moreover his link to the destiny of the native tribes, and particularly to the peoples who would one day occupy Oklahoma, would seem indirect at best. Unlike Jefferson, who first suggested Indian removal, and Andrew Jackson who commenced the process, Madison—according to biographers and historians—made no significant contribution to federal Indian policy. For the most part he is portrayed as following Jefferson’s (equivocal) policy of assimilation and expansion until he was moved to crush the tribal uprisings on the frontier during the War of 1812. Yet this use of force was less the design of the commander-in-chief than the work of his free-lance generals. And so Madison is typically identified as a “transitional” figure in the history of U.S.—Indian relations, poised between the assimilationism of Jefferson and the emerging policy of removal that culminated with Jackson (Warnes 2009, 511).

This image of Madison, while not at sharp variance with the facts, tells little about his connection to Native American history. With few exceptions, Madison’s biographers, presidential historians, and students of U.S.—Indian affairs have all but ignored this aspect of his thought and career. Admittedly, Madison did not match Jefferson’s interest in native cultures and languages, nor did he, like Jackson, decisively alter U. S. policy toward the tribes. Yet from his earliest childhood memories to this final days, the indigenous peoples of America occupied a vital place in the mind of Madison. And during his four decades as a public official, he was engaged—

directly or indirectly—in Indian affairs to one degree or another. Indeed, Madison’s career coincided with the origins of U.S.—Indian relations under the Continental Congress (1774) and ended with the defeat and pacification of the woodland tribes under his presidency (1817). It may seem remarkable, therefore, that so little has been written on Madison and the native peoples.

A comprehensive treatment of the subject, such as those accorded Jackson and Jefferson, would require a book-length study covering the entirety of Madison’s life. From a childhood “spent . . . within expectant earshot of the cries of Indian attack” (Brant 1941, 48) to the heated battles over Indian removal during his retirement, the “trouble of the tribes” remained a persistent concern, and (as Madison confessed) a “problem most baffling to the policy of our country” and one only surpassed by slavery. Here I can only suggest how such a study might proceed.

Madison’s first extant reference to Native Americans was occasioned by “Lord Dunmore’s War” (1774), a punitive expedition led by Virginia’s royal governor against the Shawnee who had retaliated for the massacre of a dozen of its own people by frontier whites. The warfare that ensued—in conjunction with childhood memories—may have permanently shaped Madison’s attitude toward native peoples in general. And while largely unsympathetic to “those perfidious people,” he did show an appreciation for the “eloquence” and “valor” of Logan, the Shawnee chief. Later that year, Madison, just twenty-three, was elected to the Orange County Committee of Safety in response to heightened tensions between imperial Britain and the American colonies. During this period, the Continental Congress was preparing for war, which included efforts to ensure the neutrality if not the active support of the Indian tribes.

Even before he joined Congress in 1780, Madison’s correspondence is replete with references to such efforts and to the escalation of violence on the frontier. Since most of the warring tribes either sided with the British or simply fought against the colonists, he was far

from sympathetic to native interests during this period. As a member of the Virginia delegation in Congress (1780-1783) he would frequently exchange news with the Virginia governor (and other correspondents) on Indian affairs of national or state concern. While no clear policy emerges from these exchanges, outside of pacifying the tribes as part of the war effort, Madison would continue to follow events closely in and out of Congress.

With the formal adoption of the Articles of Confederation (March, 1, 1781), Congress was granted “the sole and exclusive right and power of . . . regulating the trade and managing all the affairs with the Indians, not members of any of the States, provided that the legislative right of any State, within its own limits be not infringed or violated.” Because many of the tribes still resided within state boundaries, authority over Indians affairs remained divided between the Congress and the states. Moreover, the treaty that ended the war with Great Britain had made no provision for the status of the hostile tribes. Congress, whose Committee on Indian Affairs issued its first comprehensive report at this time, moved to broker a series of treaties to normalize relations. Madison, now back in the Virginia Assembly, would travel to upper New York with the Marquis de Lafayette, who helped to negotiate the Treaty of Fort Stanwix with tribes of the Six Nations.

While Madison did not shape post-war Indian policy, he continued to observe state and federal efforts to normalize relations with those tribes who had taken up arms against America. These efforts—based on the “conquest” doctrine—were rarely successful, and by the end of 1786 the frontier was on the verge of “a general Indian war.” Shortly thereafter Secretary of War Henry Knox proposed a different approach based on “preemption” or the right of first purchase of Indian-occupied lands. While Madison was attending the Federal Convention in Philadelphia—where he proposed that Congress have exclusive jurisdiction over Indian affairs—the Congress sitting in New York passed the Northwest Ordinance which reflected this new approach. In words that would subsequently become bitterly ironic, the ordinance pledged that “[t]he utmost good faith shall always be observed towards the Indians, their lands and property shall never be taken from them without consent . . .”

The broad consensus that Indian policy should be vested in the federal government was reflected in the lack of debate over the subject both at the Philadelphia Convention and in the state ratification conventions that followed. In *Federalist* No. 42, Madison ridiculed the Articles of Confederation which divided authority to treat with the tribes between the state and general governments. The decision to grant exclusive jurisdiction to the latter under the Constitution would not, however, prevent states from meddling in Indian affairs, stop settlers from invading tribal lands, or end intermittent warfare on the frontier. Yet it did permit the adoption of Secretary Knox's "benevolent" policy of treating the tribes as sovereign nations and regulating white-native relations through a series of trade and intercourse acts. While these measures were primarily the result of consultations between Knox and President Washington, it is probable that Madison—a leader in Congress who was close to the president during his first term—had a hand in the legislation.

Just what role Madison played in the formation or adoption of Indian policy during his four terms in Congress (1789-1797) must await a review of his papers and House records for these years. Since administrative authority over Indian affairs was placed in the Department of War under the leadership of the president, Congress—which was busy with a host of other matters—played a secondary role at best. Still both the House and Senate established standing committees on Indian affairs and regularly held hearings, issued reports, and adopted measures. Students of U.S.—Indian relations in the antebellum era have focused almost exclusively on executive management of tribal affairs at the expense of congressional oversight and legislation.

After a brief stint in the Virginia legislature (1799-1800), Madison joined the Jefferson administration in the capacity of secretary of state. Since Indian policy was vested in the Department of War, he had little official role to play in this area. And while he did review the many tribal treaties negotiated during these years—he was after all Jefferson's closest advisor—scholars have had virtually nothing to say about Madison's views or contributions to Jefferson's Indian

policy. Nor is it clear if Madison played a role in the Compact of 1802 whereby Georgia agreed to cede its western lands to the federal government in exchange for a pledge to extinguish Indian land titles throughout the state. During his nationalist phase (1780-1790), Madison frequently complained that the Articles of Confederation had created an unworkable system of divided sovereignty that allowed the states to frustrate the national interest. Even the Constitution, which strengthened the latter at the expense of the former, Madison believed, retained the evil of *imperium in imperio*—a state within a state. Yet did Madison also view the tribes in Georgia and elsewhere in similar terms? More specifically, what was his response to the Cherokee's efforts to establish an independent state within Georgia in the late 1820s? Conversely, how did he respond to the state's determination to drive the Cherokees out of Georgia on the basis of the 1802 compact? Did he express an opinion—constitutional or otherwise—on the showdown between President John Quincy Adams and the Georgia authorities? Or on Jackson's Indian Removal Bill? Or on John Marshall's decisions in the Cherokee cases? Or on forcible removal? As one biographer has noted, Madison "wrote little" on the subject of Indian affairs, and yet no one has bothered to explore what little he *did* write.

Only a review of Madison's papers over his long public career and beyond can begin to answer these and other questions. Did his views on relations with the tribes evolve over time or did he, as a noted Madison scholar suggests, simply share "Jefferson's attitude toward federal paternalism as a means of converting Indians into yeoman farmers" (Rutland 1990, 37)? One of the few scholars to comment on Madison's tribal policies as president agrees: "he merely continued and echoed the Indian policies of Jefferson." (Horsman 1967, 158). Yet it was Madison, not Jefferson who presided over a war in which the woodland tribes made their last, desperate stand in a conflict that spanned two centuries. Before the outbreak of war with Britain in 1812, Madison had attempted to resolve conflicts on the frontier through peaceable means. William Henry Harrison's "victory" at Tippecanoe (1811)—which led to a formal Shawnee-British alliance in the Northwest—was an unauthorized action Madison was forced to condone after the fact.

In the Southwest, Madison—prodded by his secretary of war—pressured the tribes to permit the construction of supply roads through their lands, but he opposed demands by state officials to seize the lands themselves. His prewar inaugural and annual addresses strike a positive note on Indian relations and reaffirm the policy of “civilization” embraced by his predecessors. While he would denounce Indian depredations on the Wabash in a message to Congress a few days before the Battle of Tippecanoe, he did not link such activities to British connivance until his war message of June 1812. Not surprisingly Madison’s attitude towards the hostile tribes shifted with the outbreak of war, a shift reflected in the general opinion of white Americans. As historian Brian Dippie has written, “[t]he tarnishing of the Indian image after 1812 can be traced in the changing mood of Madison’s annual messages to Congress” (1982, 6).

After his victory over Tecumseh and the British at the Battle of the Thames (1813), General Harrison would resign his command, only to be coaxed by Madison to resume his office in order to pacify the defeated northwestern tribes. Harrison, known as “Mr. Jefferson’s Hammer” for his aggressive policy of acquiring tribal lands as governor of Indiana Territory, acquired far greater notoriety under Madison and would eventually be elected president. Andrew Jackson also rose to fame under Madison. Interestingly, Jackson had supported James Monroe for president in 1808 in the belief that he would be more aggressive than Madison in confronting the frontier tribes. After an abortive campaign against the Seminoles in late 1812 (Madison failed to obtain congressional approval for an invasion of west Florida and Jackson’s volunteers were discharged), Jackson raised troops without authorization when the “Red Stick” Creeks took to the warpath in present-day Alabama.

Madison would subsequently approve Jackson’s peremptory moves, but the headstrong general’s defiance of civilian authority would prove habitual. After peace was established, he disregarded a directive from Madison’s secretary of war to return lands ceded by the Creeks in the Treaty of Fort Jackson (1814), and later refused to comply with a treaty (1816) that returned ceded lands to the

Cherokees. During this period the army was under orders to evict unauthorized settlers from tribal lands, but neither Jackson nor the settlers were willing to cooperate. A proclamation signed by Madison (1815) ordered federal officials to remove squatters but it was largely ignored. When a group of disaffected Cherokee chieftains complained to Madison of their plight, Jackson—present in Washington at the time—urged the president to disregard them. Madison assured the chieftains that the government would act in good faith, and even ordered Jackson to suspend any negotiations that violated the Indians’ “ideas of justice and right” (Rutland, 200). Yet Madison must have known that Old Hickory—who openly denounced the practice of treating the tribes as nations as “absurd”—would not honor his instructions. A few years later, Jackson would again defy a president—this time James Monroe—with an unauthorized assault on Spanish forts while pursuing the Seminoles in Florida. This would not, however, prevent Jackson from becoming president himself in 1829, and securing passage of the Indian Removal Act a year later.

While Jefferson had privately contemplated the removal of the tribes at the time of the Louisiana Purchase, neither he nor Madison made it official policy. It was Madison’s successor, James Monroe, who first endorsed removal in a special message to Congress in 1825, a position adopted by Monroe’s successor, John Quincy Adams. Both, however, insisted that removal should be *voluntary*, and resisted efforts to force the tribes to relocate west of the Mississippi. In his last years as president, Madison would continue to champion the “civilization” policy, and particularly the “divided and individual ownership of land” as “the true foundation” for a transition from a primitive state “to the arts and comforts of social life” (Banner 2007, 260). Yet within a year of leaving office—and in the face of mounting evidence—he appears to have given up on the idea of assimilation and resigned himself to the policy of removal. In what one biographer has called “[p]erhaps the best summary of his views” on the matter, Madison made the following observation some months after the passage of Jackson’s Removal Bill: “It is evident that [the native peoples] can never be tranquil or happy within the bounds of a State, either in a separate or subject character, that a removal to another home, if a good one can be found, will be the wish of their

best friends. But the removal ought to be made voluntary by adequate inducements, present and prospective; and by no means ought to grudge which such a measure may require” (Schultz 1970, 197).

This passage suggests that Madison maintained a “benevolent” attitude toward the tribes throughout the remainder of his life. As president he supported the policy of assimilation first adopted by Washington and continued by Jefferson. It was a policy whose inevitable corollary was the progressive acquisition of Indian-occupied lands—ideally through peaceful means. It did not, however, entail forcible removal. Like his predecessors, Madison found it impossible to halt the inexorable tide of land-hungry settlers, avaricious speculators, and unscrupulous traders that inundated the frontier and made a mockery of declared policy. His efforts to keep the peace and treat fairly with the tribes was shattered by forces and events—including ambitious generals—that were well beyond his control. Still, any assessment of Madison’s thoughts and actions regarding the native peoples—many of whose descendants would one day reside in Oklahoma—will require a more thorough investigation than has yet been made.

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