

HISTORIC PRESERVATION AS PUBLIC POLICY:
THE HISTORIC SITES ACT OF 1935

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The United States, traditionally reliant upon private initiative in most areas of social concern, was late among Western powers in assuming any governmental responsibility for the protection and preservation of historic sites and buildings. Congress took a first step in this direction in 1889, when it authorized the president to reserve from settlement or sale a tract of public land in Arizona containing the prehistoric Casa Grande ruins.¹ Spurred by powerful veterans' organizations, it began during the next decade to establish military parks under War Department administration at the principal battlefields of the Civil War, and it went on to preserve battle sites of earlier American conflicts.² Most significant was the Antiquities Act of 1906 authorizing the president to proclaim and reserve as national monuments "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest" on the public domain: by 1973 six presidents had used this authority to set aside thirty-six historical areas, a majority containing Indian artifacts.³ With this exception the early legislation was focused on individual sites in response to pressure from special interest groups. Even the Antiquities Act limited

¹25 Stat. 961.

²Discussion in Ronald F. Lee, "The Origin and Evolution of the National Military Park Idea" (typescript, Division of History, National Park Service, Washington, D.C., 1969).

³34 Stat. 225; Ronald F. Lee, The Antiquities Act of 1906 (Washington: National Park Service, 1970).

federal concern to sites on public lands. Not until the Historic Sites Act of 1935 did the United States follow European precedent with a policy encompassing "sites, buildings, and objects of national significance" regardless of ownership.

The fifty-one federal properties administered as historical areas by 1929 were divided among three agencies: the Department of Agriculture, the Department of War, and the National Park Service in the Department of the Interior. In that year Horace M. Albright, a young and aggressive administrator with a personal interest in history, became the second director of the Park Service. Albright looked to the day when his bureau would unify the administration of federal historic properties.⁴ The Secretary of the Interior's new Educational Advisory Committee, headed by John C. Merriam of the Carnegie Institution, supported Albright's goal. Clark Wissler of the American Museum of Natural History, a committee member, advocated a coherent federal policy for the selection of historical parks⁵--a policy plainly requiring a single park administration. Under Wissler's guidance, the committee in 1929 recommended that historical monuments be chosen "which in their totality may, as points of reference, define the

⁴Horace M. Albright, Origins of National Park Service Administration of Historic Sites (Philadelphia: Eastern National Park & Monument Association, 1971).

⁵Verne E. Chatelain, interview, March 9, 1973; Ronald F. Lee, Family Tree of the National Park System (Philadelphia: Eastern National Park & Monument Association, 1972), p. 46.

general outline of man's career on this continent."⁶

The National Park Service made an important move in this direction in 1930 when Congress entrusted it with two new parks: George Washington Birthplace National Monument and Colonial National Monument in Virginia, the latter containing the site of Jamestown and the battlefield of Yorktown.⁷ These were the first historical units under the Park Service in the East, and they were important departures from the Service's concentration on prehistoric man. To meet his bureau's growing responsibilities in the field, Albright added the first professional historians to his staff in 1931.⁸ Morristown National Historical Park in New Jersey, like Yorktown a Revolutionary War area that might logically have joined the military parks of the War Department, came to the Park Service at the close of the Seventy-Second Congress in 1933.⁹ These developments made the Service increasingly conspicuous as the federal historic sites agency. With the broad authority for executive branch reorganization that the new Congress gave President Franklin D. Roosevelt, it was not difficult for Albright --aided by a fortuitous personal conversation with the President

⁶Report to the Secretary of the Interior, cited in Lee, Family Tree, p. 46.

⁷46 Stat. 53, 855.

⁸John D. McDermott, "Breath of Life: An Outline of the Development of a National Policy for Historic Preservation" (typescript, Division of History, National Park Service, Washington, D.C., 1966), pp. 27-28; Chatelain interview.

⁹47 Stat. 1421.

a month after his inauguration--to obtain for the Service all of the Agriculture and War Department parks and monuments.¹⁰

The unification of all federally administered historic sites under one vigorous and expansive agency was a major step toward the development of a national historic preservation policy. The Civilian Conservation Corps and the Historic American Buildings Survey, emergency relief measures initiated during the first year of the Roosevelt Administration, contributed a second step. The National Park Service was responsible for directing the work of the CCC in preserving and developing state historic sites as well as in the national parks. The Historic American Buildings Survey--originated by the Park Service, conducted in cooperation with the American Institute of Architects and the Library of Congress, and funded by the Civil Works Administration--hired unemployed architects, photographers, and draftsmen to record significant examples of American architecture.¹¹ Both programs cut across traditional federal-state lines, involving the Park Service with historic sites and buildings and preservation activities regardless of jurisdiction. Yet the programs were of an emergency nature, without specific legislative authorization.

¹⁰Albright, Administration of Historic Sites; Executive Orders 6166 and 6628, June 10 and July 28, 1933, U.S., Department of the Interior, National Park Service, Laws Relating to the National Park Service (Washington: Government Printing Office, 1933-1963), Supp. I, pp. 203-07

¹¹For discussion of these programs, with references, see McDermott, "Breath of Life," pp. 28-30.

To insure that the Service would continue its leadership role in historic preservation, it needed the sanction of law.

In November 1933 President Roosevelt received a neighbor at the White House. Major Gist Blair, owner of Blair House across Pennsylvania Avenue, was an amateur historian interested in the preservation of historic sites and buildings. He found that the President shared his interest and his desire for further federal action in this area. "I shall be grateful if you will give consideration to some kind of plan which would coordinate the broad relationship of the Federal government to State and local interest in the maintenance of historic sources and places throughout the country," Roosevelt wrote Blair on November 10 a few days after their meeting. "I am struck with the fact that there is no definite, broad policy in this matter." As a first move the President suggested that Blair visit the Interior Department, now responsible for the government's historical areas, and discuss the possible need for legislation to this end.¹²

Blair's first contact with Interior officials found them unconvinced of the necessity for new legislation. Arno B. Cammerer, Albright's successor as director of the National Park Service, sent him a proposed policy statement treating the role of the

¹²Copy of letter in U.S., Department of the Interior, National Park Service, Historic Sites Act file, Division of History, Washington, D.C. Hereinafter cited as HSA file.

federal government in historic preservation. The Service would conduct a national survey of historic sites every ten years to identify those that qualified, on the basis of "uniqueness," for addition to the National Park System. Guiding final selection would be an appointed board of historians, archeologists, and architects.¹³

On his own initiative Blair next approached his friend Sir Ronald C. Lindsay, the British ambassador, to obtain copies of laws and regulations dealing with historic preservation in his country. In March 1934 Blair sent this material to Roosevelt, who passed it on to Interior Secretary Harold L. Ickes with a request "To read and speak to me about some day."¹⁴

Blair was not alone among private citizens in advocating expanded federal involvement in historic site preservation. At a meeting of the General Society of Colonial Wars in Charleston, South Carolina, in April, he heard Daniel Moore Bates of Wilmington, Delaware, read a letter from Rev. W. A. R. Goodwin, originator of the Williamsburg restoration. Bates was concerned about the future of colonial New Castle, Delaware, and he had consulted Goodwin about the Williamsburg project.¹⁵ Goodwin's letter to

¹³Cammerer, letter to Blair, Dec. 18, 1933, cited in McDermott, "Breath of Life," pp. 31-32.

¹⁴HSA file.

¹⁵U.S., Congress, House, Committee on the Public Lands, Preservation of Historic American Sites, Buildings, Objects, and Antiquities of National Significance, Hearings, before the Committee

Bates stressed the need for a broad approach to the subject: "It has seemed to me for some time that the increasing appreciation of the value of the evidences of the culture, the domestic life, the civic life, the architectural forms, the artistic refinements, of bygone centuries, calls for concerted action and a carefully planned State and National programme." He suggested a conference consisting of representatives from patriotic societies, the National Park Service, the American Institute of Architects, and Williamsburg and other restorations to formulate such a program, and he urged that the support of the President or the director of the National Park Service be enlisted "with the view of giving the movement, from the very outset, a character and importance which it would seem to deserve."¹⁶

Following the sympathetic remarks of Judge Edwin C. Lewis of Philadelphia, Blair read President Roosevelt's letter of November 10, 1933, and reported on his contacts with the President and the Park Service. Upon Blair's motion the membership voted for appointment of a committee "to devise ways of securing co-operation among patriotic societies, and of enlisting the interest and support of State and Federal authorities in measures for the preservation of our Colonial and other historical buildings and

on the Public Lands, House of Representatives, on H.R. 6670 and H.R. 6734, 74th Cong., 1st Sess., 1935, pp. 14-15. Hereinafter cited as Hearings.

¹⁶General Society of Colonial Wars, Minutes of the Forty-Seventh General Council Meeting, April 7, 1934 (Philadelphia: Office of the Secretary General, 1934), pp. 12-14.

shrines and in measures for the appropriate marking of sites of historical interest." George deBonneville Keim, governor general of the society and chairman of the New Jersey Commission on Historic Sites, named Blair, Lewis, Bates, R. C. Ballard Thruston of Kentucky, and Daniel Ravenel of South Carolina to the committee. The committee met in Washington and Williamsburg in May and June 1934, conferring with Goodwin and with Senator Harry F. Byrd of Virginia.¹⁷

Influenced by developments both inside and outside his department, Secretary Ickes on September 28 asked Interior solicitor Nathan R. Margold to draft legislation empowering a new Division on Historic American Buildings and Antiquities in the National Park Service. "This Division will supervise and coordinate the collection of drawings, photographs, historical sketches and other data on historic American buildings," Ickes wrote. "It will also have 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, . . . including either money or property, which shall be devoted to the acquisition and maintenance of historic American buildings, etc." With his memorandum Ickes forwarded the material on British historic preservation law collected by Gist Blair.¹⁸

¹⁷Ibid., pp. 14-15; General Society of Colonial Wars, Minutes of the Forty-Eighth General Council Meeting, May 17, 18, 1935 (Philadelphia: Office of the Secretary General, 1935), p. 26.

¹⁸HSA file.

To obtain further comparative data on foreign legislation and on state and private preservation activities in the United States, Ickes in November appointed J. Thomas Schneider, a Chicago lawyer, to make a comprehensive study of these subjects. A \$10,000 grant from John D. Rockefeller, Jr., obtained with the assistance of Horace Albright, financed the preparation and publication of Schneider's report.¹⁹ Schneider visited historic sites, talked with their staffs, and sent Rufus G. Poole, Margold's assistant, abstracts of Italian, French, Belgian, and Polish laws.²⁰ He noted the tardiness of his government in relation to the European powers: "Practically every nation, excepting the United States, with any substantial background of history has long before this interested itself in preserving the best and most significant products of man's handiwork." At the same time he recognized the impossibility, on constitutional grounds, of instituting in America the involuntary burdens and restrictions upon private owners of historic sites that he found common abroad.²¹

Learning that Ickes wanted a bill for immediate presentation

¹⁹Albright, letter to the writer, March 14, 1973.

²⁰Schneider, Report to the Secretary of the Interior on the Preservation of Historic Sites and Buildings (Washington: Department of the Interior, 1935); memorandum, Schneider to Poole, Dec. 29, 1934, HSA file.

²¹Report, p. 166. In Britain, France, and Belgium, for example, the government could require maintenance of a structure in its historic condition, at public expense, without the owner's consent.

to the new Seventy-Fourth Congress, Schneider postponed his planned European study trip and the completion of his report to aid in drafting the bill during January 1935.²² Horace Albright, retired from the government but still active in Park Service affairs, returned to participate in a project close to his heart. Chief Historian Verne E. Chatelain of the Service coordinated the task, receiving legal assistance from Donald Hiss in the solicitor's office.²³ The framers of the bill disagreed on at least one point: that of specifying the National Park Service as the agency to be responsible for the nation's expanded historic preservation program. Schneider, believing that no agency should be named in the bill pending completion of his study, protested to Ickes: "A complete study of the unique problems connected with the restoration, preservation, and operation of historic sites and buildings, including European methods and administration, may make it appear advisable to entrust the administration to some other or an independent agency."²⁴ Such talk was heresy to those of stronger Service loyalties, and the bill went forward with the bureau designated as the administering agency.

²²Schneider, memorandum to Ickes, Jan. 25, 1935, U.S., Department of the Interior, Office of the Secretary, Legislative File 12-33, National Parks, Reservations, and Buildings, Box 207, Record Group 48, National Archives. Hereinafter cited as Secretary's Legislative File.

²³Albright letter; Chatelain interview. Speaking with the writer, Chatelain minimized Schneider's role in drafting the bill. Hiss was a brother of Alger Hiss, of later prominence.

²⁴Memorandum, Jan. 25, 1935, Secretary's Legislative File.

The draft was entitled "A Bill To provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes." It began by declaring the preservation of such properties, "hallowed by the presence and touch of great men or the passage of great events," a national policy; and it gave the Secretary of the Interior, through the National Park Service, broad responsibilities to that end. He was authorized to "secure, collate, and preserve drawings, plans, photographs, and other data of historic and archaeological sites, buildings, and objects"--activities already begun by the Historic American Buildings Survey. He was to "make a survey of historic and archaeological sites, buildings, and objects for the purpose of determining which possess exceptional value as commemorating or illustrating the history of the United States"--another task already underway in fact under Chatelain's leadership. He could conduct research in the United States and abroad for information on particular sites, establish a library, erect tablets to mark or commemorate historic sites or events, and develop an educational program. Of particular note, he would be able to acquire historic properties "by gift, purchase, or the exercise of the power of eminent domain" and make cooperative agreements with state and local governments, associations, and individuals for the preservation or administration of historic sites regardless of ownership. He could "restore, reconstruct, rehabilitate, preserve, and maintain" nationally significant

properties and operate museums in connection with them. Another important section of the draft bill called for an eleven-member Advisory Board on National Parks, Historic Sites, Buildings, and Monuments containing historians, archeologists, architects, and geographers, appointed by the Secretary "to advise on any matters relating to national parks" Cammerer had mentioned such a body in his contacts with Gist Blair; support for the proposal had since come from the American Historical Association, whose Conference on Historic Sites and Monuments successfully promoted a resolution at the 1934 annual meeting advocating a professional advisory committee for historic sites.²⁵

Following established procedure, Ickes transmitted the draft bill to the Bureau of the Budget on January 19, 1935. That bureau cleared the draft with certain alterations to provisions involving restoration work contracts and fee and concession income at historic sites.²⁶ There was some argument over these changes; Acting Budget Director Daniel W. Bell took his case to President Roosevelt, who wrote Ickes, "Is this not a complete answer to the historic buildings' [sic] problem?" Satisfied with the outcome, Ickes on February 20 had Assistant Solicitor Poole

²⁵HSA file; American Historical Association, Annual Report of the American Historical Association for the Year 1935 (Washington: Government Printing Office, 1935), I, 88.

²⁶E. K. Burlaw, Administrative Assistant to Secretary of the Interior, letter to Director, Bureau of the Budget, Jan. 19, 1935; Daniel W. Bell, Acting Budget Director, letter to Secretary of the Interior, Feb. 7, 1935; Secretary's Office File.

carry the draft bill to Senator Byrd who, Poole reported, "expressed a keen desire to sponsor it for us."²⁷ Representative Maury Maverick of Texas introduced the companion bill in the House of Representatives.²⁸

The House Committee on the Public Lands held hearings on Maverick's bill on April 1, 2, and 5, 1935. In his prepared statement before the committee Ickes summarized the bill's purpose: "to lay a broad legal foundation for a national program of preservation and rehabilitation of historic sites and to enable 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 has hitherto had to exercise in a rather weak and haphazard fashion." He declared the United States "the only great nation of the western world which has not developed a general national policy for the preservation of the physical and cultural remains of our history," even as public interest in that history--evidenced by over sixty individual historic site bills then in Congress--was sharply increasing. He explained the need of a systematic nationwide site inventory as a first step in creating a "unified and integrated system of national historical parks and monuments which, taken in their entirety, would present

²⁷Bell, memorandum to Roosevelt, Feb. 21, 1935, transmitted with undated Roosevelt memorandum to Ickes; Poole, memorandum to Ickes, Feb. 21, 1935; ibid.

²⁸S. 2073, Feb. 28, 1935; H.R. 6670, Mar. 13, 1935.

to the American people graphic illustrations of the Nation's history." Such an inventory would also call to the attention of states and localities the existence of sites deserving preservation by other agencies. A particular advantage of the legislation was that Congress would no longer have to act in each case to authorize federal acquisition and administration of historic sites outside the public domain. "The present bill," Ickes testified, "would empower the Secretary generally to acquire the necessary lands in each instance; to restore, reconstruct, or rehabilitate the site as is deemed most desirable, and to administer the area as a national monument, without recourse to congressional legislation in each case. . . . This feature of the bill would greatly facilitate the work of creating a unified and well-balanced system of historical park areas and would enable us to proceed with that work much more rapidly than has been the case in the past."²⁹

Other witnesses at the hearings, all in support of the bill, were Representative Maverick, Keim, Bates, Chatelain, Poole, Cammerer, and Goodwin; Charles B. Stafford, executive manager of the Wyoming State Department of Commerce and Industry; ex-Mayor Clyde Potts of Morristown, New Jersey; Hamilton J. Eckenrode, Virginia state historian; and Waldo G. Leland, permanent secretary of the American Council of Learned Societies. Further support, from the highest level, came on April 10 in the form of identical letters

²⁹Hearings, pp. 4-6.

to the chairmen of the responsible House and Senate committees. Drafted by Chatelain and signed by Roosevelt, they expressed the President's "deep interest in the measure" and declared that "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."³⁰

Some committee members raised points or objections that resulted in restrictions upon the powers finally granted to the Secretary of the Interior. At the hearings Representative Henry E. Stubbs of California reported fears of Catholic leaders in his district that the government could deprive the church of its historic missions. Ickes disclaimed any such intention, but the committee added a mutually-agreed-upon proviso specifically prohibiting the Secretary from acquiring property owned by a religious or educational institution without consent of the owner.³¹

Most controversial was the clause specifying the power of eminent domain as one of the ways by which the Secretary might

³⁰U.S., Congress, House, Preservation of Historic American Sites, Buildings, Objects, and Antiquities of National Significance, and for Other Purposes, H. Rept. 848 To Accompany H.R. 6670, 74th Cong., 1st Sess., 1935, p. 2; U.S., Congress, Senate, Preservation of Historic American Sites, Buildings, Objects, and Antiquities of National Significance, and for Other Purposes, S. Rept. 828 To Accompany S. 2073, 74th Cong., 1st Sess., 1935, p. 2. Draft copy in HSA file.

³¹Hearings, p. 7; H. Rept. 848, p. 1.

acquire historic properties. Representative James W. Mott of Oregon was particularly opposed to granting discretionary condemnation authority and disliked the prospect of site acquisition by any means without congressional approval. "Why don't you ask us to give you what additional authority you may need to make the surveys and compile your data and make your recommendations to Congress as to what property you want?" he asked Chatelain and Poole. "I certainly do not believe in giving the Secretary of the Interior or anybody else the right to choose what he thinks is property of historical value, and then, when he gets ready to take it, . . . to go ahead without consulting the Congress or anybody else." Chatelain, Poole, and Cammerer fought for retention of the original language, but in the end the House committee effectively curtailed the Secretary's discretionary authority to acquire historic sites by purchase or condemnation. It eliminated the specific permission for condemnation but more important, it added a second proviso "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." The committee added a similar proviso to the subsection allowing the Secretary to make cooperative agreements for the administration of historic sites, again prohibiting him from incurring financial obligations without prior congressional consent.³²

³²Hearings, pp. 17-25, 27-28; U.S., Congress, House,

Additional amendments, including those by the Senate Committee on Public Lands and Surveys, were relatively inconsequential. Among other changes, that committee deleted the authorization for a historic preservation library and for research abroad. In a move for simplicity it shortened the preamble to read ". . . 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."³³

It was the Senate bill that finally passed both houses and went to the President.³⁴ Roosevelt signed the Historic Sites Act on August 21, 1935, and praised it to Ickes the next day as "a splendid step in the right direction."³⁵ Ickes shared

Preservation of Historic American Sites, Buildings, Objects, and Antiquities of National Significance, and for Other Purposes, H. Rept. 1255 To Accompany S. 2073, 74th Cong., 1st Sess., 1935, p. 1. Ironically, the Secretary was able to exercise the power of eminent domain without congressional approval at the first national historic site he designated under the Historic Sites Act. He condemned land on the St. Louis waterfront for the Jefferson National Expansion Memorial National Historic Site with Emergency Relief Appropriation funds, transferred by executive order on December 21, 1935. A resulting court case upheld the Secretary's power to condemn lands acquired under the Act. (Discussion in McDermott, "Breath of Life," pp. 57-59.) The proviso nevertheless served to require congressional sanction in the great majority of instances, previously appropriated funds not normally being available for such use.

³³S. Rept. 828, p. 1.

³⁴79 Cong. Rec. 8981-83, June 10, 1935; *ibid.*, pp. 12509-10, Aug. 5, 1935; *ibid.*, pp. 13055-56, Aug. 14, 1935.

³⁵49 Stat. 666; memorandum, Aug. 22, 1935, Secretary's Office file.

Roosevelt's enthusiasm, later declaring that the Act's passage had given him more pleasure than any prior event of his administration.³⁶

Among the first concrete results of the Act was Ickes' appointment of the new Advisory Board on National Parks, Historic Sites, Buildings, and Monuments. The selection, personally overseen by Roosevelt,³⁷ included Herbert E. Bolton, Hermon C. Bumpus, Alfred V. Kidder, Fiske Kimball, Archibald M. McCrea, Frank R. Oastler, George deB. Keim, and Clark Wissler. At its second meeting on May 9, 1936, the board formally recommended to the Secretary a thematic approach for the study and classification of historic sites, the objective being a selection of sites representing the various aspects of American history.³⁸

The thematic approach, dividing American history into such categories as Spanish exploration and settlement and industrial development, became the method of the National Survey of Historic Sites and Buildings program. As intended, the Historic Sites Act gave impetus to this survey activity, begun in tentative fashion several years earlier. Continuing at first largely with Emergency

³⁶U.S., Department of the Interior, Advisory Board on National Parks, Historic Sites, Buildings, and Monuments, Proceedings (Office of the Director, National Park Service, Washington, D.C.), Feb. 13, 1936, p. 1.

³⁷Memorandum to Ickes, Aug. 22, 1935, Secretary's Office file.

³⁸Advisory Board Proceedings, Feb. 13, May 9, 1936.

Conservation Work personnel, the program received its first direct appropriation in 1937 and remained active (except for the years between 1941 and 1957) thereafter.³⁹ By 1972 government historians had investigated several thousand sites and, together with the Advisory Board, had proposed to the Secretary the designation of over a thousand judged of national significance as "national historic landmarks."⁴⁰ Landmark designation was essentially honorary and did not involve federal acquisition or control.

Ickes and those in his department who drafted the Historic Sites Act had foreseen the survey as a means by which sites of national importance could be identified for addition to the National Park System. Identification went as planned, with the National Park Service and the Advisory Board evaluating sites on the basis of criteria formulated for the purpose. Addition to the System was another matter, however. Congressional curtailment of the Secretary's discretionary power to acquire sites or contract for their operation in non-federal ownership meant that Congress would still make the decisions in most instances. Ickes and his successors did add thirty areas to the System within the next thirty-five years by designating them "national historic sites." Congress subsequently acted to acquire or otherwise sanction eighteen of

³⁹John Littleton, "The National Park Service Resumes the National Survey of Historic Sites and Buildings," Planning and Civic Comment, XXIV: 1 (March 1958), 23-24.

⁴⁰Horace Sheely, Chief, Historical Surveys, National Park Service, interview, Mar. 23, 1973; U.S., Department of the Interior,

these sites by authorizing legislation or appropriations, including the homes of the Adams family in Quincy, Massachusetts, and Dwight D. Eisenhower at Gettysburg, Pennsylvania. Most of the others, like San Jose Mission in San Antonio and Dorchester Heights in Boston, were the subjects of cooperative agreements between the Secretary and their owners. By comparison, well over twice as many historical areas came into the System through congressional initiative during the same period. Under the circumstances, the "well-balanced system of historical park areas" whose creation Ickes envisioned through administrative action did not materialize.⁴¹ The survey's principal value to the National Park System remained in the data it supplied for Interior Department recommendations on congressional site proposals.

The framers of the bill also foresaw a larger role for cooperative agreements with other agencies than came about in practice. Speaking at the first meeting of the Advisory Board on February 13, 1936, Verna Chatelain predicted that the number of such agreements would exceed the number of sites to be acquired by the federal government.⁴² Here too the administrators of the

National Park Service, National Parks and Landmarks (Washington: National Park Service, 1972), pp. 116-80.

⁴¹National Parks and Landmarks, pp. 35-98; U.S., Department of the Interior, National Park Service, Part One of the National Park System Plan: History (Washington: National Park Service, 1972). The Plan shows the System strong in its representation of political and military history and the history of western expansion, weak in most other areas.

⁴²Advisory Board Proceedings, p. 6.

Historic Sites Act soon came to realize the limits within which they operated.⁴³ Cooperative agreements that carried no hope of financial assistance gave owners little inducement to preserve their historic properties when confronted with high maintenance costs or opportunities for more profitable real estate use. The few sites that did become subjects of agreements received plaques, a degree of prestige from the national historic site designation, and limited technical advice and assistance. In relation to the federally owned sites, however, they were the stepchildren of the National Park System.

The significance of the Historic Sites Act was not in the authority it granted to enable historic site preservation by administrative action. Its value was in its fundamental statement of federal concern for the preservation of nationally significant properties, in its authorization of activities to identify, record, publicize, and make recommendations on such properties, and in its guidelines for the administration of historical parks individually authorized by Congress. In its basic policy statement--"to preserve for public use historic sites, buildings, and objects of national significance"--it recognized the importance of these physical records much as the previous year's legislation establishing the National Archives had done for documentary

⁴³See, for example, National Park Service Assistant Director G. A. Moskey, memorandum to Branch Spalding, Dec. 7, 1936, HSA files.

records. The Historic American Buildings Survey continued as a particularly valuable undertaking under the Act's authority, recording by photographs and measured drawings both outstanding and vanishing evidences of the nation's architectural past. The Act served as a point of reference in numerous later statutes dealing with particular properties and in the 1949 act creating the National Trust for Historic Preservation, a quasi-public organization designed to accept historic properties and facilitate public involvement in their preservation.⁴⁴ Not until the National Historic Preservation Act of 1966,⁴⁵ whereby Congress authorized a grants program and a degree of legal protection for sites of national, state, and local significance in public and private ownership, did the United States take a step of comparable importance in public preservation policy.

⁴⁴Laws Relating to the National Park Service; Act of Oct. 26, 1949, 63 Stat. 927.

⁴⁵Act of Oct. 15, 1966, 80 Stat. 915.

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[PUBLIC—NO. 292—74TH CONGRESS]

[S. 2073]

AN ACT

To provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes.

Be it enacted by the Senate and 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.

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 powers and perform the following duties and functions:

(a) Secure, collate, and preserve drawings, plans, photographs, and other data of historic and archaeologic sites, buildings, and objects.

(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.

(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.

(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.

(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 has appropriated money for such purpose.

(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 establish and maintain museums in connection therewith.

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

(h) Operate and manage historic and archaeological 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 accommodate 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.

(i) When the Secretary determines that it would be administratively burdensome to restore, reconstruct, operate, or maintain any particular historic or archaeological 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 that purpose under the laws of the District of Columbia or any State.

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

(k) Perform any and all acts, and make such rules and regulations not inconsistent with this 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.

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 archaeological sites, buildings, and properties.

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 purpose.

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.

Approved, August 21, 1935.