BREATH OF LIFE

AN OUTLINE OF THE DEVELOPMENT OF A NATIONAL POLICY FOR HISTORICAL PRESERVATION

by

John Dishon McDermott
National Park Service

March 1966
Washington, D.C.

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F O R E W O R D

President John F. Kennedy once remarked: "There is little that is more important for an American citizen to know than the history and traditions of his country. Without such knowledge, he stands uncertain and defenseless before the world, knowing neither where he has come from nor where he is going." Recognizing the value of history, the Federal Government plays a major role in keeping the national memory alive and growing.

In the Library of Congress and the National Archives great and priceless collections of the documentary records of our history are preserved. But there is another dimension to the task of conserving our national heritage. We must preserve the places important in the making of our history. The historic sites and buildings of America are the visual evidence and physical reminder of the fine works, thoughts, and deeds of our ancestors. They constitute an invaluable and irreplaceable cultural resource. Yet, we sometimes tend to underestimate their value as source materials for reconstructing the past.

In spite of the change which time works on the face of the land, neither the reading of books nor the study of documents can provide the insight or supplant the imagery which one direct contact with a historic site evokes. Great historians knew this and profited accordingly. Inspiration did not come to Edward Gibbon in a library; it came to him amidst theruins of the Roman forum. Although plagued

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by physical ailments, Francis Parkman visited regions still largely wild and unpeopled to investigate ancient battlefields and absorb the rapidly disintegrating culture of Indians and trappers. Who can say that his books did not profit from the experience.

To recapture the past, the historian must study the site and its physical remains with the same diligence he devotes to the manuscript and the printed volume, or he may commit some embarrassing errors in historical writing. This is especially true in military history, since the peculiarities of terrain are often important factors in determining the outcome of a battle. Specialists in other fields of history may also learn from the land. Colonial historians who have never seen Roanoke Island or Jamestown sometimes generalize on their liabilities and limitations as settlement sites without full knowledge of their counterbalancing assets and potentialities. Historians of the westward movement can write with greater confidence if they have been through Cumberland Gap, over the Oregon Trail, or across Death Valley. By the same token, objects yeilded by historic sites have a great deal to tell the historian. A fragment of pottery, a button, or a ceremonial pipe may divulge information of immense value concerning the way a people lived, dressed, or worshipped.

Beyond their value as sources of knowledge, historic sites are prized for their inspirational and patriotic feelings they often evoke. Franklin Roosevelt emphasized this value when he wrote: "The preservation of historic sites for the public benefit, together with their proper interpretation, tends to enhance the respect and love of the

citizen for the institutions of his country, as well as strengthen his resolution to defend unselfishly the hallowed traditions and high ideals of America." In 1896 the Supreme Court of the United States justified the taking of private property to commemorate the Battle of Gettysburg on the same grounds. Delivering the opinion for the Court in the United States v. Gettysburg Railway, Justice Rufus G. Peckham declared: "Such action on the part of Congress touches the heart, and comes home to the imagination of every citizen, and greatly tends to enhance his love and respect for those institutions for which these heroic sacrifices were made. The greater the love of the citizen for the institutions of his country the greater is the dependence properly to be placed upon him for their defense in time of necessity, and it is to such men that the country must look for its safety." In essence, the Supreme Court ruled that historical preservation of nationally significant sites was basic to the existence of the United States. From a Federal standpoint, no justification can be stronger.

Federal interest in historical preservation grew gradually--gaining momentum as the years passed. The purpose of this study is to trace the development of this interest, particularly as it is evidenced in legislation. Federal accomplishments are sometimes summarized, but just as frequently examples are given to indicate the scope or depth of the work. The study focuses on the firsts in the movement and does not purport to be definitive in any sense of the word. Two major legislative enactments receive special emphasis,

the so-called Antiquities Act of 1906 and the Historic Sites Act of 1935. Together they form the heart and the soul of Federal policy in the preservation of nationally significant historic sites and buildings.

The study evolved from a desire to illuminate the beginnings and growth of the historical program of the National Park Service. It is not exclusively devoted to this subject, but the original conception has influenced its organization, its points of emphasis, and its content. The reader searching for an account of the outstanding work of the National Archives, the Library of Congress, and the Smithsonian Institution will not find it in these pages. The first two were purposefully avoided because they concern the preservation of the written record. The work of the Smithsonian Institution has already been ably covered in detail elsewhere.

If this outline encourages or stimulates another to undertake a comprehensive history of the contribution of the Federal Government to historical preservation, it will have served its purpose.

J.D.M.

Washington, D. C.
February, 1966

I. THE ROAD TO COMMITMENT

1777 - 1900

A national program for the preservation of historical resources developed slowly over many decades. The Congress of the United States approached the subject with caution, circled it many times, poked it and probed it, retreated from it on occasion, and then embraced it completely. It was not a deliberate process, but it was a continual one that began during the Revolutional War.

In 1777, the Continental Congress indicated that the United States Government had a direct role to play in preserving the memory of men and events that shaped the history of the Nation. It passed resolutions authorizing an appropriation of $1500 for memorials to Generals Joseph Warren, Hugh Mercer, and Francis Nash, patriots who fell in the war then in its early stages.[1] On October 29, 1781, flushed from the heat of a great victory, Congress authorized an expenditure of funds to erect a marble column to commemorate the surrender of British forces at Yorktown.[2] Before the close of the century, it endorsed the L'Enfant Plan for the Federal City, a plan that provided space for statues and monuments to honor American heroes and sages.[3] Marking and memorialization, however, are preservation in the most limited sense. Many years would pass before Congress would consider it appropriate for the Federal

Government to buy historic houses, acquire whole battlefields, restore significant historic sites or build museums to interpret these features.

Admirers of George Washington appear to have been the first to attempt to interest the national government in acquiring an historic property. In 1846, Congress received a petition that suggested the loss the nation might suffer should Mount Vernon fall into unappreciative hands. The petitioners included a letter from John A. Washington reporting that his mother would sell the house and 150 acres of land to the Government for $100,000. Citizens memorialized Congress again in 1848 and 1850 without success.[4] While it rejected proposals to purchase the Washington home, Congress realized the need to honor this great man. In 1783, it had voted to construct an equestrian statue of the first President,[5] and in 1848. it gave authority to the Washington National Monument Society to build a monument in the heart of the Capital City commemorating him.[6] In 1876, Congress provided direct assistance when it appropriated $200,000 to complete the project.[7] Three years later, it also appropriated $3,000 to erect a monument marking Washington's birthplace at Wakefield, Virginia.[8]

The United States acquired its first historic house on January 11, 1864, when it bought the Northern Virginia estate of the Custis-Lee family at public auction. The War Department gained control of the property in May, 1861, after Robert E. Lee cast his

lot with the South. Secretary of War Edwin M. Stanton levied a tax on the estate that required payment by the owner in person. Rejecting the offer of a relative of Mrs. Lee to make remuneration, Stanton ordered a public sale to satisfy the debt. In May, 1864, the Government established a national cemetery on the grounds.

It is clear that revenge motivated the forced sale and purchase of Arlington House rather than the desire to preserve the property because of its historical values. Following the Civil War, George Washington Custis Lee, son of the famous general, contested the sale on legal grounds, and in 1882, the Supreme Court decided in his favor. Fortunately Lee was willing to sell at a fair price, and Congress hastily appropriated $150,000 for the purpose. On May 14, 1883, the United States bought the estate for a second time.[9]

In 1866, Congress provided for the purchase of another historic property when it appropriated $100,000 to buy Ford's Theater, scene of the assassination of President Lincoln. Again the motivation was not primarily an historical or commemorative one. The bill specifically stated that the money had been appropriated to acquire Ford's Theater for the purposes of storing military records and housing the medical museum of the United States Army.[10]

At the same time that Secretary Stanton worked his will on the Lee property, Congress passed an act of great importance to the preservation movement. On June 30, 1864, it gave Yosemite Valley to the State of California to hold inalienably for "public use,

resort, and recreation." The Act permitted the issuance of ten-year leases, but the incomes derived from the use of the property were to be used for preservation and development. It was the first time that Congress explicitly and inalienably reserved federal property solely for preservation and public use.[11] In 1872, Congress went a step further. It passed an act forever preserving the scenic, scientific, and historical resources of the Yellowstone region and retained the land in federal ownership and administrative control. The United States had its first National Park.[12]

Congress initially applied the national park idea to an area primarily important for its historic value when it passed an act in 1889 authorizing the President to remove from settlement or sale public lands embracing Casa Grande ruin in Arizona.[13] Three years later, Benjamin Harrison issued an Executive Order setting aside 480 acres for protective purposes.[14] In this case, the looting of the site and the public reaction that followed stimulated federal intervention and protection.

The Federal Government acquired its first battlefield in a rather unusual way. In 1886, President Grover Cleveland issued an Executive Order creating the "National Cemetery of Custer's Battlefield Reservation," in Southern Montana. Creating a national cemetery was not in itself unusual, since a number of them had been established following the Civil War. It was the size that was the source of its distinction. The other national cemeteries consisted of a few acres; this one covered a square mile and included most of

the battlefield where Custer and his immediate command fell under the onslaught of the Sioux, Cheyenne, and Arapaho on June 25, 1876. Not only had President Cleveland provided a permanent resting place for the Army dead, he had preserved the site of one of the most dramatic Indian fights in American history.[15]

Civil War veterans provided the impetus in the acquisition of several other battlefield sites in the last decade of the century. Financially powerful, vocal, disciplined, and determined, the veterans' organizations worked diligently to preserve their battlegrounds and perpetuate the memory of their greatest victories and tragic defeats. They could count among their members some of the most influential men in Congress who helped to keep the bills moving.[16]

The first of these areas was Chickamauga and Chattanooga National Military Park in Georgia and Tennessee established in 1890 under the jurisdiction of the War Department. The idea originated with General Henry V. Boynton, commander of the Thirty-fifth Ohio Volunteers in the Battle of Chickamauga. Boynton interested the Society of the Army of the Cumberland in the project, and other Union and Confederate organizations followed suit. Another veteran of the campaign, General Charles H. Grosvenor, introduced the House bill drafted by Boynton and worked hard for its passage. Meeting with quick approval, the bill became law on August 19. The Act provided for the acquisition of sections of the battlefields for the purpose of preserving and marking them for historical and professional military study. Encouraging supplemental developments, Congress authorized the states

to build monuments on the battlefields honoring the units who fought there. Persons willfully damaging or destroying historical or natural features were subject to fines ranging from five to fifty dollars.[17]

The Chickamauga and Chattanooga Act contained a condemnation clause that bears close scrutiny. Congress directed the Secretary of War to exercise the right of eminent domain when necessary to secure public title to the land, citing a law passed two years earlier. On August 1, 1888, the President had approved an Act which gave officers of the Government the power to seize private property needed for the purposes of erecting a public building or for other public uses, once its acquisition had been authorized through the legislative process and when it was necessary or advantageous to do so.[18]

The Gettysburg Electric Railway Company was the first to challenge the right of the United States to condemn private property inside state boundaries for historical uses. On June 5, 1894, President Cleveland approved a joint resolution authorizing the purchase or condemnation of land in the vicinity of Gettysburg, Pennsylvania, for the purposes of preserving battle lines, marking positions, and opening and improving access.[19] The Secretary of War condemned some Railway Company property under authority of the 1888 Act, and the owners brought suit against the United States. The circuit judge ruled in favor of the Company, but the district judge dissented, and the case went to the Supreme Court. On January 27, 1896, JUstice Peckham delivered the opinion, the

substance of which was that:

> Any Act of Congress which plainly and directly tends to enhance the respect and love of the citizen for the institutions of his country and to quicken and strengthen his motives to defend them, and which is germane to and intimately connected with and appropriate to the exercise of some one or all of the powers granted by Congress, must be valid, and the proposed use in this case comes within such description.[20]

Before the close of the century, Congress set aside Antietam (1890), Shiloh (1894), Gettysburg (1895), and Vicksburg (1899). The Acts establishing these areas were very similar to that creating Chickamauga and Chattanooga, and each contained a condemnation clause.[21] In 1896, Congress authorized the purchase of the Peterson House in Washington, D. C., the place where Lincoln died.[22]

During the first 125 years, the Federal Government participated in the preservation of historical resources to a limited degree. Sorrow in losing military leaders and pride in winning independence motivated the resolutions by the Continental Congress for memorialization. The Acts followed quickly on the heels of the events to be commemorated, usually within a matter of days. A desire for revenge was the primary factor in the acquisition of the first historic house. The men who fought in the Civil War were responsible for reserving a number of their battlegrounds. In these cases, the determination of historical significance was more subjective than objective, more emotional than reasoned, more prophetic than proven. This is not to say that they were wrong, for most of the men honored and all of the events commemorated still loom large in our history.

Secondly, most of the actions were limited to figures and occurences associated with political and military life. The concept of history was a narrow one in academic circles as well as in public ones. Historians of the twentieth century would define and separate many other elements and in turn influence the Federal Government in its selection of sites worthy of preservation. The interest shown in Casa Grande was an exception and forewarned the deepening of concern for the protection of prehistoric resources.

Most significant was the shift in the kind of federal participation in the preservation movement. In the early years, Congress endorsed memorialization, but rejected proposals to acquire historic properties such as Mount Vernon. By 1900, however, it had determined that it was proper for the Federal Government to reserve, purchase, condemn and administer large tracts of land for historical purposes. The problem had become one of selection. Which areas should be federally owned?

Finally, it is possible to discern the beginnings of a pattern of jurisdictional determination that was to make the development of a national plan for historic preservation more difficult in the following decades. The War Department controlled the Civil War battlefields, but the Interior Department administered Casa Grande and areas such as Yosemite and Yellowstone that possessed important historical values in addition to scenic and scientific ones. Jurisdiction was a matter of little importance in the early stages, but fragmentation of authority would become a major problem as the government expanded the number of historical areas.

II. PRESERVATION AND THE PUBLIC DOMAIN

1900 - 1906

Congressional interest in preservation shifted from battlefields to cliff dwellings as the new century began. During the 1880's and 1890's, many prehistoric ruins suffered greatly at the hands of vandals and commercial collectors. Most of the vestiges of early man lay on public lands in the Southwest, and it was toward the Federal Government that professional archeologists turned for their protection. Prominent in the movement for the preservation of antiquities were the American Association for the Advancement of Science, the Archaeological Institute of America, the Past Exploration Society, the Society for the Preservation of Historical and Scenic Spots, the American Anthropological Association and the Smithsonian Institution. Supported by professors of history and archeology located in the state and territorial universities, they clamored for the regulation and control of collecting and excavating in the best interests of archeological science.[1]

Representative Jonathan P. Dolliver of Iowa introduced the first bill for the protection of antiquities on the public domain on February 5, 1900. It placed prehistoric ruins, monuments, and objects on public lands in the care and custody of the Secretary of the Interior. Examinations, excavations, and collecting might be

permitted for educational or scientific purposes. The willful destruction, unauthorized removal or commercial counterfeiting of archeological material became a misdemeanor punishable by fine and imprisonment. The President might establish parks on public lands to protect the works of prehistoric or primitive man, features of scenic and scientific value, and natural wonders or curiosities. Stimulus for the bill came from the American Association for the Advancement of Science and the Archaeological Institute of America.[2]

Representative John F. Shafroth of Colorado introduced two other bills for the protection of antiquities shortly thereafter. The first, introduced on February 6, simply provided penalties for the destruction, injury, removal, or counterfeiting of prehistoric ruins, monuments, and objects. The second, introduced on March 7, authorized the Secretary of the Interior to establish preserves not to exceed 320 acres for each significant ruin, and limited the selection to certain lands in Colorado, Utah, and the Territories of Arizona and New Mexico. The Bureau of American Ethnology of the Smithsonian Institution would administer the preserves.[3]

At the request of the Secretary of the Interior, Commissioner of the General Land Office Binger Hermann reported on the three bills on March 20. Although he heartily endorsed proposals to enact laws for the preservation of antiquities, he found all three

bills lacking. The first was cumbersome, the second too meager, and the third wholly unacceptable, since it placed the reserved land under the control of the Smithsonian Institution rather than the Department of the Interior.[4] Hermann then drafted and submitted his own bill which Secretary Hitchcock sent to the House and Senate Committees.

The Departmental bill incorporated the important provisions of the Dolliver bill and added some others. It included medicinal springs on the list of items worthy of preservation through the creation of national parks. It broadened the concept of historical preservation to include objects of value that post-dated prehistoric times. The Secretary of the Interior could rent or lease parcels of land to provide sites for buildings to accommodate visitors. The income derived from the privileges granted would be deposited in a special fund for the care of parks. The bill increased the penalty for injuring, destroying, or removing artifacts, and it protected game, fish, and timber as well.[5]

The House Committee on Public Lands objected to the bill on the grounds that it gave the executive branch unlimited authority to establish national parks on public lands. The Committee finally drafted its own bill which Congressman Shafroth introduced on April 5.[6] Nevertheless, Committee Chairman John F. Lacey of Iowa introduced the Departmental bill on April 26.

(5)

The Committee bill gave the President the authority to set aside small reservations, not to exceed 320 acres, to protect cliff dwellings and other prehistoric ruins. In the report to the House on April 21, the Committee recommended an amendment limiting its application to Utah, Colorado, Arizona, and New Mexico.[7] The House failed to act on the bill, and the other four proposals never left the Committee. (6)

By the end of 1900, the issues were clear. The Department of the Interior wanted a general conservation bill to protect important historic, scenic, and scientific resources. The House Committee resisted attempts to give the Executive Branch such broad powers. It limited consideration to a specific acreage, to prehistoric resources, and to four states and territories in the Southwest. When the focus narrowed to antiquities, there was a secondary problem of administrative control. Some felt that the Department of the Interior should have jurisdiction. Others favored giving control to the Smithsonian Institution.

During the next few years, Congressional interest in an antiquities law seems to have subsided, since no bills were introduced. The Commissioner of the General Land Office, however, continued to agitate for legislation in his annual reports. In 1903, Commissioner W. A. Richards requested that the Departmental bill be reintroduced, but another year passed befor the Congressional Committee considered it again.[8]

In the meantime, Commissioner Richards took steps to protect antiquities by temporarily withdrawing from sale the lands holding prehistoric ruins and instructed his employees to prosecute vandals for trespassing. Among the cliff dwellings protected were Mesa Verde in Colorado and Montezuma Castle in Arizona.[9] Richards also requested Edgar L. Hewett, a professional archeologist and educator, to make a study of prehistoric sites in the Southwest. Hewett forwarded his report on September 3, 1904. In it he listed and described what he considered to be the significant sites. Generally, they were found in what Hewett termed "the four great seats of prehistoric culture," the basins of the Rio Grande, the San Juan, the Little Colorado, and the Gila. Published later in the year by the General Land Office, the Hewett Report strengthened the case for protection and provided a precise basis for future discussions.[10]

In 1904, Congressmen introduced six bills for the preservation of antiquities. Senator Shelby M. Cullom of Illinois introduced the first on February 5.[11] Others presenting bills were Representative Rodey on February 10,[12] Representative Robert R. Hitt of Illinois on February 16,[13] Representative Rodenburg on March 2,[14] Representative Lacey on March 4,[15] and Senator Lodge on April 20.[16] The Cullom and Hitt bills were the same and represented the official position of the Smithsonian Institution. The Rodenburg and Lodge bills were also identical and incorporated the thinking of academic archeologists in general and the Archaeological Institute of America in particular. The Lacey bill reflected the views of the Department of the Interior and was very similar to the Hermann draft prepared in 1900.

Again, the problem was one of scope. All except the Lacey bill limited preservation to antiquities. The Rodenburg-Lodge bill placed complete administrative control in the hands of the Secretary of the Interior, but it required him to recommend which areas should be permanently preserved; Congress would make the final decision. The Cullom-Hitt bill gave the Department of the Interior control over the reservations, but the supervision of the monuments, ruins, and objects found on the preserves became the duty of the Smithsonian Institution.

The Senate Committee on Public Lands held hearings on all six bills on April 22. Testifying before the Committee were the Rev. Henry Mason Baum and Frederick B. Wright of the Past Exploration Society, President Charles W. Needham and Professor Mitchell Carroll of Columbian University, Professor Francis W. Kelsey of the University of Michigan, Rector Dennis J. O'Connell of Catholic University, and William A. Jones, Commissioner of Indian Affairs. All but Jones were members of the Archaeological Institute of America, and both Kelsey and Carroll were officers in the organization. Kelsey objected to the Cullom-Hitt bill on the grounds that it gave the Smithsonian Institution an unfair advantage with respect to excavating and the guardianship of the remains recovered. Baum agreed. He helped draft the Rodenburg-Lodge bill, and he stated that its purpose was to meet the needs of the scientific and educational institutions in the country and to grant them equal privileges. In addition, the witnesses feared that the division of authority

proposed in the Cullom-Hitt bill would lead to constant friction. Although the Department of the Interior favored its own bill, Baum reported that it did not object to the Rodenburg-Lodge version.[17]

The Committee reported the Rodenburg-Lodge bill with minor amendments on April 26, and it included the Hewett Study as an appendix to its report.[18] The Senate passed the bill and referred it to the House Committee where it languished for nine months. Reporting on January 19, the House Committee amended the bill by striking it out entirely and inserting a substitute. The House version provided for the preservation of both historic and prehistoric ruins. It also gave the Secretary of the Interior authority to establish permanent reservations not to exceed 640 acres to protect ruins and antiquities of special importance.[19] The House, however, refused to act, and the bill died.

The final drive for an antiquities act began early in 1906. On January 9, Representative Lacey introduced a bill identical to the one that was to become law. It read as follows:

> Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who shall appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity, situated on lands owned or controlled by the Government of the United States, without the permission of the Secretary of the department of the Government having jurisdiction over the lands on which said antiquities are situated, shall, upon conviction, be fined in a sum of not more than five hundred dollars or be imprisoned for a period of not more than ninety days, or shall suffer both fine and imprisonment, in the discretion of the court.

SEC. 2. That the President of the United States is hereby authorized, in his discretion, to declare by public proclamation 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 to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected: Provided, That when such objects are situated upon a tract covered by a bona fide unperfected claim or held in private ownership, the tracts, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the Government, and the Secretary of the Interior is hereby authorized to accept the relinquishment of such tracts in behalf of the Government of the United States.

SEC. 3. That permits for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity upon the lands under their respective jurisdictions may be granted by the Secretaries of the Interior, Agriculture, and War to institutions which they may deem properly qualified to conduct such examination, excavation, or gathering, subject to such rules and regulations as they may prescribe: Provided, That the examinations, excavations, and gatherings are undertaken for the benefit of reputable museums, universities, colleges, or other recognized scientific or educational institutions, with a view to increasing the knowledge of such objects and that the gatherings shall be made for permanent preservation in public museums.

SEC. 4. That the Secretaries of the departments aforesaid shall make and publish from time to time uniform rules and regulations for the purpose of carrying out the provisions of this act.[20]

The House Committee on Public Lands reported on the bill on March 12 and recommended a few minor changes. It suggested the insertion of the words "willfully or wantonly" before the list of

offenses punishable by fine or imprisonment to protect those who might accidently commit them through ignorance. It recommended the insertion of the word "misdemeanor" to specifically describe the nature of the offense under law. It also added a second proviso to SEC. 2 which provided that no expenses could be incurred for special custodians to staff areas set aside by Presidential proclamation.[21]

In the meantime, Senator Thomas M. Patterson of Colorado introduced the companion bill in the Senate.[22] Commissioner Richards of the General Land Office, when asked to report on the Patterson bill, wrote to the Secretary on April 2, 1906, that he believed the legislation contemplated was of the greatest interest to the scientific and historical world at large. He suggested a number of amendments, however, including the addition of the words "or natural wonder or curiosity" after "antiquity" in the first sentence, and the addition of a proviso at the end of SEC. 2: "Provided further, That such relinquishment is made without claim or right of compensation or indemnity of any nature whatsoever." He also recommended that Sections 3 and 4 be deleted and the following substituted:

> SEC. 3. All excavations of archaeological sites, and the gathering of objects of antiquity, relics or natural wonders or curiosities of any kind whatever, upon any of the reservations to be created under the provisions of this act, or which are upon the public lands of the United States, shall be made under the direction and supervision of the Smithsonian Institution; and all material, relics or other objects of

antiquity or natural curiosities thus discovered and collected, shall be forwarded to the Smithsonian Institution, and be added to the similar collections already secured, for the benefit of the science and the diffusion of knowledge: Provided, That any surplus of such relics or curiosities which may be available for distribution among other public museums and public institutions of learning may be distributed under the regulations of the Smithsonian Institution now existing or to be formulated by the Board of Regents for the purpose.[23]

The Senate Committee on Public Lands reported the bill back on May 24 without change and unanimously recommended its enactment.[24] It passed immediately and on the next day went to the House Committee. It was reported to the House and passed on June 5. Three days later, President Theodore Roosevelt affixed his signature, and the bill became law.[25]

In almost every instance, the new law represented a victory for those who advocated greater scope and elasticity. There were no geographical limitations. It did not confine preservation to prehistoric resources, but included historic landmarks, structures, and artifacts and objects of scientific interest. Although the act limited the size of reservations to the smallest tracts necessary to accomplish protection, it was much more permissive when compared to some of the earlier proposals that restricted the land area to a specific acreage. Archeological and educational organizations and institutions had an equal chance to collect specimens and undertake excavations.

Two features of the act were new; that is, they had not been proposed in any of the earlier bills. The law provided that

jurisdiction would remain with the Department that controlled the land before it became a national monument. Secondly, it provided that lands acquired by default or donation would be administered by the Department of the Interior.

The first area set aside by Presidential proclamation under the Antiquities Act was Devils Tower in Northeastern Wyoming, primarily important for its scientific value.[26] Before the end of the year, President Roosevelt established three other national monuments in New Mexico and Arizona--El Morro, Montezuma Castle, and Petrified Forest.[27] The Department of the Interior controlled all four of the new areas.

The Antiquities Act marked the first step forward in the development of a national policy for historical preservation. Congress gave discretionary power to the Executive Branch of the Federal Government to evaluate the significance of historical resources on public lands and determine the acreage necessary to provide effective protection and administration. The Act placed the initiative in the hands of the Secretaries of Interior, War, and Agriculture. It permitted them to engage in planning in a systematic way.

Unfortunately, the law formulized a practice that served to retard the development of a comprehensive national policy for historical preservation. It perpetuated the division of responsibility in the administration of historical areas, and it invited the development of duplicating programs and capabilities in the various departments. As each department increased its number of

historical areas, the more reluctant it became when Congress broached the subject of consolidation under one administrative agency.

III. CONSOLIDATION AND EXPANSION

1907 - 1933

On August 25, 1916, President Woodrow Wilson approved an Act that would prove to have great significance to the preservation movement. The law created a separate bureau in the Department of the Interior to administer the national parks, monuments, and reservations then under its control. The Act establishing the National Park Service read in part:

> The service . . . shall promote and regulate the use of the Federal areas known as national parks, monuments, and reservations hereinafter specified by such means and measures as conform to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.[1]

The statement provided an ideal that would eventually guide the management of all the federal historical and archeological areas in the United States. Although the major concern of the National Park Service was the administration of the scenic treasures of the Nation, it had responsibilities in the field of historical preservation from the beginning. Several of the areas encompassed in the Act were important for their historical and archeological resources, and the number steadily increased in the next 15 years.

Between 1907 and 1930, Eleven national monuments came under the control of the Department of the Interior that were primarily historical or archeological in character. Established by Presidential Proclamation, all of them lay west of the Mississippi River, and most of them were located in the Southwest. They were Chaco Canyon (1907) in New Mexico, Tumacacori (1908) in Arizona, Gran Quivira (1909) in New Mexico, Navajo (1909) in Arizona, Sitka (1910) in Alaska, Bandelier (1916) in New Mexico, Scotts Bluff (1919) in Nebraska, Yucca House (1919) in Colorado, Aztec Ruins (1923) in New Mexico, Hovenweep (1923) in Utah and Colorado, and Wupatki (1924) in Arizona.[2] All but Tumacacori, Sitka, and Scotts Bluff were important for their prehistoric values. In addition, Congress passed an Act in 1907 creating Mesa Verde National Park in Colorado and thus preserving one of the finest cliff dwellings in the United States.[3]

The establishment of George Washington Birthplace National Monument and Colonial National Monuments in 1930 marked the dawning of a new era in historical preservation for the National Park Service.[4] Located in Virginia, the monuments were the first historical areas in the East to come under the jurisdiction of the Department of the Interior. They were also the first areas in the National Park System to deal with something other than prehistoric man, Spanish settlement, and westward expansion. Colonial represented several important phases of the early history of the Nation. It included most of Jamestown Island, site of the first permanent English settlement in America, and Yorktown, scene of the culminating battle in the War for Independence.

The additions of the two monuments were the first tangible indications of a new emphasis on the acquisition of historical areas by the National Park Service. The bureau hoped to become the sole federal administrator of historical areas and had been negotiating for the transfer of the parks and monuments from the Departments of War and Agriculture.

Since 1900, both the Departments of War and Agriculture had fallen heir to a number of important archeological and historical areas, either through Presidential Proclamation, Executive Order, or by Acts of Congress. New areas authorized or established under the control of the War Department were Chalmette National Historical Park (1907) in Louisiana, Big Hole Battlefield National Monument (1910) in Montana, Cabrillo National Monument (1913) in California, Abraham Lincoln Birthplace National Historic Site (1916) in Kentucky, Kennesaw Mountain National Battlefield Park (1917) in Georgia, Guilford Courthouse National Military Park (1917) in North Carolina, Mound City Group National Monument (1923) in Ohio,[5] Castle Pinckney National Monument (1924) in South Carolina,[6] Castillo de San Marcos National Monument (1924) in Florida, Fort Marionnas National Monument (1924) in Florida, Fort Pulaski National Monument (1924) in Georgia, Statue of Liberty National Monument (1924) in New York,[7] Father Millet Cross National Monument (1925) in New York,[8] Meriwether Lewis National Monument (1925) in Tennessee,[9] Fort McHenry National Monument (1925) in Maryland, Moores Creek National Military Park (1926) in North Carolina, Petersburg National Battlefield (1926) in Virginia,[10]

White Plains National Monument (1926) in New York,[11] Wright Brothers National Memorial (1927) in North Carolina, Stones River National Battlefield in Tennessee, Fredericksburg National Military Park (1927) in Virginia, Fort Donelson National Military Park (1928) in Tennessee, Brices Cross Roads National Battlefield Site (1929) in Mississippi,[12] Tupelo National Battlefield (1929) in Mississippi, Cowpens National Battlefield Site (1929) in South Carolina, Appomattox Court House National Historical Park (1930) in Virginia,[13] New Echota Marker (1930) in Georgia,[14] Camp Blount Tablets (1930) in Tennessee,[15] Kings Mountain National Military Park (1931) in South Carolina, and Fort Necessity National Battlefield (1931) in Pennsylvania.[16] New areas administered by the Department of Agriculture were Gila Cliff Dwellings National Monument (1907) in New Mexico, Tonto National Monument (1907) in Arizona, Walnut Canyon National Monument (1915) in Arizona,[17] Old Kasaan National Monument (1916) in Alaska,[18] Chiricahua National Monument (1924) in Arizona, and Lava Beds National Monument (1925) in California.[19]

The Department of the Interior appears to have been the first to suggest the transfer. In a speech delivered at the First Conference on National Parks on September 12, 1911, Chief Clerk Frank Bond of the General Land Office proposed the transfer of 11 national monuments from the Department of Agriculture and the creation of a new administrative unit in the Department of the Interior to manage the combined program.[20] In 1917, Director Mather repeated the recommendation and included national military parks and monuments controlled by the War

Department. In addition to the advantages to be gained in any consolidation, Mather asserted that the National Park Service would be able to develop the educational potential of the areas to a greater degree.[21]

Although Mather repeated the recommendation in 1918, 1919, and 1920, nothing came of the proposal.[22] In 1924, the subject of consolidation became a matter of Congressional interest. Appearing before the Joint Committee on the Reorganization of the Administrative Branch of Government, Secretary of War John W. Weeks recommended the transfer of the military parks and monuments under his jurisdiction to another department. Weeks stated that although the areas were efficiently administered, he believed that another department could do the job with the same competency.[23] The Committee, however, failed to act on the recommendation.

Succeeding Secretaries of War continued to favor the change, and in 1928, both departments supported a bill designed to accomplish the transfer.[24] The bill passed the Senate on May 10, and when the House Committee on Military Affairs held hearings on S. 4173 on January 31, 1929, Assistant Secretary of War Charles B. Robbins testified on its behalf. Committee members, however, appeared hostile. Some belived that the military parks might loose their sacrosanct character if the Department of the Interior controlled them. In a letter to the Committee, Representative S. D. McReynolds expressed the fear that Chickamauga and Chattanooga National Military Park would become a breeding ground for yellow buses and hot

dog stands if it fell into the hands of the National Park Service, and several members seconded the sentiment. When pressed, Assistant Secretary Robbins refused to admit that the transfer would result in greater administrative efficiency.

Testifying last, Director Albright attempted to recapture some of the lost ground. When it came to the matter of administrative efficiency, he threw subtlety aside and declared:

> There is no division in the War Department charged with the care of these monuments and parks. All the officers are detailed as they are in Washington to take care of them, and as I understand it there is only one permanent employee in Washington assigned to the National Park activities of the War Department. If you gentlemen were to ask for information in regard to these parks you would find that there is nothing about them at all; there is no available data.

In replying to the charge of rampant tourism and commercialism, Albright asserted that the mission of the National Park Service was not primarily a recreational one and that it intended to keep scenic and historic spots "absolutely inviolate." Finally, Albright added that with the aid of the educational resources of the National Park Service, he would be able to administer the military parks and monuments in such a way that they would mean more to the people of the country. He specifically mentioned publications, lecture services, and museums.[25] The testimony, however, failed to change many minds, and the Committee did not report the bill to the House.

Since the Committee failed to act, Interior officials explored other possible avenues to find a solution to the problem. Some suggested that it might be possible for the President to issue an

Executive Order effecting the change without explicit legislative authority. However, on May 13, 1929, Departmental Solicitor E. C. Finney delivered an opinion that negated further interest in the approach.[26]

In 1932, two other attempts proved unsuccessful. On January 27, Representative Collins introduced another bill providing for the transfer, but it failed to pass.[27] President Hoover also presented a plan for reorganization that would have given him the authority, but Congress balked.[28]

Finally, in 1933, efforts were successful. Congress authorized an executive reorganization on March 3, and on May 18, Secretary of the Interior Ickes called on President Roosevelt to discuss the matter.[29] On June 10 and July 28, the President issued Executive Orders No. 6166 and No. 6628 which transferred all 59 parks and monuments administered by the Departments of War and Agriculture to the Department of the Interior. Also transferred to the Department of the Interior were the national memorials in the District of Columbia such as the Lincoln Memorial and the Washington Monument.

With the addition of the new parks and monuments, the number of historical and archeological areas controlled by the Department of the Interior swelled to 80 and represented almost two-thirds of all those in the National Park System. Suddenly, historical preservation had become one of the major concerns of the National Park Service.[30]

Director Albright had already laid the groundwork for the development of a new historical program in 1931 when he added the

first professional historians to his staff. The Civil Service Commission designed an examination especially for historians, and the first to qualify were Verne E. Chatelain, Elbert Cox, and Floyd Flickinger. Chatelain became the first Chief Historian of the Service and reported to the Head of the Division of Research and Education.[31]

Another development in 1933 helped to push the National Park Service to the forefront in historical preservation. President Roosevelt approved a bill creating the Civilian Conservation Corps on March 31. The work of the Corps included the preservation, development, and interpretation of state parks having historical or archeological values. The National Park Service received the responsibility of directing the vast program, and its historians and archeologists guided the technical phase of the activity and provided state authorities with assistance in developing preservation policies. Thus for a time, the Service played a direct role in historical preservation not only at the federal level, but at the state level as well.[32]

One of the first steps in the direction of the formulation of a national policy for historical preservation was the creation of the Historic American Buildings Survey. Charles E. Peterson, Chief of the Eastern Division of the Branch of Plans and Designs of the National Park Service, originated the idea. The plan provided for the employment of jobless architects, draftsmen, and photographers to secure a complete graphic record of the rapidly disappearing

examples of early architecture and historic structures in the United States. The Civil Works Administration made funds available for the project.

Director Arne B. Cammerer submitted the original proposal--together with a justification, administrative outline, and financial estimate--to Secretary of the Interior Ickes on November 15, 1933. Ickes approved the program two days later, and the Federal Relief Administration concurred on December 1. Recruitment began immediately.

By the end of the first week in January, most working parties were operating in the field. On February 15, however, the Civil Works Administration began a gradual phasing out of its programs, and work on the Survey temporarily ceased on May 1 due to lack of funds. At the height of its activity, 772 persons participated in the Survey. During the four-month period, the architects, draftsmen, and photographers prepared measured drawings and pictorial histories of some 860 buildings. The success of the Survey led to the signing of an agreement among the National Park Service, the American Institute of Architects, and the Library of Congress on July 23. It provided a permanent organization for the coordination of future surveys should funds become available.

The American Institute of Architects had the responsibility of identifying and cataloguing structures whose architectural merit or historical associations made them a significant part of the cultural heritage of the United States. The National Park Service would do the actual work of preparing measured drawings and taking photographs.

The Library of Congress agreed to serve as the repository for completed inventory forms, drawings, and photographs. Emergency relief appropriations obtained from FERA, WPA, and PWA allowed the work to continue during the depression years.[33]

By the end of 1933, many of the barriers that made the movement toward a national policy more difficult had been skirted or removed. The administration of all federally owned historical and archeological areas had been concentrated in one agency. The National Park Service had employed a staff of professional historians capable of providing the technical knowledge and skill that it needed to carry out its programs. Through the many assistance programs, Federal officials had the opportunity to become acquainted with the major problems of the states and localities in the field of historical preservation. In the Historic American Buildings Survey, the Federal Government had taken a giant step forward in the development of a national policy for historical preservation. Ownership and location were factors that did not have to be considered. The preservation of historical record was the activating force and the guiding principle.

IV. FRUITION

1933 - 1935

Early in November, 1933, Major Gist Blair called on the President of the United States. Gist Blair was the son of Montgomery Blair, Postmaster General under Lincoln, and owner of Blair House on Pennsylvania Avenue, a building rich in historic associations that would one day become the guest house of the Presidency. Blair had long been interested in the history of the Capital City and had written a number of articles on the subject. The purpose of his visit to the White House had to do with his avocation.[1] Blair felt the need for some kind of general plan that would coordinate the activities of the Federal Government in the field of historical preservation with those of the States and localities. Franklin Roosevelt, he found, shared his interest. A few days after the visit, Blair received a letter from the President inviting him to talk with Secretary Ickes and to offer any suggestions he might have concerning legislation that might be needed to put a program into effect.[2]

Blair took the President at his word and conferred with Department of the Interior officials. At his request, Director Cammerer provided him with a statement that delineated the role that Interior believed the Federal Government should play in historical preservation. The first section stated the principles and standards governing the selection of historical areas for inclusion in the National Park System. The criteria were the first developed by the Division of History and had not yet appeared in print as an official pronouncement.

According to the statement, the determining factor was whether the site possessed the quality of uniqueness. The quality of uniqueness existed:

> (a) In such sites as are naturally the points or bases from which the broad aspects of prehistoric and historic American life can best be presented, and from which the student of history of the United States can sketch the large patterns of the American story; which areas are significant because of the relationship to other areas, each contributing its part of the complete story of American history;
>
> (b) In such sites as are associated with the life of some great American and which may not necessarily have any outstanding qualities other than that association; and
>
> (c) In such sites as are associated with some sudden or dramatic incident in American history, which though possessing no great intrinsic qualities are unique and are symbolic of some great idea or ideal.

The rest of the sites should be preserved by State or local governments or by private or semi-public organizations. In order to determine which ones possessed the quality of uniqueness, Cammerer suggested that the National Park Service might conduct a national survey every ten years and classify sites by listing them as Potential National and Non-Potential National. He recommended that the first "Decennial Survey" begin in 1935. Cammerer also recommended that a board of eminent historians, archeologists, and architects be appointed to assist in the work and aid in the final determination.[3]

Blair also gathered information from another source. He contacted the British Ambassador, R. C. Lindsay, and through him obtained data relative to English laws and historical preservation practices. On March 7, 1934, Blair forwarded the material to the President with a letter of explanation.[4] On March 10, Roosevelt referred the correspondence and accompanying documents to Secretary Ickes with a short memorandum that read, "To read and speak to me about some day."[5]

Shortly thereafter, Blair submitted his own ideas for a new Federal program which Roosevelt sent to Ickes. On May 23, the Secretary commented on the Blair proposal. He wrote the President that the plan would require legislation and an appropriation to carry it into effect. In addition, it would create machinery which would overlap the historical program of the National Park Service, and Ickes recommended against it. He believed that Department of the Interior already had the capability it needed for the proper coordination of historical resources without enacting additional legislation and that it could do the job for less money.[6]

Blair was a member of the General Society of Colonial Wars, and when he attended the April meeting of the General Council in Charleston, he learned that others were in concert with his thinking. Daniel Moore Bates of Wilmington, Delaware, read a letter from the Director of Colonial Williamsburg, the Rev. W. A. R.

Goodwin, that suggested a meeting of preservationists to create individual, public, official, and legislative sentiment looking toward the protection of all the remains that constituted a permanent enrichment to national life.[7] Specifically interested in the preservation of Colonial New Castle threatened by highway developments, Bates had conferred with Goodwin at Williamsburg a few months before to learn more about the Rockefeller project.[8]

In the letter, Goodwin also suggested that he thought it would be wise to consult with the President or the Director of the National Park Service in order to take advantage of Federal experience in the field and to give the movement proper prestige. Blair reported that he had already been in communication with both parties and that they realized the need for a broad policy. The Council then appointed a committee of six to begin the work. The Committee on the Preservation of Historic Monuments and the Marking of Historic Sites consisted of Bates, who served as chairman, Blair, Edwin C. Lewis, Daniel Ravenel, R. C. Ballard Thruston, and George de Benneville Keim, President of the Society.[9]

The Committee held meetings in Washington and Williamsburg in May and June. The members conferred with Interior officials and also with Senator Harry Byrd, a personal friend of Keim. As Chairman of the New Jersey Historic Sites Commission, Keim contacted Byrd when he was the Governor of Virginia in order to get information on historical preservation.[10]

During the summer, Interior officials changed their minds: there was a need for legislation after all. How much they were influenced by the Committee is difficult to say. The National Park Service had been working on a report on recreational land use in the United States for the National Resources Board which involved a reassessment of the problem of historical preservation, and further study may have prompted the change in position. Probably both were factors. Whatever the reason, on September 28, Secretary Ickes ordered Solicitor Nathan Margold to prepare a draft of a bill creating a Division on Historic Buildings and Antiquities in the National Park Service and giving it appropriate powers. Ickes generally outlined the duties of the division in his memorandum:

> This Division will supervise and coordinate the collection of drawings, photographs, historical sketches and other data on historic American buildings. It will maintain a library of the same. It will also have the authority to restore historic American buildings. The bill should give this Division or the Secretary of the Interior, for the use of this Division, power to accept gifts, either inter vivos or testamentary, including either money or property, which shall be devoted to the acquisition and maintenance of historic American buildings, etc.[11]

After looking into the matter, Margold decided that he did not have enough information available to draft the bill. Ickes then appointed a special assistant to undertake a comprehensive study of European legislation and the condition of historical preservation in the United States. J. Thomas Schneider, a Chicago lawyer, began work on the project on November 15.[12]

Schneider toured a number of historical areas in the East and discussed the matter with National Park Service historians and the staff at Williamsburg. He also gathered information on European practices, reading the material supplied by Blair and other such data he could find in Washington libraries. Then with the help of Assistant Solicitor Rufus G. Poole, he drafted the bill which with some revision became the Historic Sites Act. After completing the draft, he left on a trip abroad to study European preservation at first hand and to gather additional material to complete his written report.[13] In the meantime, the Committee of the General Society of Colonial Wars contacted other historical organizations for their support.[14]

Secretary Ickes transmitted the bill to the Bureau of the Budget for review on January 19, 1935.[15] The Bureau recommended the deletion of two of the subsections to which Ickes agreed.[16]

On the evening of February 20, Assistant Solicitor Poole presented the proposed bill to Senator Byrd who agreed to sponsor the measure.[17] Byrd introduced the bill on February 29. First referred to the Committee on Libraries, it later went to the Committee on Public Lands and Surveys chaired by Senator Robert F. Wagner of New York.[18] At the request of Secretary Ickes, Representative Maury Maverick of Texas introduced the companion bill

in the House on March 13, and it went to the House Committee on Public Lands headed by Congressman Rene L. DeRouen of Louisiana.[19]

The House Committee opened hearings on H. R. 6670 on April 1. First to testify on behalf of the bill was Secretary Ickes. He began by stating that the measure had a dual purpose. First it would "lay a broad legal foundation for a national program of preservation and rehabilitation of historic sites," and second, it would permit the Secretary of the Interior "to carry on in a planned, rational and vigorous manner, an important function which, because of lack of legal authorization, he . . . hitherto had to exercise in a rather weak and haphazard fashion."[20] He went on to point out that the United States was the only major nation in the western world which had not developed a national policy for the preservation of its significant physical and cultural remains. Ickes then discussed the bill in detail, outlining its specific authorities. Representative Maverick followed the Secretary, and he in turn was succeeded by Keim, Bates, Chief Historian Chatelain, Assistant Solicitor Poole, and Director Cammerer. On April 2, the Rev. Goodwin and Charles R. Stafford, Executive Manager of the Wyoming State Department of Commerce and Industry, spoke for the bill. The hearings concluded on April 5 with the testimony of the former Mayor of Morristown, New Jersey, Clyde Potts, one of those prominent in the movement to establish Morristown National Historical Park, and Dr. Hamilton J. Eckenrode, Virginia State Historian.

Generally, the witnesses stressed the value of historic sites and buildings and the need for immediate action to save them for posterity. Historian Chatelain put it as aptly as any when he said:

> We are creating great libraries for the preservation of other forms of historical material; yet, at the very time we are doing that, we are omitting the preservation of historic sites, and other historic remains, which are fully as important in the actual re-creation of the story in the ages to come as any written document. That is not true simply of battlefields, but it is true of old roads; it is true of old houses; it is true of the appreciation of architecture, and it is true of the appreciation of any form of domestic history. Unless these things are saved, we are going to get so far away from a real appreciation of the route that the American people have traveled in arriving at their present development that it will be almost impossible to recreate the picture in time to come.[21]

They also emphasized the need for a coordinated plan which would enable the Nation, the States, the localities, and private organizations to work closely together in the preservation of important historical resources.

Some of the Committee Members, particularly Representative James W. Mott of Oregon, objected to one section of the bill which gave the Secretary of the Interior the right to condemn private property in order to acquire a nationally significant historic site. Much of the testimony both pro and con centered on this issue. In the following chapter, each section of the Historic Sites Act will be analyzed in detail, and here will be found the crux of Mott's argument.

On April 10, President Roosevelt sent a letter to the Chairman of the House Committee and one to the Chairman of the Senate Committee giving his views and asking support for the bill. The letters were identical and read in part as follows:

> I wish to make known my deep interest in the measure, the general purpose of which is to enable the Federal Government, with the cooperation of the States and other public and private agencies, to lay a broad legal foundation for, and to develop and carry on, a national program for the preservation and interpretation of the physical and cultural remains of our history.
>
> The preservation of historic sites for the public benefit, together with their proper interpretation, tends to enhance the respect and love of the citizen for the institutions of his country, as well as strengthen his resolution to defend unselfishly the hallowed traditions and high ideals of America.
>
> At the present time, when so many priceless historical buildings, sites, and remains are in grave danger of destruction through the natural progress of modern industrial conditions, the necessity for this legislation becomes apparent.
>
> In this connection, I feel that the Department of the Interior, through the National Park Service, to the jurisdiction of which I assigned this general activity by Executive Orders of June 10 and July 28, 1933, should be authorized to carry forward this increased program and to acquire such property as it is decided is necessary to the furtherance of these ends. The general machinery for this work can be developed by the National Park Service with little additional expense.
>
> I am hopeful that this legislation may be passed by the present Congress.[22]

The House Committee reported the bill with amendments on May 9.[23] The Senate Committee considered S. 2073 in executive

session and made its report on the proposal on June 7, suggesting a number of changes.[24] Three days later, the bill passed the Senate and went to the House Committee which reported it back on June 18 with further revisions and recommended its passage in lieu of H. R. 6670.[25]

The first indication of serious opposition to the measure came in late June. Republican Leader Bertrand Snell notified Ickes that he would work against the bill when it came before the House, because the Secretary had rescinded an allocation for a bridge at Odenburg, New York. Ickes took his problem to the President on June 26. Roosevelt acted quickly. He called Snell on the telephone and assured him that he would eventually get his bridge. The reason that the money had not been forthcoming was that Canada had not yet passed certain enabling legislation. Snell then agreed to support the bill.[26] The House passed the measure on August 5: the Senate agreed to the amendments on August 14: and President Roosevelt signed it on August 21.[27]

The Historic Sites Act began with these words: "It is a national policy to preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States." To execute the policy, Congress conferred a broad range of powers upon the Secretary of the Interior and his instrumentality, the National Park Service. The Act instructed the Secretary to conduct a survey to determine which sites and buildings

possessed the quality of national significance and were thus of exceptional value in commemorating or illustrating the history of the United States. It permitted him to acquire personal and real property by gift, purchase, or other means in conformity with the intent of the law. He could not, however, obligate the general fund of the Treasury in the procurement of property until Congress appropriated money for the purpose. Nor could he secure title to sites and buildings belonging to religious or educational institutions or operated for the public benefit without containing consent from the owner. The Act gave the Secretary the authority to restore, reconstruct, rehabilitate, preserve, and maintain historic structures, sites, and objects of national importance acquired under its provisions within the limits imposed by appropriations. He might also instigate a program of research to determine the facts and develop an educational program to convey the information to the public.

Other provisions of the Act gave the Secretary the authority to cooperate in the preservation of nationally significant historic sites, buildings, and objects administered by other Federal agencies or owned by State and local governments or by private organizations, corporations, or individuals. He had the power to negotiate contracts or make cooperative agreements with them to protect, preserve, maintain, or operate sites, buildings, and objects for public use so long as he did not commit the Treasury without prior approval from Congress.

Finally, the Historic Sites Act established the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments to advise

the Secretary on matters of national significance, additions to the National Park System, administrative policy, and other related problems.[28]

For the first time, the Federal Government had developed a general policy broad enough to deal with the problem of the preservation of nationally significant historic sites, buildings, and objects in its entirety. Armed with new authorities, the National Park Service might exert a major influence on historical conservation in almost every corner of the country. Some believed that the Historic Sites Act marked the beginning of an historical millenium. Secretary Ickes viewed it as evidence of the arrival of a new cultural maturity.[29] In 1936, he remarked that the passage of the Historic Sites Act had given him more pleasure than any other event during his administration.[30] Broad and flexible, the new law promised much for the future of historical preservation in the United States.

V. THE HISTORIC SITES ACT

ANALYSIS AND OBSERVATIONS

SECTION 1

> Section 1. Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That it is hereby declared that it is a national policy to preserve for public use historic sites, buildings and objects of national significance for the inspiration and benefit of the people of the United States.

The bill as originally drafted read as follows:

> That it is hereby declared that the preservation for public use, of historic sites, buildings and objects of national significance, hallowed by the presence and touch of great men or the passage of great events, and of antiquities, will be an incalcuable blessing to the nation; and that it is a national policy to preserve the same for the inspiration, benefit and enjoyment of the people.

The House Committee made a single change in Sec. 1 of H. R. 6670 when it inserted the words "Historical or archeological" after the word "national" on line 3.[1] It was the Senate Committee that shortened the policy statement and determined its final form when it considered S. 2073.[2]

In the original version, some criteria were given for determining national significance. The remains and relics had to be associated with great men or events in American history. The amended bill, however, simply stated that it was a national policy to preserve those sites, buildings, and objects of national significance. This meant

that the National Park Service would have to devise its own standards of measurement.

This did not present a problem. Criteria for selecting sites, buildings, and objects of historical significance had already been developed by the National Park Service in 1933. Director Cammerer had listed them in his letter to Major Gist Blair on December 18,* and a year later they were published in the Recreation Land Use in the United States, one of the studies submitted to the President by the National Resources Board. In this instance, the Board recommended them as a set of principles which might serve as a guide in selecting new historical areas for inclusion in the National Park System.[3]

There were the questions, however, of how and where to begin. One of the easiest ways of simplifying a complex problem is to divide it into its component parts and work on each of them separately. This is what Chief Historian Chatelain did. The national historical system, Chatelain believed, should be composed of areas which illustrated each of the important phases of American progress from the beginning of human existence down to comparatively recent times. It followed that the first step would be to identify the phases or themes of American history and prepare lists of the sites which might represent each of them. Chatelain described his thought processes in an article published in the American Planning and Civic Annual in 1936:

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> It seemed that perhaps the best thing to do was, first, to make a list of as many historic sites as we could possibly survey, and then to divide these in separate classifications based on their historical value and significance. So we began to make such a list of sites a few years ago. Many sites have been listed and many suggestions have come to us. But back of all of this we have been trying to determine just what kind of policy we should use in the selection of historic sites. We have come to feel that our national historic sites should be those which, taken in their entirety, represent a more or less definite sequence in American history. We have sites representing all the different periods of man's development in this new world. These sites present the story of human life of this continent from the earliest prehistoric land-occupation down through the ages to comparatively recent times. Each site is more or less typical of certain stages of man's progress and, taken collectively, they present a more or less complete picture of American history.[4]

Chatelain presented his plan to the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments at its second meeting on May 9, 1936. The Board agreed to the approach and drafted a resolution commending it to the Secretary of the Interior.[5]

In the beginning, there were 35 categories for history and prehistory. Later, compressions and distillations reduced the number, so that today there are 22 themes:

I. Prehistoric Hunters and Gatherers

II. Early Indian Farmers

III. Indian Villages and Communities

IV. Spanish Exploration and Settlement

V. French Exploration and Settlement

VI. English Exploration and Settlement to 1700

VII. Dutch and Swedish Exploration and Settlement

VIII. Contact with the Indians

IX. Development of the English Colonies, 1700-1775

X. The War for Independence

XI. The Advance of the Frontier, 1763-1830

XII. Political and Military Affairs, 1783-1830

XIII. Political and Military Affairs, 1830-1860

XIV. The Civil War, 1861-1865

XV. Westward Expansion and Extension of the National Boundaries to the Pacific, 1830-1898

XVI. Indigenous Peoples and Cultures

XVII. Commerce and Industry

XVIIa. Agriculture

XVIII. Travel and Communications

XIX. Development and Conservation of Natural Resources

XX. The Arts and Sciences

XXI. Political and Military Affairs after 1865

XXII. Social and Humanitarian Movements

As the National Park Service gained experience in evaluating historic sites, buildings, and objects, some deficiencies in the criteria became apparent. Additions and refinements also suggested themselves as the work progressed, so that today there are 11 standards for determining national historical significance. The quality of national significance exist in:

1. Structures or sites at which events occurred that have a significant contribution to, and are identified prominently with, or which outstandingly represent the broad cultural, political, economic, military or social history of the Nation, and from which an understanding and appreciation of the larger patterns of our American heritage may be gained.

2. Structures or sites associated importantly with the lives or persons nationally significant in the history of the United States.

3. Structures or sites associated significantly with an important event that outstandingly represents some great idea or ideal of the American people.

4. Structures that embody the distinguishing characteristic of an architectural type specimen, exceptionally valuable for a study of a period style or method of construction; or a notable structure representing the work of a master builder, designer or architect.

5. Objects that figured prominently in nationally significant events; or that were prominently associated with nationally significant persons; or that outstandingly represent some great idea or ideal of the American people; or that embody distinguishing characteristics of a type specimen, exceptionally valuable for study of a period style or method of construction; or that are notables as representations of the work of master workers or designers.

6. Archeological sites that have produced information of major scientific importance by revealing new cultures, or by shedding light

upon periods of occupation over large areas of the United States. Such sites are those which have produced, or which may reasonably be expected to produce, data affecting theories, concepts and ideas to a major degree.

7. When preserved or restored as integral parts of the environment, historic buildings not sufficiently significant individually by reason of historical association or architectural merit to warrant recognition may collectively compose a "historic district" that is of historical significance to the nation in commemorating or illustrating a way of life in its developing culture.

8. To possess national significance, a historic or prehistoric structure, district, site or object must possess integrity.

For a historic or prehistoric site, integrity requires original location and intangible elements of feeling and association. (The site of a structure no longer standing may possess national significance if the person or event associated with the structure was of transcendent historical importance in the Nation's history and the association consequential.)

For a historic or prehistoric structure, integrity is a composite quality derived from original workmanship, original location and intangible elements of feeling and association. (A structure no longer on the original site may possess national significance if the person or event associated with it was of transcendent importance in the Nation's history and the association consequential.)

For a historic district, integrity is a composite quality derived from original workmanship, original location and intangible elements of feeling and association.

For a historic object, integrity requires basic original workmanship.

9. Structures or sites which are primarily of significance in the field of religion or to religious bodies but are not of national importance in other fields of history of the United States, such as political, military or architectural history, will not be eligible for consideration.

10. Birthplaces, graves, burials, and cemeteries, as a general rule, are not eligible for consideration and recognition except in cases of historical figures of transcendent importance. Historic sites associated with the actual careers and contributions of outstanding historical personages usually are more important than their birthplaces and burial places.

11. Structures, sites and objects achieving historical importance within the past 50 years will not as a general rule be considered unless associated with persons or events of transcendent significance.[6]

In addition to national significance, there are two practical considerations which must be weighed in determining if an historical area qualifies for inclusion in the National Park System. Structures, sites, and objects must also meet standards of feasibility.

The test of feasibility involves weighing all of the values and public needs served by the proposal. There are two criteria for suitability:

1. Each historical area should contain sufficient land to preserve all the significant historic or prehistoric features associated with this site and such additional lands as may be needed to protect the historic scene and provide unobtrusive sites for necessary developments for management and public use.

2. The site and its authentic historically related environment should lend itself to effective preservation and interpretation.[7]

SECTION 2 (PREAMBLE)

> SEC. 2. The Secretary of the Interior (hereinafter referred to as the Secretary), through the National Park Service, for the purpose of effectuating the policy expressed in section 1 hereof, shall have the following duties and functions.

According to Thomas Schneider, the framers of the bill considered phrasing this section to permit the Secretary to administer the Act through the National Park Service or through some other organization or bureau depending on circumstances that might develop.[8] The drafting committee decided in the end to place the administration of the historical program in the National Park Service. To implement the Act, Schneider recommended that an Associate Director take charge of the administration of historic sites and buildings. He believed that the new program should be administered "with hinderance or dictation from any other division or branch of the Service."[9]

Congress left this section of the bill in tact. To administer the program, the Service established a sixth branch in its organization, the Branch of Historic Sites and Buildings. As a professional entity, history remained in a branch or division reporting to one

Assistant Director until 1963. At that time, one group of historians moved into the Division of Interpretation under the Assistant Director for Operations, while the other became the Division of History Studies under the Assistant Director for Resource Studies.

SECTION 2(a), 2(b) AND 2(c)

> SEC. 2(a). Secure, collate and preserve drawings, plans, photographs and other data of historic and archaeologic sites, buildings and objects.
>
> SEC. 2(b). Make a survey of historic and archaeologic sites, buildings and objects for the purpose of determining which possess exceptional value as commemorating or illustrating the history of the United States.
>
> SEC. 2(c). Make necessary investigations and researches in the United States relating to particular sites, buildings, or objects to obtain true and accurate historical and archaeological facts and information concerning the same.

These three sections of the bill survived the Congressional Committees in tact. Together they provide the basic authority for the historical research program of the National Park Service and the National Survey of Historic Sites and Buildings.

The National Survey of Historic Sites and Buildings is the name given to the program of identifying and evaluating sites, buildings, and objects of national significance which are of exceptional value in commemorating or illustrating the history of the United States. After the approval of the thematic approach to the problem of determining national significance, the Branch of Historic Sites and Buildings began work on the survey in 1937, when Congress appropriated

funds for the purpose. The first phase of the program ended in 1941 with the beginning of direct American involvement in World War II and the curtailment of domestic spending. In 1957, funds became available to reactivate the survey as a part of the MISSION 66 program.[10] To date, 35 major theme and sub-theme studies have been completed and 87 special studies prepared.

By definition there can be only a limited number of sites and buildings of exceptional value. Consequently, a very careful comparison is necessary to determine which sites and buildings are the proper subject of Federal interest. National Park Service historians and archeologists investigate and evaluate sites and buildings according to each theme and period and present their findings in the form of a written report. A consulting committee composed of eminent authorities in history and other related disciplines reviews the studies and then passes them on to the Advisory Board for further evaluation. The Advisory Board makes its recommendations to the Secretary of the Interior. Only he can make the determination of national significance.

The findings of the Survey are being made available in book form. Two volumes have already appeared, one dealing with the Indian wars of the West and the other with the colonial and revolutionary periods of American history. Ultimately, there will be 16 such volumes.

The work of the National Survey is important in many ways. It adds to the total of historical knowledge. It provides the Secretary, the President, and Congress with basic data needed to make decisions concerning additions of historical areas to the National Park System.

Its reports aid other Federal agencies, the States, localities, and private organizations and individuals in planning for the preservation and interpretation of their historical resources. And it identifies those sites and buildings which are eligible for Registered National Historic Landmark designation.*

These three sections also provide the legal authority for the Historic American Buildings Survey described in Chapter III.**

SECTION 2(d)

> SEC. 2(d). For the purpose of this Act, acquire in the name of the United States by gift, purchase, or otherwise any property, personal or real, or any interest or estate therein, title to any real property to be satisfactory to the Secretary: Provided, That no such property which is owned by any religious or educational institution, or which is owned or administered for the benefit of the public shall be so acquired without the consent of the owner: Provided further, That no such property shall be acquired or contract or agreement for the acquisition thereof made which will obligate the general fund of the Treasury for the payment of such property, unless or until Congress has appropriated money which is available for that purpose.

Section 2(d) underwent considerable revision before it emerged in its final form. The original version of this section read:

> For the purpose of this Act to acquire in the name of the United States by gift, purchase or the exercise of the power of eminent domain, any property, personal or real, or any interest or estate therein, title to any real property to be satisfactory to the Secretary: Provided, That condemnation proceedings shall not be

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* See p.

** See p. 28-30

> [illegible] for the purpose of acquiring any historic building, or structure or land used in connection therewith [illegible] the same is preserved, operated and administered for the benefit of the public.

In considering H. R. 5670, some members of the House Committee violently objected to SEC. 2(d). One of the objections came from Congressman Henry E. Stubbs of California who wanted to amend the section to exemp religious buildings from acquisition by condemnation. The Catholic Church had expressed the fear that some of its missions in California might be appropriated without its consent, and Stubbs championed the cause. Secretary Ickes agreed that a proviso should be written into the bill to eliminate possibilities of this sort.[11] When the bill emerged from Committee, SEC. 2(d) contained the following proviso:

> Provided, That no such property which is owned by any religious or educational institution, or which is owned or administered for the benefit of the public shall be so acquired without the consent of the owner.[12]

The Senate Committee followed the House and recommended the same provision when it reported on S. 2073.[13]

A number of Congressmen on the House Committee and James W. Mott of Oregon in particular objected to SEC. 2(d) because it gave the Secretary the power to condemn property once he had determined it nationally significant. Mott declared that he certainly did not want to give the Secretary discretionary authority "to run around the country and institute condemnation suits whenever he pleases, on anything he pleases, that he thinks may be of historical interest to the country." Mott further stated that Congress should make the decision, because Congress represented the people, not the Secretary, who was an appointed official.[14]

When the House Committee reported on H. R. 6670, it recommended that the phrase, "the exercise of the power of eminent domain," be stricken from the paragraph and the word "otherwise" be inserted in its place.[15]

The Senate Committee used the same wording in reporting on S. 2073.[16] In considering S. 2073, the House Committee added a second proviso to the end of SEC. 2(d) insuring Congressional participation in the final determination. The proviso read:

> Provided further, That no such property shall be acquired or contract or agreement for the acquisition thereof made, which will obligate the general fund for the Treasury for the payment of such property, unless or until Congress has appropriated money which is available for that purpose.[17]

Although Representative Mott may have believed that SEC. 2(d) as amended prohibited the Secretary from exercising the right of eminent domain, the Court decided otherwise in Barnidge v. United States on January 27, 1939.[18] Acting under the Historic Sites Act, the Secretary had determined that certain lands on the bank of the Mississippi at and near the site of Old St. Louis possessed exceptional value in illustrating and commemorating the history of the United States. On December 21, 1935, President Roosevelt issued an executive order transferring $7,250,000 from the Emergency Relief Appropriation Fund to the Secretary and instructed him to acquire, develop, and preserve the site for the purposes of the Act. The City of St. Louis provided an additional $2,250,000, and the Secretary began condemning the land.[19]

Francis H. Barnidge contested the proceedings in district court, and when the judge ruled for the United States, he appealed the decision. Speaking for the Circuit Court of Appeals, Judge Gardner declared that the Secretary of the Interior did have the power to condemn under the Historic Sites Act:

> It is observed that the Historic Sites Act confers authority on the Secretary of the Interior to acquire, in the name of the United States, property for the purpose of the Act, by gift, purchase, 'or otherwise.' As authority had already been conferred to procure real estate for public uses by condemnation, it would seem to have been quite unnecessary to embody in this Act specific authority to acquire real estate by condemnation proceedings. We must assume that Congress had full knowledge of the Act of August 1, 1888, and of the interpretation that had been placed upon it by the courts.[20]

The Court of Appeals held in Barnidge v. United States that condemning land for a commemorative purpose was a public one, that the Act of 1888 empowered the Secretary to exercise the right of eminent domain for this purpose once Congress authorized acquisition, and that Congress had given the authorization when it passed the Historic Sites Act.

It is difficult to believe that Representative Mott, for example, was not familiar with the Act of August 1, 1888, but it is possible and it is one way of explaining the substitution of the word "otherwise" for the specific condemnation language. On the other hand, those who opposed the condemnation clause may have believed that the proviso requiring Congressional consent before funds could be obligated to purchase the land prohibited the Secretary from exercising

the right of eminent domain without their approval. Since the President allocated funds already made available under the Emergency Relief Appropriation, Congress did not have the chance to pass on this specific proposal.

SECTION 2(e)

> Contract and make cooperative agreements with States, municipal subdivisions, corporations, associations, or individuals, with proper bond where deemed advisable, to protect, preserve, maintain, or operate any historic or archaeologic building, site, object, or property used in connection therewith for public use, regardless as to whether the title thereto is in the United States: Provided, That no contract or cooperative agreement shall be made or entered into which will obligate the general fund of the Treasury unless or until Congress had appropriated the money for such purpose.

Appearing before the House Committee on Public Lands on April 1, 1935, to testify in behalf of H. R. 6670, Secretary of the Interior Harold Ickes commented on SEC. 2(e):

> Another highly desirable feature of the bill is the provision which would make it possible for the National Government to cooperate with State and local governments and historical societies in preserving and developing local historical sites. It would certainly not be desirable for the Federal Government to attempt to take over all the historic sites in the country. In fact, by far the greater number of such sites are of local rather than of national significance, and should therefore be cared for by State or local governments, or private organizations. This desirable type of local historical activity would be greatly stimulated if the National Government could cooperate with other agencies interested in this work by giving technical advice and assistance, and rendering such other forms of aid as might be considered advisable or necessary.[21]

The Committee did not question Ickes on this point during the hearing and reported that section of the bill without change. The

Senate Committee on Public Lands and Surveys considered the companion bill, S. 2073--the bill which eventually became law--in an executive session. Supplied with the statement of the Secretary, the Senate Committee left Sec. 2(a) unaltered. When the House reported on S. 2073, it recommended that a proviso be added to the section to read:

> Provided, That no contract or cooperative agreement shall be entered into which will obligate the general fund of the Treasury unless or until Congress has appropriated money for such purposes.[22]

The Senate agreed to the amendment.

After the passage of the Historic Sites Act on August 21, 1935, the National Park Service began to implement the law. It had provided for the creation of an Advisory Board on National Parks, Historic Sites, Buildings, and Monuments, and the Secretary made his appointments on January 30, 1936. Assistant Historian Herman Kahn of the National Park Service prepared a draft of an address for the Secretary to deliver at the first meeting of the Board scheduled to begin on February 13. The manuscript shows the current thinking on the subject of cooperation:

> It has become the custom in this country for the Federal Government to assist and cooperate with states and localities in carrying out local improvements of all kinds. Roads, schools, sewage systems, hospitals, and other public utilities of all kinds have been built by community effort with the financial assistance and encouragement of the Federal Government. The Historic Sites Act marks the beginning of a similar type of cooperation on the part of the Federal Government in encouraging localities to preserve what might be called their historical natural resources.

> This is made possible through paragraph (e) of Section 2 of the Act, which authorized the Secretary of the Interior to contract and make cooperative agreements with the states, municipalities, groups, associations or individuals for the purpose of protecting, preserving, maintaining, and operating any historic or archaeological building, site or property, regardless as to whether the title to those areas is in the United States. It is true that no funds have been made available for this work and it is financial assistance that the localities usually are most interested in and ask for first. Perhaps it is just as well that for the time being funds are not available for this work as the necessary ground work of study and planning has not yet been carried out in most places . . . .[23]

Kahn viewed Sec. 2(e) as an authority for another kind of public works program beneficial to the preservation of the historical resources of each community.

It should be remembered that Congress passed the Historic Sites Act during a period of extensive aid to the states and localities. The Keynesian philosophy of pump priming to stimulate a paralized economy supported a massive assistance program. The National Park Service had already entered the field in the planning and development of recreation areas on badly used and unproductive lands. In view of the times, a broad interpretation of Sec. 2(e) is understandable.

At the First Meeting of the Advisory Board on February 13, 1936, Chief Historian Chatelain commented on the role of the National Park Service in the area of local and state cooperation. He saw the Service as "a general coordinator and agency for stimulating

interest in the preservation and maintenance of historic sites, even in cases where these are not of national caliber."[24]

It is clear from Ickes's statement, Kahn's draft, and Chatelain's remarks that the Department of the Interior through the National Park Service believed it had a very important role to play in the preservation of all historical resources wherever they might be and whoever might own them. Ickes mentioned technical assistance, Kahn foresaw financial aid, and Chatelain pinpointed coordination and encouragement. All the statements indicate that advice and other forms of assistance not involving the direct expenditure of funds were possible. Congress through the proviso reserved the right to approve direct assistance to those sites not owned by the government.

During World War II, Sec. 2(e) began to be interpreted to apply only to those sites, buildings, and objects possessing national significance. For example, in an article appearing in the "Mississippi Valley Historical Review" in 1943, two National Park Service historians wrote:

> In this connection [referring to Sec. 2(e)], it must be emphasized that the Secretary is not empowered to enter into cooperative agreements for the preservation of sites and buildings of merely state or local importance, but only for those of national significance.[25]

The most recent pronouncement is that of Assistant Solicitor Bernard Meyer who delivered an opinion on February 18, 1964. He agreed with the interpretation when he cited Sec. 2(e) in listing

the powers the Secretary may exercise once national significance is determined.[26]

Over the years, the Secretary of the Interior has exercised the authority given him by this section of the Historic Sites Act to make cooperative agreements with other agencies and societies to assist in the preservation and interpretation of nationally significant sites. Nine of the properties he has designated National Historic Sites remain in non-Federal ownership. Forming an important adjunct to the National Park System, they include Touro Synagogue in Rhode Island, one of the finest surviving examples of colonial religious architecture, and Chimney Rock in Nebraska, one of the four major landmarks on the Oregon Trail.

SECTION (f)

> Sec. 2(f). Restore, reconstruct, rehabilitate, preserve, and maintain historic or prehistoric sites, buildings, objects, and properties of national historical or archaeological significance and where deemed desirable to establish and maintain museums in connection therewith.

The original version of the bill when drafted included a proviso eliminated by the Bureau of the Budget before it reached Congress. The proviso read:

> Provided, That notwithstanding the requirements of existing statutes or regulations, contracts for work or service may be let, and materials and equipment and supplies purchased, in exercising the authority of this subsection with or without advertising for proposals or taking bids, in a manner determined by the Secretary to be necessary to attain the objectives of this Act.

In this section, Congress left the matter of determining the kind of treatment and the method to be used to the Secretary. On May 19, 1937, the Advisory Board recommended a general restoration policy formally adopted by the National Park Service in 1938. The statement still remains the basic source of pronouncement on the subject:

A. The motives governing these activities are several, often conflicting; aesthetic, archaeological and scientific, and educational. Each has its values and its disadvantages.

B. Educational motives often suggest complete re-constitution, as in their heyday, of vanished, ruinous or remodelled buildings and remains. This has often been regarded as requiring removal of subsequent additions, and has involved incidental destruction of much archaeological and historical evidence, as well as of aesthetic values arising from age and picturesqueness.

C. The demands of scholarship for the preservation of every vestige of architectural and archaeological evidence--desirable in itself--might, if rigidly satisfied, leave the monument in conditions which give the public little idea of its major historical aspect or importance.

D. In aesthetic regards, the claims of unity or original form or intention, of variety of style in successive periods of building and remodelling, and of present beauty of texture and weathering may not always be wholly compatible.

E. In attempting to reconcile these claims and motives, the Ultimate guide must be the tact and judgment of the men in charge. Certain observations may, however, be of assistance to them:

(1) No final decision should be taken as to a course of action before reasonable efforts to exhaust the archaeological and documentary evidence as to the form and successive transformation of the monument.

(2) Complete record of such evidence, by drawings, notes and transcripts should be kept, and in no case should evidence offered by the monument itself be destroyed or covered up before it has been fully recorded.

(3) It is well to bear in mind the saying: "Better preserve than repair, better repair than restore, better restore than construct."

(4) It is ordinarily better to retain genuine old work of several periods, rather than arbitrarily to "restore" the whole, by new work, to its aspect at a single period.

(5) This applies even to work of periods later than those now admired, provided their work represents a genuine creative effort.

(6) In no case should our own artistic preferences or prejudices lead us to modify, on aesthetic grounds, work of a by-gone period representing other artistic tastes. Truth is not only stranger than fiction, but more varied and more interesting, as well as more honest.

(7) Where missing features are to be replaced without sufficient evidence as to their own original form, due regard should be paid to the factors of period and region in other surviving examples of the same time and locality.

(8) Every reasonable additional care and expense is justified to approximate in new work the materials, methods, and quality of old construction, but new work should not be artifically "antiqued" by theatrical means.

(9) Work on the preservation and restoration of old buildings requires a slower pace than would be expected in new construction.[27]

SECTION 2(g)

> SEC. 2(g). Erect and maintain tablets to mark or commemorate historic or prehistoric places and events of national historical or archaeological significance.

Congress made several changes to the original version of SEC. 2(g) before it became law. When introduced, this section of the bill read:

> Erect and maintain tablets, memorials, and monuments to mark or commemorate historic and prehistoric places and events of national significance.

In considering H. R. 6670, the House Committee recommended that the words "historical and archaeological" be inserted before the word "national."[28] The Senate Committee suggested the same change in S. 2073 and also recommended that the words "memorials, and monuments" be deleted.[29]

In deleting memorials and monuments, Congress indicated that commemoration should be simple wherever it occurred. The Act gave the Secretary the freedom to erect and maintain tablets commemorating historic or prehistoric places and events regardless of location or ownership. Except in cases where the establishing act provides for the erection of monuments or memorials, such monumentation and memorialization in historical areas owned by the Federal Government is prohibited.

Thomas Schneider, one of the drafters of the bill, stated that a reference to persons had been intentionally omitted and that the authority had been properly limited to places and events of national historical and archaeological significance.[30] In this context and since there is no specific reference to persons, commemoration by tablet should emphasize the place and the event and considered persons secondarily and in direct relation to them unless, in the case of federally owned areas, the establishing act specifies otherwise.

SECTION 2(h)

SEC. 2(h). Operate and manage historic and archaeologic sites, buildings, and properties acquired under the provisions of this act together with lands and subordinate buildings for the benefit of the public, such authority to include the power to charge reasonable visitation fees and grant concessions, leases, or permits for the use of land, building space, roads, or trails when necessary or desirable either to accomodate the public or to facilitate administration: Provided, That such concessions, leases, or permits, shall be let at competitive bidding, to the person making the highest and best bid.

The final form of SEC. 2(h) differed in many respects from the original version which read:

> Operate and manage historic and archaeologic sites, buildings and properties together with lands and subordinate buildings for the benefit of the public, such authority to include the power to charge reasonable visitation fees and grant concessions, leases or permits without advertising and without securing competitive bids for the use of land, building space, roads or trails when necessary or desirable either to accommodate the public or to facilitate administration.

The Senate Committee recommended two changes to SEC. 2(h) when it considered S. 2073. The first was to insert the words "acquired under the provisions of this Act" after the word "properties." The second was to delete the words "without advertising and without securing competitive bids."[31] The House Committee disagreed on the matter of binds and advertising and recommended that the permissive clause be restored.[32] When S. 2073 reached the floor of the House, Congressman Maverick presented an amendment to SEC. 2(h) in the form of a proviso:

> Provided, That such concessions, leases or permits shall be let at competitive bidding to the person making the highest and best bid.[33]

The House passed the amendment and the Senate concurred.

The passage of the proviso marked a change in policy. Before the Historic Sites Act, the National Park Service had had the authority under the Act of August 25, 1916, to grant concessions, leases, and permits without advertising and without securing competitive bids. Now, competitive bidding became mandatory in historical and archeological areas.

The preceding sections of the bill emphasize preservation of historical and archeological resources, but SEC. 2(h) makes it clear that Congress intends that the public should see and enjoy them. Developments in historical and archeological areas may be permitted when they serve the purposes of accommodating visitors and facilitating administration. SEC. 2(h) also provides for the charging of fees.

SECTION 2(i)

> SEC. 2(i). When the Secretary determines that it would be administratively burdensome to restore, reconstruct, operate, or maintain any particular historic or archaeologic site, building or property donated to the United States through the National Park Service, he may cause the same to be done by organizing a corporation for the purpose under the laws of the District of Columbia or any State.

The Senate Committee added this section to S. 2073. According to Thomas Schneider, SEC. 2(i) became a part of the bill because:

> It is conceivable . . . that an occasion may arise involving the restoration or operation of an extensive historic area, containing a considerable number of historic buildings, some of which might be occupied as residences, hotels, commercial stores or the like. In such cases, from the viewpoint of effectuating an economic management and administration, the corporate form may well be the best method for restoring or operating such an area.

The Secretary has not found it necessary to exercise this authority. In 1949 Congress passed a bill which created a corporation that can be used for the purposes outlined in SEC. 2(i). The

Act gives the National Trust for Historic Preservation in the United States the authority to receive donated sites, buildings, and objects significant in American history and culture to administer and preserve them for the public benefit. Governed by a Board of Trustees composed of the Secretary, the Attorney General, the Director of the National Gallery of Art, and six elected members, the Trust maintains its principal office in the District of Columbia.[34]

SECTION 2(j)

> SEC. 2(j). Develop an educational program and service for the purpose of making available to the public facts and information pertaining to American historic and Archaeologic sites, buildings, and properties of national significance. Reasonable charges may be made for the dissemination of any such facts or information.

Interest in an educational program was high at the time of the passage of the Historic Sites Act. It was a relatively new development and one that had been very successful in natural areas. The beginnings of the movement can be traced back to 1920 when Director Mather and a few friends privately financed employment of two naturalists in Yosemite National Park, and the Superintendent of Yellowstone added an interpreter to his permanent staff.[35] During the next eight years, other areas became participants in the program on a modest scale. Favorable public response prompted the Secretary to appoint a committee of eminent educators and scientists to make a thorough study of the educational possibilities of the parks in 1928. A year later he established an Educational Advisory Board

to assist the National Park Service in developing a comprehensive interpretive program. In 1930, the Director created a Branch of Research and Education in the Washington Office to coordinate work in the field.

Although interest in interpretation centered in natural areas, there were some developments in historical and archeological areas in the 1920's. Notable among them was the construction of an archeological museum at Mesa Verde in 1924.[36] When Historian Verne Chatelain became an assistant to the Chief of the Branch of Research and Education in 1931, historical and archeological interpretation received greater emphasis.

About the time of the passage of the Historic Sites Act, the National Park Service published a booklet on its educational philosophy accomplishments. Four principles were to guide the Service in the field of Research and Education:

1. Simple, understandable interpretation of the major features of each park to the public by means of field trips, lectures, exhibits, and literature.

2. Emphasis upon leading the visitor to study the real thing rather than to utilize second-hand information. Typical academic methods are avoided.

3. Utilization of a highly trained personnel with field experience, able to interpret to the public the laws of the universe as exemplified in the parks, and able to develop concepts of the laws of life useful to all.

4. A research program which will furnish a continuous supply of dependable facts suitable for use in connection with the educational program.[37]

In 1951 another publication listed the same principles, but revised them to apply specifically to historical and archeological interpretation:

1. Utilization of trained, professional personnel to conduct the educational program, with ability to interpret to the public the history of the United States as exemplified in sites and monuments.

2. Adequate provision for a research program to furnish a continuous supply of dependable facts and interpretations suitable for use in the educational program.

3. Simple, understandable interpretation of each historic or archaeological site or structure to the public, by means of field trips, lectures, exhibits, and literature.

4. Emphasis upon leading the visitor to study the authentic original rather than to utilize second-hand information.[38]

This section provides the authority for the National Park Service series of National Survey volumes, informational folders, handbooks, monographs, and other publications.

SECTION 2(b)

SEC. 2(b). Perform any and all acts, and make such rules and regulations not inconsistent with the Act as may be necessary and proper to carry out the provisions thereof. Any person violating any of the rules and regulations authorized by this Act shall be punished by a fine of not more than $500 and be adjudged to pay all cost of the proceedings.

The original version of the bill included an additional penalty of six months in prison. The Senate Committee deleted the passage when it considered S. 2073.[39] Under the Antiquities Act of 1906, the Secretary already had the authority to prosecute those who appropriated, excavated, injured, or destroyed any historic or prehistoric ruin or monument or any object of antiquity. SEC. 2(k) broadens the authority of the Secretary by permitting him to enforce any rules or regulations he may deem necessary to carry out the provisions of the Act.

SECTION 3

> SEC. 3. A general advisory board to be known as the "Advisory Board on National Parks, Historic Sites, Buildings, and Monuments" is hereby established, to be composed of not to exceed eleven persons, citizens of the United States, to include representatives competent in the fields of history, archaeology, architecture, and human geography, who shall be appointed by the Secretary and serve at his pleasure. The members of such board shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as such members.
>
> It shall be the duty of such board to advise on any matters relating to national parks and to the administration of this Act submitted to it for consideration by the Secretary. It may also recommend policies to the Secretary from time to time pertaining to national parks and to the restoration, reconstruction, conservation, and general administration of historic and archaeologic sites, buildings, and properties.

In an appearance before the House Committee, Director Arno B. Cammerer concisely stated the reason for having an advisory board when he said, "it is simply to advise the National Park Service so

that we may have the best talent available on these things."[40] Thomas Schneider listed many of the advantages to be gained in his report:

> Not only will the unbiased advice and counsel of such outstanding men be of inestimable value to the Government and this program, but also their prestige and connections in the professional, scientific and cultural world will encourage the support of the leading men in their respective fields and the technical and professional societies and organizations of which they may be members. It will also further the goodwill, confidence and cooperation on the part of the States, private organizations and the general public, which might otherwise require years to attain.[41]

The idea of an advisory board was not a new one; in fact, the National Park Service already had a consulting committee on education. Created on March 29, 1929, the Educational Advisory Board focused on the problems involved in telling the geological and ecological story of the national parks and in communicating the inspirational values of nature.[42] Secretary Ickes recommended a new board for two reasons. First, the Educational Advisory Board had not been sanctioned by law; it had been established by the Secretary. Second, the Board did not provide adequate historical representation, and in view of the expanding program the need for expert advice in this field was vital.[43]

When it came time to implement the Act, Ickes personally selected a Board of historians, architects, archeologists, and anthropologists. Only two of the new appointees had a primary interest in natural history, although the Board had to consider

matters relating to scenic and scientific areas as well as historical ones.[44] In later years, the composition of the Board changed to provide greater representation in the fields of natural history and science.

SECTION 4

> SEC. 4. The Secretary, in administering this Act, is authorized to cooperate with and may seek and accept the assistance of any Federal, State, or municipal department or agency, or any educational or scientific institution, or any patriotic association, or any individual.
>
> (b). When deemed necessary, technical advisory committees may be established to act in an advisory capacity in connection with the restoration or reconstruction of any historic or prehistoric building or structure.
>
> (c). Such professional and technical assistance may be employed without regard to the civil-service laws, and such service may be established as may be required to accomplish the purposes of this Act and for which money may be appropriated by Congress or made available by gifts for such purposes.

Section 4 recognizes that historic preservation is a highly specialized pursuit. The intention of the section is to allow the Secretary great flexibility in mustering the best talent available to consider the special problems involved in such things as restoration and reconstruction.

Apparently the Secretary has not exercised the authority given him under SEC. 4(b), but a number of advisory commissions have been established by law for certain historical areas. For example, the acts establishing Independence National Historical Park and Minute

Man National Historical Park provide for commissions to advise the National Park Service on development. In these instances, the commissions were established more to advise on general planning than to provide highly specialized assistance in restoration or reconstruction.

SECTIONS 5, 6, AND 7

> SEC. 5. Nothing in this Act shall be held to deprive any State, or political subdivision thereof, of its civil and criminal jurisdiction in and over lands acquired by the United States under this Act.
>
> SEC. 6. There is authorized to be appropriated for carrying out the purposes of this Act such sums as the Congress may from time to time determine.
>
> SEC. 7. The provisions of this Act shall control if any of them are in conflict with any other Act or Acts relating to the same subject matter.

Since the provisions found in Sections 5, 6, and 7 do not deal with historical policy and are commonly understood, they are not considered in this paper.

VI. REFINEMENT AND IMPLEMENTATION

1935 - 1965

Director Cammerer had good reasons for being optimistic in the summer of 1936. The past three years had been difficult ones. They were years marked by rapid change, great expansion, and the pragmatism born of necessity. Yet much had been accomplished. Congress had given the Department of the Interior a wide range of powers in the field of historical preservation. The National Park Service had adjusted to the heavy workload created by the transfer of parks and monuments from the Departments of War and Agriculture. State assistance programs were functioning smoothly. Emergency relief appropriations were available to implement many facets of the new program. Finally, three new areas had been authorized or established. They were Morristown National Historical Park (1933) in New Jersey, Ocmulgee National Monument (1934) in Georgia, and Fort Jefferson National Monument (1935) in Florida.[1]

In his annual report to the Secretary of the Interior, Director Cammerer expressed his gratitude for the help he had received and affirmed his faith in the future:

> . . . the record of the past 3 years is due to the loyal support of the administrative force of the National Park Service, often under conditions of acute discouragement and of constant and unusually heavy pressure of work; and to the officials of the Department of the Interior,

who with patience and forbearance had upheld the National Park Service during this period of development and stabilization.

To all who have contributed in any way to the support of national park ideals and to the practical protection of the national parks and monuments, the Service is sincerely grateful. Especially is acknowledgment made of the support of conservationists at crucial moments in national park and monument history, and to cooperating officials of other federal bureaus who helped to smooth the path of national park administration.

With this cheerful reflection of the work of the past, the National Park Service looks forward with unbounded confidence to the future.[2]

Cammerer had not misplaced his trust. Conservation entered one of its most rewarding periods. During the six years preceding the beginning of World War II, many new historical and archeological areas entered the National Park System. They included Ackia Battleground National Monument (1935) in Mississippi, Andrew Johnson National Historic Site (1935) in Tennessee, Jefferson National Expansion Memorial (1935) in St. Louis, Richmond National Battlefield Park (1936) in Virginia, Homestead National Monument (1936) in Nebraska, Fort Frederica National Monument (1936) in Georgia, Perry's Victory and International Peace Memorial National Monument (1936) in Ohio, Whitman Mission National Historic Site (1936) in Washington, Pipestone National Monument (1937) in Minnesota, Salem Maritime National Historic Site (1938) in Massachusetts, Saratoga National Historical Park (1938) in New York, Fort Laramie National Historic Site (1938) in Wyoming,

Hopewell Village National Historic Site (1938) in Pennsylvania, Federal Hall National Memorial (1939) in New York, Tuzigoot National Monument (1939) in Arizona, Manassas National Battlefield Park (1940) in Virginia, Cumberland Gap National Historical Park (1940) in Kentucky, Tennessee, and Virginia, Vanderbilt Mansion National Historic Site (1940) in New York, and Fort Raleigh National Historic Site (1941) in North Carolina.

The Secretary of the Interior also exercised the authority given him by the Historic Sites Act to make cooperative agreements with other agencies and societies to assist in the preservation of nationally significant historical properties. The upper end of Jamestown Island (1940) in Virginia, McLoughlin House (1941) in Oregon, and San Jose Mission (1941) in Texas became National Historic Sites by Secretarial designation. They remained in non-Federal ownership and administration.[4]

During the period, Congress passed two significant acts affecting historical preservation. President Roosevelt approved the first on June 23, 1936. The law provided the authority for a continuing exchange of services and information between Federal and State officials engaged in recreational planning and development. Congress instructed the Secretary of the Interior, through the National Park Service, to conduct a national survey to procure the data needed to prepare a coordinated plan for the development of a system of public park, parkway, and recreational areas for the people of the United States. Each State reserved the right to approve participation in the survey. All Federal lands were subject to the study,

except those administered by the Department of Agriculture, since it possessed its own planning capability.[5]

Since 1933 under ECW and other emergency relief programs, the National Park Service had been assisting the States and their subdivisions in recreational planning. The 1936 Act established a permanent legal basis for this activity. SEC. 2(e) and SEC. 4(a) of the Historic Sites Act permitted cooperation in the preservation of nationally significant sites, buildings, and objects. The new law broadened the area of cooperation by including historical resources of less than national caliber if they fell under the jurisdiction of the States and localities and formed a part of the recreational complex.

Approved on July 18, 1940, the second act amended the Surplus Property Act of 1935 to give the Secretary of the Interior the opportunity to review proposals to demolish Federal buildings. The law required that the agency controlling the building inform the Secretary concerning plans for its demolition so that he could have a study made to determine if it possessed historical value within the meaning of the Historic Sites Act.

The Secretary delegated the responsibility for the study to the National Park Service. If the structure was historically significant, the Secretary recommended that the agency charged with its disposition seek the means to retain the building and provide for its continuing preservation either in the hands of the Federal

Government or by appropriate state and local authorities. Important structures saved under the provisions of this Act were the Custom House in Philadelphia and the Sub-Treasury Building in New York City.[6]

By the end of June, 1941, much had been accomplished under programs begun in the early and middle 1930's. HABS had produced 23,800 measured drawings and 28,100 photographs of 7,000 buildings.[7] Through CCC, ECW, FWA, WPA, PWA, and ERA funds and services, many historical areas had been protected, restored, and developed in a multitude of ways. Some of the areas in the National Park System which benefited greatly from the programs were Saratoga Battlefield, Hopewell Village, Vicksburg, Appomatox Court House, Jamestown, Yorktown, Whitman Mission, Ocmulgee, and Fort Laramie.[8] There were many others. Emergency relief appropriations enabled the States to improve many of their historical properties. Some examples were Mission Espiritu in Texas, Mission La Prisima in California, Fort Abraham Lincoln in North Dakota, Fort Sisseton in South Dakota, and Fort Ridgley in Minnesota.[9] Thirty-four State plans for park, parkway, and recreational areas had been completed under the authority vested in the Secretary of the Interior by the 1936 Act.[10] Before involvement in World War II forced a cessation of the national historical survey authorized by the Historic Sites Act, Service historians and archeologists had inventoried 898 sites.[11] It was an enviable record and one that would be difficult to match in the coming decades.

World War II affected historical preservation in the National Park Service in many ways. There were the obvious deletions and curtailments. Total committment to the war effort brought an end to massive Federal and State assistance programs. No longer could the National Park Service depend on the Civilian Conservation Corps to furnish the labor to complete many of its projects.[12] Too, the CCC had provided maintenance services valued at $1,000,000 a year.[13] The Service had to depend solely on its own appropriations, and as a matter of necessity funds for domestic uses were meager and continued to diminish in quantity as the war progressed. The total appropriations for fiscal year 1942 exceeded $14,600,000, but in 1943 the figure approximated $5,487,000. In 1945 the Service operated on a budget of $4,740,000.[14] Personnel ceilings added to the dilemma. Shortly before the attack on Pearl Harbor, the Service employed 5,943 persons on a permanent basis. On June 30, 1944, the work force numbered 1,573.[15] Due to the lack of money and manpower, the construction of major roads, trails, parkways, buildings, and utilities were deferred for the duration.[16]

On March 28, 1942, President Roosevelt ordered the postponement of investigations and studies relating to the Historic Sites Survey and the establishment of new areas.[17] Exceptional cases, however, might be brough to his attention for review. During the war, the President authorized studies of Castle Clinton in New York, the Nathan Hale homestead in Connecticut, and the birthplace of Thomas Jefferson in Virginia.[18] Although the Historic American Buildings Survey ceased to function, the National Park Service continued to

make records of the structures under its care, and the American Institute of Architects, various universities, and individuals donated material to the Library of Congress.[19]

As the country mobilized for war, stockpiles of metal began to disappear. The War Production Board viewed the trophy ordnance, statuary, memorials, and markers in the national military parks as a possible source of supply and suggested that the National Park Service contribute them to the scrap drive.[20] On September 29, 1942, Representative William H. Sutphin of New Jersey introduced a bill that would have made participation mandatory, but it died in committee.[21] Director Drury held that historic, artistic, and commemorative objects were a part of the heritage of the Nation that should be preserved inviolate until all other sources of scrap metal had been exhausted. The Salvage Division of the Production Board and the Office of the Chief of Ordnancy acceded to the view. In fact, the Office of the Chief of Ordnance saved historic cannon that came into its possession and donated a number of fine pieces to Saratoga Battlefield and Castillo de San Marcos National Monument.[22]

Following the beginning of hostilities, the Department of the Interior permitted the Departments of War and Navy to use a number of historical areas for defense purposes. For example, the Navy utilized part of Fort Pulaski National Monument and the Army occupied Cabrillo National Monument. The Provost Marshal established a training center in Chickamauga and Chattanooga. Much of Petersburg National

Military Park became a part of Camp Lee, home of the Army Quartermaster School. Near the end of the war, the Navy turned Fort Jefferson into a radar station.[23] During the four-year period, more than 2600 permits for various types of war use were issued.[24]

The emphasis on food production during the war led to the development of a permissive policy concerning the use of certain lands in historical areas for agricultural purposes. Director Newton B. Drury issued the policy in the form of two memoranda in the fall of 1943. The Service attempted to re-create the past in historical areas. This principle guided the restoration of historic buildings, and it should apply to the land as well. If farming and grazing were a part of the historical scene, then they should be permitted. Most of the battlefield areas fell into this category. Cooperating with the War Foods Administration, superintendents of battlefield parks negotiated contracts and leased lands to neighboring farmers and ranchers to restore fields and pasture livestock.[25]

Although Congress could not afford to commit large sums of money for historical preservation during wartime, it continued to provide for the acquisition of new areas. An act approved June 30, 1944, authorized the establishment of Harpers Ferry National Monument in West Virginia and Maryland.[26] In addition, the Service obtained the land necessary to officially establish Andrew Johnson National Monument and Richmond National Battlefield Park. Also in 1944, arrangements were made to acquire the Home of Franklin D. Roosevelt.[27]

Through cooperative agreements, three non-Federally owned areas became National Historic Sites--Gloria Dei Church (1942) in Pennsylvania, Independence Hall (1943) in Philadelphia and St. Paul's Church (1943) in Mount Vernon, New York.[28]

The last years of the war were especially harrowing for unexpected reasons. In 1943, the National Park Service became involved in a controversy which threatened to result in the repeal of the Antiquities Act of 1906. Some members of Congress reached the conclusion that the Service habitually succeeded in withdrawing lands from the public domain for park purposes which were far in excess of actual needs.[29] The creation of Jackson Hole National Monument by Presidential proclamation on March 15, 1943, served as a catalyst to stir the legislators into action. The main source of opposition came from organizations and individuals using lands administered by the Bureau of Land Management and the Forest Service that had been transferred to the National Park Service by the Executive Order.[30] Those opposing the establishment of Jackson Hole National Monument contacted Representative Frank A. Barret of Wyoming. On March 22, he introduced a bill calling for the abolishment of the area.[31] A year later, it passed the House and Senate, but President Roosevelt vetoed the measure on December 29, 1944.[32]

In the case of Jackson Hole National Monument, Congress sought to nullify the action of the President in establishing a particular area. In 1945, however, four Representatives and a Senator introduced bills that limited or rescinded the authority of the President

to proclaim national monuments in general. On January 3, Congressman Antonio Fernandex of New Mexico presented a bill which amended SEC. 2 of the Antiquities Act to require Congressional concurrence in the establishment of national monuments that exceeded 10,000 acres.[33] Representative James F. O'Connor of Montana submitted a bill on January 6 which would repeal the law.[34] On January 16, Representative J. Edgar Chenoweth of Colorado offered a proposal to eliminate SEC. 2 of the Act which gave the President the authority to set aside national monuments.[35] Representative Barret followed with a similar bill on February 12.[36] On March 1, Senator Edward V. Robertson of Wyoming introduced a bill amending SEC. 2 to require the approval of the governor and a majority of the Congressional delegation of the State effected before a national monument could be established by Presidential proclamation.[37] None of the bills ever left committee. Undaunted, Fernandez introduced others versions of his bill in 1946 and 1947.[38] Robertson also tried again in 1947, but to no avail.[39]

The end of World War II found the National Park Service in reduced circumstances, but hopeful of a rapid recovery. In June of 1945, Director Drury posed the question: "What does the National Park Service intend to do now that the war is over?" He also answered it: "We hope to do what we were doing before the war, but to do it better."[40] But in order to do a better job, the National Park Service

needed personnel and money, and in the postwar years, they were long in coming. A comparatively large appropriation for capital improvements in fiscal year 1947 enabled the Service to restore and rehabilitate existing facilities, to complete road, trail, and parkway projects begun before the war, and to repair essential sewer, water, electrical, and communication systems.[41] By 1950, the appropriation had risen in excess of $30 million, but the needs of the Service continued to exceed the funds appropriated.[42] In 1949, Director Drury had estimated the Service would require $496 million to construct adequate buildings, roads, and utilities.[43]

Another development added to the difficulty in the decade following World War II. Travel to the parks increased at a tremendous rate. In 1945, close to 12,000,000 people visited areas in the National Park System.[44] In 1946, the figure jumped to almost 22,000,000, and by 1955, the number exceeded 50,000,000.[45] Greater use of the parks led to a more rapid deterioration of buildings, roads, and utilities than had been expected. The obsolecence factor rose. It also created a correspondingly greater need for protective and interpretive services. Too, the addition of areas to the National Park System during the postwar years increased the administrative workload. In 1953, Director Drury reported that the Service operated with 25 percent less manpower than it did in 1941, yet the number of areas had grown by 10 percent.[46]

Historical areas authorized and established during the ten-year peiod were Adams National Historic Site (1946) in Massachusetts, Castle Clinton National Monument (1946) in New York, Theodore Roosevelt National Memorial Park (1947) in North Dakota, De Soto National Memorial (1948) in Florida, Fort Vancouver National Historic Site (1948) in Washington, Hampton National Historic Site (1948) in Maryland, Independence National Historical Park (1948) in Pennsylvania, San Juan National Historic Site (1949) in Puerto Rico, Saint Croix Island National Monument (1949) in Maine, Effigy Mounds National Monument (1949) in Iowa, Fort Caroline National Memorial (1950) in Florida, George Washington Carver National Monument (1950) in Missouri, Coronado National Memorial (1952) in Arizona, Fort Union National Monument (1954) in New Mexico, and City of Refuge National Historical Park (1955) in Hawaii.[47] The Service also acquired Fort Sumter National Monument (1948) in South Carolina by transfer from the Army, and the Secretary designated three other areas in non-Federal ownership National Historic Sites--Tuoro Synagogue (1946) in Rhode Island, Dorchester Heights (1951) in Massachusetts, and Chicago Portage (1952) in Illinois.[48]

On the national scene, the preservation movement faced a major crisis. Following World War II, the Bureau of Reclamation and the Corps of Engineers took steps to activate plans for the development of a vast reservoir system in the United States. It was obvious that

the building of dams and the filling of reservoirs would result in the loss of many important historical and archeological remains. To meet this challenge, professional archeologists representing the Society for American Archaeology, the American Anthropological Association, and the American Council of Learned Societies formed the Committee for the Recovery of Archaeological Remains. With the assistance of the Smithsonian Institution, the Committee prepared a plan of action. Since the Historic Sites Act authorized the National Park Service to conduct archeological surveys, the Committee immediately sough its aid. The National Park Service agreed to serve as the coordinating administrative agency and to seek the necessary funds through Congressional appropriations. The Service negotiated agreements with the Bureau, the Corps, and later with the Federal Power Commission to permit surveys, investigations, and excavations in advance of construction. Congress appropriated money to carry on the work.[49]

In most cases, the National Park Service transferred funds to the Smithsonian Institution or contracted with State universities and educational institutions to conduct surveys and undertake investigations and excavations. By 1949, surveys had been conducted in 94 reservoirs and in the Missouri, Columbia-Snake, Etowah, Roanoke, Brazos, Neches, Arkansas, Central Valley, and Rio Grande river basins.[50] By 1960, studies had been made of 300 reservoirs in 45 of our States. Over 10,000 sites had been located and recorded.[51]

During the postwar decade, Congress passed several acts designed to assist the States and localities in historical preservation and to provide mechanisms for greater public participation in the work. The National Council for Historic Sites and Buildings provided the impetus for one of these acts. Formed in April, 1947, the National Council was a voluntary association of regional, State, and local organizations interested in historical conservation. Its purpose was to promote the preservation, study, and interpretation of sites and buildings significant in the history and culture of the United States. Among the sponsoring organizations were the National Park Service, the National Gallery of Art, the American Planning and Civil Association, the American Historical Association, the American Institute of Architects, the American Association for State and Local History, the Society for American Archaeology, the American Scenic and Historic Preservation Society, and the Society for the Preservation of New England Antiquities.[52]

From the beginning the National Council contemplated the establishment of a corporation to hold, preserve, and administer historical properties. Assisted by the National Park Service, its Committee on Organization drafted a bill for the purpose early in 1949.[53] Congressman J. Hardin Peterson of Florida, Chairman of the House Committee on Interior and Insular Affairs, introduced it on June 15. Appearing on the floor of the House in behalf of the measure, Representative Peterson succinctly summarized its intent:

> This bill is to carry out the purpose of the Historic Sites Act to allow for public participation. There are a large

> number of historic sites where even the Federal Government cannot step in and take over, and should not as a matter of fact. This provides a method by which the public can endow, and will, in many instances, make gifts. It will cost the Federal Government nothing.[54]

Receiving strong support, the bill passed the House and Senate, and on October 29, President Truman affixed his signature.

The Act created the National Trust for Historic Preservation and gave it the power to receive donations of sites, buildings, and objects significant in American history and culture in order to preserve and administer them for the public benefit. To accomplish the objectives of the Act, it might accept, hold, and administer gifts of money, securities, or other property. The Trust could enter into cooperative agreements with other Federal, State, and local agencies, corporations, associations, or individuals for the protection, preservation, maintenance, or operation of historic sites, buildings, and objects for the purpose of public use. The Act provided that one of the ex-officio members of the Board of Trustees created to administer the Trust would be the Secretary of the Interior or his representative.[55] The Secretary delegated the responsibility to the Director of the National Park Service to insure a coordinated Federal and private effort.

In 1954, the Council merged with the Trust to form one corporate body.[56] At present the Trust administers 9[illegible] historical properties and has more than 650 affiliated members. Its publications and informational service are of great value to historical conservationists, and more than once it has been influential in rallying the support needed to save an historic building threatened by destruction.

In 1948, Congress amended the Surplus Property Act of 1944 to encourage the States and communities to preserve sites and buildings of importance. The amendment permitted the gratuitous disposal of surplus property suitable for historic monument purposes to any State, county, or municipality under certain conditions. The law required an affirmative response from the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments. The proposal then went to the Secretary of the Interior who had the power to make the determination of suitability and desirability. If the Secretary found that the property qualified, he recommended its disposal without monetary consideration to the Administrator of War Assets Administration. After considering all the factors, the Administrator might approve or disapprove the transfer.[57] After 1949, authority to make the decision rested with the Administrator of General Services Administration.[58]

The law also provided that the property transferred under the Act be used for historical purposes for a period of at least 20 years or title would revert to the United States. Since July, 1964, the General Services Administration has interpreted this section of the law to require the use of the property for historical purposes in perpetuity. Another amendment in 1961 limited application of the law to those sites and buildings which had become of historical significance at least 50 years prior to the date they became surplus to the needs of the Federal Government.[59] To date, 42 properties, representing more than 2000 acres, have been transferred into non-Federal ownership under this legislation.[60]

Postwar growth and expansion posed another threat to historical preservation. The juggernaut of urbanization began to sweep across the Nation reshaping everything in its path. A swelling tide of people, their need for space enlarged and intensified by a changing technology and an increasing affluence, demanded more subdivisions, more freeways, more parking lots, and more shopping centers. Historic sites and buildings disappeared at an accelerated rate. Those that were left became more precious.

At the same time, urbanization brought with it a new awareness and appreciation of outdoor recreation. For the millions living in the cities, the opportunities for a park experience diminished as open space land receded in front of burgeoning suburbs. National parks, historic sites, and monuments assumed new importance in the American scheme of values, and a new wave of interest in conservation rolled over the country.

As travel figures continued to rise and park facilities continued to deteriorate, it became apparent to the National Park Service that the problem had to be tackled with a boldness and breadth equal to its complexity and magnitude.

On January 27, 1956, Director Conrad L. Wirth presented a long range plan for the conservation, protection, improvement, and expansion of the National Park System to President Eisenhower and his cabinet. It was a ten-year plan which would enable the National Park Service to step up its replacement, restoration, and development schedules; continue its nationwide survey of historic sites, buildings,

and objects; and provide greater advisory assistance to the States, localities, and the private sector in the fields of park conservation, recreational planning, and historical preservation. President Eisenhower gave his approval and six days later, Congress endorsed the program.[61]

A second highly rewarding era in historical preservation began with MISSION 66, as the new program was called. New historical areas, new developments in interpretation, new programs of recognition and encouragement, and a great array of physical improvements were its hallmark and its achievement. As never before in our history, the President, the Congress, and the people gave their support to the movement to safeguard and project the memory of the men, events, ideas, and ideals that shaped our destiny.

Both the National Survey of Historic Sites and Buildings and the Historic American Buildings Survey resumed in 1957 as a part of MISSION 66.[62] To date, more than 3500 sites and buildings have been sutides and evaluated by the National Survey staff. HABS has inventoried approximately 8000 buildings and recorded approximately 10,000 more. It is a sad commentary on our times that nearly half of the buildings recorded in detail have already been destroyed.

In conducting the National Survey it became apparent that the Federal Government could not acquire all the nationally significant sites in the United States. They numbered in the hundreds. Non-Federal agencies were doing a splendid job in preserving many of them,

but at the same time, decay and destruction threatened others. To recognize achievements in historical conservation and to support greater efforts in the field, the Secretary of the Interior initiated the Registered National Historic Landmark program in October 1960.[63]

All sites, buildings, and objects of national historical significance were eligible to become Landmarks. In order to receive a Landmark certificate, the owner of the property had to agree to maintain its integrity and historical character. In return, he could call on the National Park Service for advisory assistance. If he wished, he could also receive a bronze plaque attesting to the significance of the property.[64] By January 1, 1966, the Secretary had declared 673 sites eligible for Landmark status.

President Johnson recently emphasized the value of the Landmark program in his Message on Natural Beauty. "The Registry of National Historic Landmarks," he said, "is a fine Federal program with virtually no cost. I commend its work and the new wave of interest it has evoked in historical preservation."[65]

The growing interest in preservation is evidenced by the large number of historical and archeological areas authorized or established during the past 10 years. There have been 35 in all: Edison National Historic Site (1956) in New Jersey, Horseshoe Bend National Military Park (1956) in Alabama, Pea Ridge National Military Park (1956) in Arkansas, Booker T. Washington National Monument (1957) in Virginia,

Fort Clatsop National Memorial (1958) in Oregon, General Grant National Memorial (1958) in New York, Grand Portage National Monument (1958) in Minnesota, Minute Man National Historical Park (1959) in Massachusetts, Wilson's Creek National Battlefield Park (1960) in Missouri, Bent's Old Fort National Historic Site (1960) in Colorado, Arkansas Post National Memorial (1960) in Arkansas, St. Thomas National Historic Site (1961) in the Virgin Islands, Christiansted National Historic Site (1961) in the Virgin Islands, Russell Cave National Monument (1961) in Alabama, Chesapeake and Ohio Canal National Monument (1961) in Maryland and West Virginia, Fort Davis National Historic Site (1961) in Texas, Fort Smith National Historic Site (1961) in Arkansas, Lincoln Boyhood National Memorial (1962) in Indiana, Saganmore Hill National Historic Site (1962) in New York, Theodore Roosevelt Birthplace National Historic Site (1962) in New York, Fort Saint Mark National Historic Site (1962) in Florida, Frederick Douglass Home (1962) in the District of Columbia, Hamilton Grange National Memorial (1962) in New York, Fort Bowie National Historic Site (1964) in Arizona, Allegheny Portage Railroad National Historic Site (1964) in Pennsylvania, Fort Larned National Historic Site (1964) in Kansas, John Muir National Historic Site (1964) in California, Saint-Gaudens National Historic Site (1964) in New Hampshire, Roger Williams National Memorial (1965) in Rhode Island, Golden Spike National Historic Site (1965) in Utah, Herbert Hoover National Historic Site (1965) in Iowa, Hubbell Trading Post National Historic Site (1965) in Arizona, Pecos National Monument (1965) in New Mexico, and Nez Perce National Historical Park (1965)

in Idaho.[66] The Secretary also designated another National Historic Site which remained in non-Federal ownership, Chimney Rock (1956) in Nebraska.[67]

There have been a great number of physical improvements in the National Park System under MISSION 66. Some of the most dramatic have been the construction of visitor centers with audiovisual programs, graphic exhibits, and dioramas. During the past 10 years, 50 visitor centers have been constructed in historical areas. An outstanding example is the visitor center at Gettysburg National Military Park designed by the famous architect Richard Neutra. Its central feature is a giant cyclorama painted by Paul Philippoteaux portraying the battle at its climactic point. One of the finest moving pictures produced for use in a visitor center is Time of the West made by Guggenheim Associates for Jefferson National Expansion Memorial in St. Louis. Telling the story of westward expansion, it is being considered for a number of awards.

Stabilization, rehabilitation, restoration, and reconstruction of historic buildings was another accomplishment. Probably the most comprehensive program currently underway is the one at Independence National Historical Park in Philadelphia. The General Federation of Women's Clubs raised nearly a quarter of a million dollars to finance the restoration of the first floor of Independence Hall to simulate its appearance at the time of the signing of the Declaration of Independence and the completion of work on the Constitution.[68] Other

restorations in the park include Congress Hall, home of the Congress of the United States from 1790 to 1800, and the first building occupied by the Supreme Court.

The work at Independence is only one of the outstanding accomplishments under this program. Some of the other significant buildings which have been restored or reconstructed are McLean House at Appomattox where General Robert E. Lee surrendered to General Ulysses S. Grant, bringing an end to the Civil War; Old Bedlam, the famous officers' quarters at Fort Laramie immortalized in a novel by Charles King; and Ford's Theater in Washington, D. C., scene of the assassination of President Lincoln.[69] Since the passage of the Historic Sites Act more than 250 buildings have received extensive treatment of one kind or another.

In recent years, Congress has passed a number of acts which permit the use of Federal funds to safeguard and preserve historic sites and buildings threatened by destruction due to urbanization, the building of dams, and the construction of highways.

Amendments to the Housing Act of 1949 permit the Urban Renewal Administration to make grants and loans to communities for historical purposes. Depending on the circumstances, they vary in amount from 50 to 75 percent of the cost of the project. Communities may use the funds to acquire historic buildings within urban renewal project areas in order to resell them to private parties for actual restoration and maintenance. Or they may use the money to relocate historic

structures lying in the path of proposed improvements. Funds may also be used to provide better settings for historic buildings or to enhance their surroundings.

The Housing Act of 1954, as amended, authorizes the Urban Renewal Administration to make grants for surveys to determine the nature and extent of the historical assets of a community and to provide data for the preparation of comprehensive development plans. It also authorizes grants to assist communities in developing new or improved methods for preventing blight and deterioration to areas rehabilitated by urban renewal. The College Hill community of Providence, Rhode Island, utilized one of these demonstration grants to find ways for preserving its historical character in years to come. Its system of building classifications, zoning laws, and other controls are some of the finest in the country and serve as a model for other cities. Similar projects are underway in New Bedford, Massachusetts, and the French Quarter in New Orleans.

The Housing Act of 1961, as amended, provides further assistance to those interested in historical preservation. The law authorizes grants to public bodies to acquire undeveloped land near urban areas for historical purposes, to purchase historic buildings under certain conditions, to buy historic sites in the developed sections of cities and remove intrusive structures, and to enhance the setting of historic sites through landscaping and other beautification measures.[70]

Other agencies donating services and funds in the interest of historical preservation are the Neighborhood Youth Corps of the Department of Labor and the Economic Development Agency of the Department of Commerce.[71] Nor should the efforts of the General Services Administration go unnoticed. Charged with the managerial responsibility for most of our Federal buildings, GSA maintains a wide variety of courthouses, post offices, fortifications, army camps, customhouses, and the like, some of which date back to the early beginnings of our Nation. It has been responsible for preserving and restorating such landmarks as the State-War-Navy building and the Pension Office in Washington, D. C.

In 1956, Congress included a provision in the Federal-Aid-Highway Act permitting the highway departments of each State to use portions of the funds received from the Federal Government for road construction to conduct archeological and paleontological investigations and salvage operations in compliance with the Antiquities Act and applicable State and local laws.[72] In a policy and procedures memorandu, the Bureau of Public Roads asked State Highway Departments to notify appropriate historical and archeological authorities of impending construction in areas where cultural objects might be found. Many State and university archeologists make agreements with highway departments so that surveys might be conducted in advance and Federal funds used to excavate remains before the beginning of construction. Some of the first states to take

advantage of the opportunity to use Federal funds for investigation and salvage were Wisconsin, Illinois, New Mexico, Utah, and South Dakota.[73]

In 1960, Congress passed an Act which gave new strength to the historical and archeological salvage program and formalized practices which had been carried on since 1945. The law requires that before any agency of the United States can undertake the building of a dam or issue a permit to an individual or coporation for this purpose, it must give written notice to the Secretary of the Interior identifying the dam site and approximateing the limits of the flood zone. After notification, the National Park Service must arrange a survey of the area to determine the extent of the material which should be preserved in the public interest. If the study reveals the existence of remains of exceptional historical and archeological value, then funds appropriated for the purpose are used to recover and preserve them.

The law authorizes the Secretary to consult with any interested Federal and State agency, educational and scientific organization, and private institution or qualified individual to carry out the purposes of the Act. He may enter into contracts or make cooperative agreements with them to conduct surveys and excavations and to provide for the reposit of materials collected. The Secretary may also accept and utilize funds for archeological salvage, opening the way for public-minded corporations and private organizations to assist in the recovery of objects and antiquities threatened by destruction.[74]

The Land and Water Conservation Fund Act, passed in August 1964, holds great promise for those interested in historical preservation. The law reserves $60 million each year for use in planning, acquiring, and developing recreational areas to meet the expanding needs of a growing nation. Sources of the fund are admission and user fees collected at Federal recreation areas, money accumulated from the sale of surplus Federal property, and revenues derived from a tax on motor boat fuels. Forty percent of the sum may be expended to purchase land for national parks, monuments, wil life refuges, and the like. Sixty percent of the sum may be allotted to the States on a matching basis for planning, acquisition, and development of land and water areas for outdoor recreation. Grants-in-aid may not exceed 50 percent of the cost.[75]

Interpreters of the law recognize that the enjoyment of historic sites and buildings is an important part of the recreational experience. The Bureau of Outdoor Recreation of the Department of the Interior, which administers the Act, clearly accepts and values this principle. What this means is that historic sites and buildings, whether of national significance, regional importance, or State and local interest, are eligible for consideration under the provisions of the law. The only requirement is that they be in conformity with the comprehensive statewide recreational plan, executed by the State, and approved by Secretary of the Interior. The National Park Service is now exploring new ways in which they can assist the States in the preparation of plans and in providing other technical services.

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