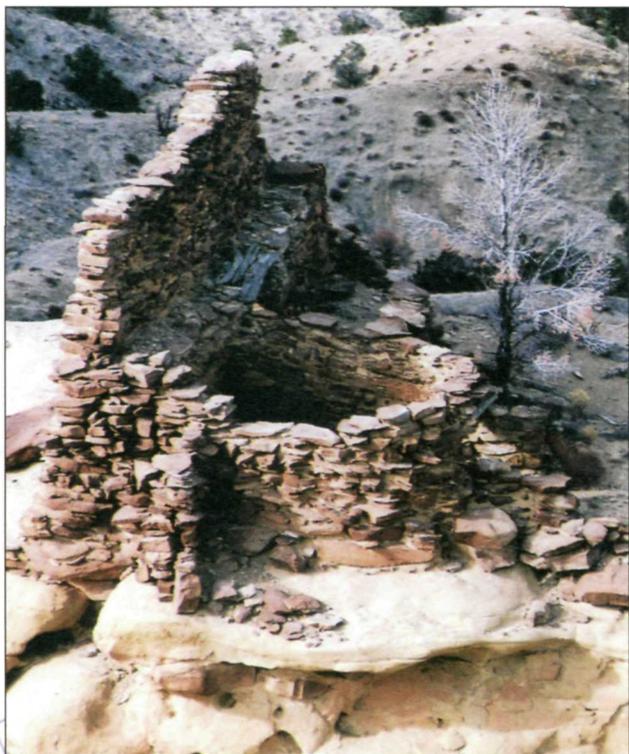




# The Antiquities Act: A Century of Historic Preservation

BLM



## Establishing Federal Policy to Protect Antiquities

One hundred years ago, President Theodore Roosevelt signed “An Act for the Preservation of American Antiquities,” otherwise known as the Antiquities Act of 1906. This was the first time the United States recognized, in law, that the material remains of our past were a valuable part of our heritage.

The Antiquities Act set the stage for a comprehensive body of law and policies that became the foundation for the cultural resource management programs of federal land managing agencies. The Act created criminal sanctions for the destruction of antiquities, provided for permits to authorize study of archaeological sites, and allowed presidential designation of outstanding archaeological, historic and scientific areas as national monuments for long-term preservation.

Congress first began to consider the need to protect American antiquities on federal lands in 1882, largely in response to reports of widespread looting of pueblo ruins

in the American Southwest. Many years passed, however, and much more looting was to occur, before Congress was ready to stop the destruction. Eventually, public sentiment spurred Congress to take action, culminating in passage of the Antiquities Act. Its purpose was to protect “any historic or prehistoric ruin or monument, or any object of antiquity” on land owned or controlled by the Federal Government.

## Designating National Monuments

In addition to protecting archaeological and historic sites, the Antiquities Act provided the President with the means of setting important places aside for special preservation and interpretation. This function of the Act has been used by Presidents throughout the 20<sup>th</sup> century to establish national monuments preserving nationally important archaeological, historic, and natural areas. In all, 14 presidents -- Theodore Roosevelt, William Taft, Woodrow Wilson, Warren Harding, Calvin Coolidge, Herbert Hoover, Franklin D. Roosevelt, Harry Truman, Dwight Eisenhower, John Kennedy, Lyndon Johnson, Richard Nixon, Jimmy Carter and William Clinton -- have established national monuments through proclamation or by approving special acts of Congress.

Prior to the Antiquities Act, specific areas had been set aside as parks or reserves. For example, Yellowstone National Park was established in 1872, and Casa Grande Ruin in Arizona was reserved from settlement and sale in 1892. But each of these parks or reservations required an act of Congress as well as Presidential approval. The Antiquities Act made the establishment of national monuments administrative actions that were quicker and far easier to execute. Section 2 of the Act gave the President the authority to proclaim national monuments, to set aside for protection “. . . historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States . . .”

The first national monument to be established under the Antiquities Act was proclaimed by President Theodore

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Roosevelt on September 24, 1906. It was created to protect Devil's Tower in Wyoming. Although historic interest is cited as a factor, this first proclamation created what was essentially a scientific monument.

Before President Roosevelt left office in 1909, he signed proclamations establishing 18 national monuments. Six were created primarily to preserve historic and prehistoric sites including Montezuma's Castle, Tonto ruins, and Tumacacori in Arizona. Twelve were created primarily to preserve other "objects of scientific interest" including Petrified Forest and Grand Canyon.

The Grand Canyon was the most remarkable of the early scientific monuments because of its enormous size. The first eleven historic and scientific monuments prior to this were relatively small, averaging a little more than 3,000 acres each. But in 1908, Roosevelt proclaimed an immense area, more than 800,000 acres in what was at that time Arizona Territory, to be the Grand Canyon National Monument. This created an important precedent in terms of the scale that was conceivable for national monuments.

### The Antiquities Act as an Enforcement Tool

Originally, a criminal conviction under the Antiquities Act was punishable by a fine of not more than \$500, or imprisonment not to exceed 90 days, or both. In 1987, the penalties increased to a maximum fine of \$5,000 per individual, six months imprisonment, or both. These

criminal provisions of the Antiquities Act were intended to protect archaeological sites but there is scant evidence that the Act had much effect on looting and vandalism. Since 1906, there have only been 18 convictions for violations of the Antiquities Act, and in 1974, the criminal provisions of the Act were effectively nullified by the Ninth Circuit Court of Appeals which

held that the term "object of antiquity" was ambiguous and the law was therefore unconstitutional. After that, a few Antiquities Act cases were prosecuted in the Tenth Circuit but in 1979, the Antiquities Act was supplanted by the Archaeological Resources Protection Act as a tool for prosecuting looters of archaeological sites.

Despite its modest record in deterring archaeological looters, the Antiquities Act has an outstanding record of preserving archaeological and historic resources through its use as the authority to create national monuments. The preservation of landscapes and the archaeological and historic resources on them is arguably the Act's most important legacy and its greatest strength as a piece of legislation. The Act also established the foundation for federal historic preservation policy and stood for 73 years as the only specific legislation to protect archaeological sites on federal lands. ◀◀

Sources: *The Antiquities Act of 1906*, by Ronald F. Lee, USDI National Park Service, 1970. *Archeological Resource Protection*, by Sherry Hutt, Elwood W. Jones and Martin E. McAllister, The Preservation Press, National Trust for Historic Preservation, 1992.

