THE ANTIQUITIES ACT OF 1906



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by

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FOREWORD

This history of the Antiquities Act of 1906 has been prepared to help fill a gap in knowledge of one of the foundation stones of the National Park System. Like a number of other current studies of National Park Service history, its preparation was stimulated in part by the approach of the centennial of Yellowstone National Park in 1972. It is hoped this study will also throw light on early participation by the Government of the United States in some aspects of historic preservation in America.

I am much indebted to a number of Service colleagues for generously reading the manuscript and offering helpful comments including Roy E. Appleman, Chief, Branch of Park History Studies; John M. Corbett, Chief, Division of Archeology and members of his staff; John L. Cotter, Regional Archeologist; Herbert E. Kahler, former Chief Historian; and Jackson E. Price, former Chief Counsel and Assistant Director. I have benefited much from suggestions offered by Frederick Johnson of the Robert S. Peabody Foundation for Archaeology, Andover, Massachusetts and J. O. Brew, Harvard University. Dr. Ernest Allen Connally supported this effort from the beginning. I am especially obliged to Robert M. Utley, Chief Historian for valuable counsel and careful and knowledgeable editing of the text. Miss Sharon Jordan, my secretary, typed the manuscript quickly and accurately.

This study is the first in a series devoted to the evolution of Federal participation in historic preservation in the United States designed for use within the Service. The next will trace the origin and development of the system of national military parks and battlefields. These studies are a direct result of the interest and encouragement of Director George B. Hartzog, Jr.

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Frontispiece: Wupatki National Monument, Arizona

CHAPTER I

Beginnings of Public Interest in American Indian Antiquities

The abandoned and ruined dwellings of prehistoric man in the American West had aroused the interest and comment of explorers and colonizers for centuries. Not until after the Civil War, however, did these ruins, and the continuing discovery of still others, attract the serious attention of the eastern scientific community. Public interest in the continent's ancient civilizations brought about no less than five significant developments portentous for American archeology in the single year of 1879. They mark 1879 as the beginning of the movement that led, a quarter of a century later, to adoption of the Antiquities Act as the first national historic preservation policy for the United States.

In this year Congress authorized establishment of the Bureau of Ethnology, later renamed the Bureau of American Ethnology, in the Smithsonian Institution to increase and diffuse knowledge of the American Indian. Major John Wesley Powell, who had lost his right arm in the Battle of Shiloh and who in 1869 had led his remarkable boat expedition through the Grand Canyon of the Colorado River, was appointed its first director.[1] He headed

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1. Geoffrey T. Hellman, The Smithsonian: Octopus on the Mall (Philadelphia: J.B. Lippincott Company, 1967), pp. 105-06.

the bureau until his death in 1902. During this long period, he and his colleagues became a major force for the protection of antiquities on federal lands.

Five years earlier, in 1874, Frederick W. Putnam had begun his long and distinguished career as Curator of the Peabody Museum of American Archaeology and Ethnology at Harvard. For Putnam 1879 marked the appearance of a superbly illustrated book he had edited devoted to the ruined pueblos of Arizona and New Mexico and the archaeology and ethnology of the Indians of Southern California. This was Volume VII, Archaeology, of the Report Upon United States Geographical Surveys West of the One Hundredth Meridian, in charge of First Lieutenant George M. Wheeler.[2] For the next thirty-five years, until his death in 1915, Putnam profoundly influenced the rise and development of anthropology in America and served on several committees and boards concerned with federal legislation to protect American antiquities.[3]

In 1879 the American Association for the Advancement of Science for the first time elected an anthropologist as its president. He was Lewis Henry Morgan, then the foremost student in the United States in the comparatively new field of

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2. Frederick W. Putnam et.al. (eds.), Reports upon Archaeological and Ethnological Collections from Vicinity of Santa Barbara, California, and from Ruined Pueblos of Arizona and New Mexico, and certain Interior Tribes (Washington, D.C.: U. S. Government Printing Office, 1879).

3. See Roland B. Dixon's account of Frederick W. Putnam in Allen Johnson (ed.), Dictionary of American Biography (New York: Charles Scribner's Sons, 1928), XV, 276-78.

anthropology. Among many other works, he was the author of Ancient Society, or Researches in the Lines of Human Progress, published in 1877 to wide acclaim both in America and Europe.[4] Frederick W. Putnam was also very active in the affairs of the Association. He served as its permanent secretary from 1873 to 1898, when he became president. During this period the Association inaugurated its "Section H," in which growing numbers of students of anthropology gathered each year to read papers and discuss ideas. Eventually the Association established an influential committee to work for legislation to protect antiquities on federal lands.

On February 10, 1879, a group of interested persons, called together by Professor Otis T. Mason of Columbian College and others, assembled in the Regents' Room of the Smithsonian Institution and founded the Anthropological Society of Washington.[5] In 1887 it was incorporated "for the term of one thousand years"[6] and in 1888 began publishing The American Anthropologist. This Society drew support from the anthropologists, ethnologists, and geologists then being brought into the federal government as well as from many other persons active in the life of the National Capital.[7] In 1902

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4. Charles H. Lange and Carroll L. Riley (eds.), The Southwestern Journals of Adolph F. Bandelier, 1880-1882 (Albuquerque: University of New Mexico Press, 1966), p. 4. Hereafter referred to as Southwestern Journals. The first volume of a projected seven. The introduction is especially valuable.

5. Walter Hough, "Otis Tufton Mason," American Anthropologist, N.S., X (1908), 664.

6. American Anthropologist, I (1888), 368.

7. Ibid., pp. 382-86 for a list of members active in 1888.

members of the "ASW," as it became known, formed part of a group that founded the American Anthropological Association, and The American Anthropologist was adopted by the national organization as its official journal. The American Anthropological Association, in turn, provided crucial support for the American Antiquities Act in 1906.

Lastly in 1879, Charles Eliot Norton, professor of the history of art at Harvard and for a quarter century one of its most influential scholars and teachers, with the help of friends and associates in and around Boston, founded the Archaeological Institute of America. Among those close friends was historian Francis Parkman. Almost thirty years before, as a young graduate of Harvard, Norton had helped the nearly blind Parkman prepare his first important work, The California and Oregon Trail, for publication.[8] As one of Parkman's classmates at Harvard wrote long afterward, he "even then showed symptoms of 'Injuns' on the brain."[9] He upheld the cause of American archaeology in its continuing struggle with classical archaeology for support from the Institute. Other leading members in early years included William Watson Goodwin, professor of Greek literature at Harvard from 1860 to 1901 and first director of its American School of Classical Studies in Athens (1882-83); Russell Sturgis, architect, critic and writer; Alexander

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8. DAB, XIII, 569-72, for an account of Norton by Charles Moore.

9. Ibid., XIV, 322, cited in an account of Parkman by James Truslow Adams.

Agassiz, well-known zoologist and oceanographer, the son of Jean Louis Agassiz; and Henry W. Haynes, who for more than twenty years kept the Institute's members accurately informed about the progress of American archaeology.[10]

The purpose of the Institute was to promote and direct archaeological research, both classical and American; maintain schools for young classical scholars in Athens, Rome, and Palestine; publish the results of archaeological explorations and research; and hold meetings and sponsor lectures on archaeological subjects.[11] Classical archaeology received substantially the larger support, but the Executive Committee from the beginning also held the view that "the study of the aboriginal life in America is essential to complete the history of the human race, as well as to gratify a legitimate curiosity concerning the condition of man on this continent previous to its discovery."[12]

In formulating its very first project in the field of American archaeology, the Institute turned naturally for advice and assistance to Lewis Henry Morgan. He believed that the most promising field for exploration was the social organization, usages, and customs of the Pueblo tribes of Indians and the architecture of the structures they occupied. "With the light thus gained," the Council reported to the Institute in 1885, "he

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10. Archaeological Institute of America, Second Annual Report (1881).

11. Francis W. Kelsey, "Recent Archaeological Legislation," Records of the Past, V (1906), 338.

12. Archaeological Institute of America, Sixth Annual Report (1885), p. 32.

thought a careful exploration and survey should be attempted of the numerous remains of similar structures still to be found, especially in the San Juan region, near the point where Colorado, Utah, New Mexico, and Arizona join; and in other parts of New Mexico and Arizona."[13] Morgan drew up a comprehensive scheme of the methods for prosecuting such an exploration, and he suggested that it should later be extended to the imposing ruins in Mexico, Central America, and Yucatan. He emphasized the importance of architectural history and advanced the unique theory that "all the various ruined structures on this continent can be explained by the analogies of the existing communal buildings of New Mexico. Springing from a common mind, these exhibit only different stages of development, and form one system of works, from the Long House of the Iroquois to the Joint-Tenement structures of the Aztecs and Mayas."[14]

Not only did Morgan outline a program, he also recommended an investigator. Adolph F. Bandelier of Highland, Illinois, then forty years old, was born in Berne, Switzerland, but his family moved to America in 1848 and settled in Illinois. As a youth an ardent naturalist, he returned to Berne in 1855 and studied geology under Professor Streder at the University. Here, too, he met Alexander von Humboldt, who impressed him deeply. Back in

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13. Ibid., p. 32.

14. Ibid., p. 32. This is the Council's interpretation of Morgan's views in an account probably written by Henry W. Haynes.

America in the late 1850s, Bandelier turned to the study of history and ethnology, at first in his spare time, and acquired valuable knowledge of several European languages and of linguistics generally. Beginning in 1877, he published several scholarly works on the ancient Mexicans through the Peabody Museum at Harvard and also became known to Frederick W. Putnam.[15] With the help of Parkman, Putnam and Morgan overcame Norton's reluctance and led the Institute to engage Bandelier to undertake its first project in American archaeology--an exploration in the Southwest exactly as recommended by Morgan.[16]

In August 1880, after calling on John Wesley Powell in Washington, D.C., Bandelier journeyed to New Mexico and began a preliminary study of the great ruined pueblo of Pecos, about thirty miles southeast of Santa Fe. Knowledge of relevant Spanish documents persuaded Bandelier that Pecos had first been visited in 1544 by Alvarado, Coronado's lieutenant, during his search for the "Seven Cities of Cibola." Making elaborate architectural measurements of the ruins, Bandelier concluded that Pecos was "probably the largest aboriginal structure within the United States, so far described."[17] He promptly wrote an account of his first season's work. In 1881 the Institute published it in two

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15. Ibid., p. 33.

16. Southwestern Journals, p. 16.

17. Archaeological Institute of America, Sixth Annual Report (1885), p. 34.

parts, entitled "Report on the Ruins of Pecos" and "An Historical Introduction to Studies among the Sedentary Indians of New Mexico."[18]

In Bandelier's report appeared these striking sentences on the condition of the great Pecos ruin in 1880:

> Mrs. Kozlowski (wife of a Polish gentlemen, living two miles south on the arroyo) informed me that in 1858, when she came to her present home with her husband, the roof of the church was still in existence. Her husband tore it down, and used it for building out-houses; he also attempted to dig out the cornerstone, but failed. In general the vandalism committed in this venerable relic of antiquity defies all description. . . . All the beams of the old structure are quaintly . . . carved . . . much scroll work terminating them. Most of this was taken away, chipped into uncouth boxes, and sold, to be scattered everywhere. Not content with this, treasure hunters . . . have recklessly and ruthlessly disturbed the abodes of the dead.[19]

Bandelier's revelation of the great historical interest and incredible neglect of Pecos aroused wide interest and deep concern among the members of the Archaeological Institute of America and their friends, who noted that Pecos was of such great antiquity that it was "even older than Boston." Marshall P. Wilder, president of the New England Historic Genealogical Society, and a far sighted, scholarly but practical man undertook to do something about Pecos. He has been one of the founders of the Massachusetts Institute of Technology and the Massachusetts Agricultural College as well as a leader in the Massachusetts Horticultural Society.[20]

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18. A. F. Bandelier, "Report on the Ruins of the Pueblo of Pecos," Papers of the Archaeological Institute of America: American Series, (2d ed., Boston: Cupples, Upham and Co., 1883), I.

19. Ibid., p. 42.

20. DAB, XX, 210-11.

His interest in history and antiquities was of long standing, as was that of the Historic Genealogical Society's Corresponding Secretary, Edmund F. Slafter, for forty years a dedicated editor of source materials on American history.

Supported by the Society's membership, Wilder and Slafter determined to raise in the Congress of the United States for the first time the whole question of legislation to protect American antiquities on federal lands. They decided to prepare a petition to Congress and to persuade Senator George Frisbie Hoar of Massachusetts to present it. They had reason to anticipate his sympathetic interest. He had served in Congress since 1869 and the Senate since 1877. He served for several years as a trustee of the Peabody Museum of Archaeology and Ethnology, an overseer of Harvard College, a regent of the Smithsonian Institution, and president of the American Antiquarian Society and the American Historical Association.[21]

On May 10, 1882, Senator Hoar presented the petition on the floor of the Senate:

[Quote]

HISTORIC GENEALOGICAL SOCIETY
SOCIETY HOUSE, (18 Somerset street,)
Boston, Massachusetts, May 8, 1882.

To the honorable the Senate of the United States:

Your memorialists, the members of the New England Historic Genealogical Society, would respectfully represent:

That there are in the Territories of New Mexico and Arizona twenty-six towns of the Pueblos Indians, so called, in all containing about ten thousand inhabitants; that the number of their towns was once very much greater; that these remaining are the remnants of very ancient races in North

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21. Ibid., IX, 87-88.

America, whose origin and history lie yet unknown in their decayed and decaying antiquities; that many of their towns have been abandoned by the decay and extinction of their inhabitants; that many of their relics have already perished and so made the study of American ethnology vastly more difficult; that the question of the origin of those Pueblos and the age of their decayed cities, and the use of some of their buildings, now magnificent ruins, constitute one of the leading and most interesting problems of the antiquary and historian of the present age; that relic-hunters have carried away, and scattered wide through America and Europe the remains of these extinct towns, thus making their historic study still more difficult, and, in some particulars, nearly impossible; that these extinct towns, the only monuments or interpreters of these mysterious races, are now daily plundered and destroyed in a most vandal way; that, for illustration, the ancient Spanish cathedral of Pecos, a building older than any now standing anywhere within the thirteen original States, and built two years before the founding of Boston, the metropolis of New England, is being despoiled by the robbery of its graves, while its timbers are used for campfires, sold to relic-hunters, and even used in the construction of stables.

Your memorialists therefore pray your honorable body that at least some of these extinct cities or pueblos, carefully selected, with the land reservations attached and dating mostly from the Spanish crown, of the year 1680, may be withheld from public sale and their antiquities and ruins be preserved, as they furnish invaluable data for the ethnological studies now engaging the attention of our most learned scientific, antiquarian, and historical students.

MARSHALL P. WILDER,
President of the New England Historic Genealogical Society.
EDMUND F. SLAFTER,
Corresponding Secretary of the New England Historic Genealogical Society.[22]

Senator Hoar noted that not only this society but also the American Antiquarian Society and others in New England and elsewhere were now paying great attention to "this matter of

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22. Congressional Record, 47th Cong., 1st Sess. (1882), p. 3777.

ethnology," and spending large sums on researches in Yucatan, Mexico, and the western Territories. By reserving selected lands from public sale and protecting these antiquities from ruthless destruction, the Government could, at small cost, give much aid to their researches. He moved that the petition be referred to the Committee on Public Lands.

The issue was new in Congress, and in spite of the high character of the sponsors it received a reserved response from Senator Preston B. Plumb of Kansas, the recently designated chairman of the Senate Committee on Public Lands. Speaking on the floor of the Senate, even before his Committee had deliberated on the subject, Senator Plumb foresaw serious difficulties. He had visited Pecos, he said, and did not question its antiquity or the reported vandalism. But the southwestern country contained many similar ruins. It would be impossible for the government to protect them all. It would be better, he thought, for interested societies "to avail themselves of the license which now exists of going to the different localities and gathering up the relics, as I know has been done." He mentioned that such a party had been sent out from Philadelphia the previous year "and got some very significant relics," and that other expeditions had been sent out from Yale College. Furthermore, he said, "I have no doubt that there are today many curiosities under the control of tribes who have a right to the land . . . as sacred under the law as that of

any man to his property, and which, by reason of their occupancy, will be preserved."[23]

The petition was nevertheless referred to Plumb's committee, where it quickly died. Many years were to pass, and much more vandalism and pot-hunting were to occur, before Congress was ready to act to stop it. But the preservation issue had been officially raised, and that was a significant first step.

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23. Ibid.

CHAPTER II

Saving Casa Grande, 1889

After Senator Hoar's effort failed in 1882, seven years elapsed before another archaeological preservation proposal reached Congress. These years witnessed a steady extension of knowledge and deepening of public interest in American archaeology and ethnology. Bandelier had continued his investigations not only in the Southwest but also in Mexico; on one occasion the Archaeological Institute of America sent him to join the Frenchman, M. Désiré Charnay, on the Lorillard Expedition to the Mayan and Toltec ruins.[24] Bandelier just missed meeting Charnay and thus establishing relations with the man who, some two decades earlier, had first interested Viollet-le-Duc, the famous restorer of Saint-Chappelle, the Cathedrals of Notre Dame and Amiens, and the walls of Carcassonne, in American antiquities. Charnay's descriptions and records of ancient ruins were used by Viollet-le-Duc in 1863 as the basis for a hundred page illustrated account of "Antiquities Americaines," which included comments on Chichen Itza, Uxmal, Palenqué, and Mitla. Among the several small

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24. Henry W. Haynes, "Recent Progress in American Archaeology," Archaeological Institute of America, Tenth Annual Report (1889), Appendix, p. 98.

sketches in this account derived from Charnay's reports was Viollet-le-duc's conjectural restoration of the portal for the "great palace" at Mitla.[25]

Bandelier's principal efforts during this period, however, focused on the American Southwest. In 1883 the Institute reported his progress in its Bulletin. "I have not only spent considerable time among those pueblos now occupied," wrote Bandelier, "but have surveyed, explored, drawn, and photographed in part, the ruins of forty-five more. Their group plans, with details of architecture, are so far ready for reproduction. Besides, I have seen, without being able to measure them, eight more destroyed villages, and the locality of more than sixty has been stated to me by trustworthy persons, together with many details of their former condition and arrangement."[26]

Although he also produced several other works during this period, Bandelier's main contribution to the program of the Archaeological Institute of America was an important two-volume work entitled Final Report of Investigations among the Indians of the Southwestern United States, carried on Mainly in the Years

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25. Désiré Charnay, Cites et ruines americaines: Mitla, Palenqué, Izamel, Chichen-Itza, Uxmal: recueillies et photographiées par Désiré Charnay; avec un texte par M. Viollet-le-Duc . . . suivi du voyage et des documents de l'auteur (Paris: Gide, 1863).

26. A. F. Bandelier, "Report by A. F. Bandelier on his Investigations in New Mexico in the Spring and Summer of 1882," Bulletin of the Archaeological Institute of America, I (1883), 17.

from 1880 to 1885. The Institute published Part I of this report in 1890 and Part II in 1892, and it aroused wide interest.[27]

During these years, Frederick W. Putnam, among his many other activities, rescued prehistoric Serpent Mound in Adams County, Ohio, a 1300-foot long earthen effigy of a serpent swallowing an egg, and made it probably the first archaeological preservation project in the United States. This remarkable effigy had been discovered by Squier and Davis in 1845 during extensive studies of the ancient mounds and earthworks of the Mississippi Valley, and their findings were subsequently published by the Smithsonian Institution as the first volume of its Contributions to Knowledge series. In 1883 Putnam became much interested in Serpent Mound. Situated on ground owned by a Mr. Lovett, it was "in deplorable condition." Putnam returned to Boston with great enthusiasm for the importance of this antiquity and with equal determination to preserve it. In 1885 he interested Miss Alice Fletcher in the project. Through her efforts, aided by Francis Parkman and Martin Brimmer, another active member of the Archaeological Institute, nearly $6,000 was raised. With this sum Putnam purchased the property, embracing some 65 acres, and placed the title in the names of the trustees of the Peabody

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27. Part I is in Papers of the Archaeological Institute of America: American Series, III (Cambridge: John Wilson and Son University Press, 1890). Part II, Ibid., IV, 1892.

Museum. Among the trustees was Senator Hoar, sponsor in the Senate of the 1882 petition.[28] Prof. Putnam spent three summers exploring the Serpent Mound and its vicinity. In 1900 the title to the site was deeded to the Ohio Archaeological and Historical Society for "perpetual care . . . as a free public park forever."

Under John Wesley Powell's direction, the Bureau of Ethnology was, of course, very active during this period. Annual Reports of the Director were regularly published with a summary of accomplishments, together with special papers on various topics by different scientists attached to its staff, including ethnologist Frank Hamilton Cushing. There was also a series of Bulletins and one of Contributions. These important publications attracted wide interest. Also during this period, in 1881, Charles Rau was made curator of the Department of Archaeology in the National Museum and contributed much to the diffusion of knowledge about American archaeology.

It was a Boston sponsored project, however, that led to the establishment of Casa Grande as the first federal archaeological reservation. Mrs. Mary Hemenway of Boston was well known about this time for her generosity in supporting a number of important charitable educational and cultural enterprises. In 1876, for example, she had given $100,000 to help save Old South Meeting House from destruction and establish it as an historical center.[29]

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28. "The Serpent Mound, Adams County, Ohio," an unsigned article in Records of the Past, V (1906), 119-128. With other leading anthropologists, Putnam served as a consulting editor of this forgotten periodical after 1905.

29. DAB, VIII, 518-19.

Beginning in 1886 and continuing for many years she also sponsored the Hemenway Southwestern Archaeological Expedition, which undertook the systematic exploration of Indian antiquities in the Salado and Gila Valleys in Arizona. Frank H. Cushing, of the Bureau of Ethnology in the Smithsonian Institution, had visited New England in 1882 and 1886 accompanied by Zuni and Hopi Indians and aroused much public interest in Southwestern Indian history and antiquities. Now he was invited to lead the new expedition. During the next two years explorations went steadily forward and on April 15, 1888, the Boston Herald carried an account of some of Cushing's discoveries. This account was later published as a pamphlet and helped to crystallize the interest of some of the leading citizens of Massachusetts in Southwestern antiquities.[30]

Known as an ancient landmark for almost two centuries, Casa Grande to these persons seemed to be a prime candidate for preservation. It was first mentioned by the Jesuit Father Eusebio Kino, who said mass within its walls in November 1694 and again visited it in 1697 and 1699. It was Father Kino who named the principal structure of the extensive prehistoric ruined pueblo "Case Grande," or "great house." In Kino's time this massive four-story structure was roofless. By October 31, 1775, when Father

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30. Sallie Van Valkenburgh, "The Casa Grande of Arizona as a Landmark on the Desert, A Government Reservation, and a National Monument," The Kiva, 27 (1962), 11. A very informative article in the journal of the Arizona Archaeological and Historical Society.

Pedro Font visited it, the four stories had eroded to three, but outlying structures were fairly well preserved. Seventy-seven years later, when John Russell Bartlett visited it on July 12, 1852, the principal structure was little changed but the outlying buildings had been reduced to mounds.[31] As Casa Grande became better known, the rate of its deterioration appears to have sharply accelerated. By 1889, its condition had become extremely serious.

On January 30, 1889, fourteen citizens of Boston and vicinity addressed a petition to the U. S. Congress urging the enactment of legislation to protect Casa Grande from further destruction or injury. Again they turned to Senator Hoar, who presented it on their behalf on February 4, 1889. He must have put this memorial forward with much greater assurance of success than the petition of 1882. Unlike the earlier petition, which called for general legislation affecting all public lands, this memorial asked only for the preservation of one conspicuous ancient landmark, at small expense.

The petition read as follows:

To the Congress of the United States:

> The undersigned respectfully represent that the ancient and celebrated ruin of Casa Grande, an ancient temple of the prehistoric age of the greatest ethnological and scientific interest situated in Pinal County, near Florence, Arizona

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31. Ibid.

Territory, upon section 16 of township 5 south, range 8 east, immediately to the north of the first standard south, Gila and Salt River base, and about two miles south of the Gila River, is at present entirely unprotected from the depredations of visitors' and that it has suffered more in eleven years from this source than in the three hundred and fifty years preceding; and,

Your petitioners, believing that this ruin is worthy of the care of Government, respectfully pray that it may be protected by proper legislation from destruction or injury.

BOSTON, JANUARY 30, 1889.

Oliver Ames	Anna Cabot Lodge	John Fiske
Mary Hemenway	Francis Parkman	John G. Whittier
Mary B. Claflin	Edward E. Hale	Wm. T. Harris
William Claflin	O. W. Holmes	W. F. Barrett
R. Charlotte Dana	Samuel Dalton	

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The exceptional prominence of the signers merits notice. In addition to Mary Hemenway, the name of Francis Parkman again appears among the petitioners. The list includes Oliver Ames, Governor of Massachusetts; Anna Cabot Lodge, whose husband, Henry Cabot Lodge, had the year before published a two-volume life of George Washington; and John Fiske, popular writer and lecturer who tried to interpret American history according to the new Darwinian principles of evolution. John Greenleaf Whittier and Oliver Wendell Holmes are there too, with other signers also distinguished in their respective ways. Direct descendants of most of these signers continue active in historic preservation circles in Massachusetts to the present day.

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32. Memorial of Oliver Ames, John G. Whittier, Mary Hemenway, and others, praying legislation for the protection from destruction of the Ancient Ruin of the Temple Casa Grande, situated in Pinal County, near Florence, Arizona, Senate Misc. Doc. No. 60, 50th Cong., 2d Sess. (1889).

This memorial proved effective. Congress at once moved to provide for the protection and repair of Casa Grande in an appropriation act approved March 2, 1889.[33] Not only did this legislation appropriate $2,000 to enable the Secretary of the Interior to repair and protect Casa Grande, it also authorized the President to reserve the land on which the ruin was situated from settlement and sale. Although repair work soon began, it took three years to establish the reservation. On June 22, 1892, President Benjamin Harrison signed an executive order, recommended to him by the Secretary of the Interior at the request of the Director of the Bureau of Ethnology, reserving the Casa Grande Ruin and 480 acres around it for permanent protection because of its archaeological value.[34] Thus was established the first formal national archaeological reservation in U. S. history.

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33. 25 Stat. 961.

34. U.S. Department of the Interior, Proclamations and Orders Relating to the National Park Service Up to January 1, 1945, comp. Thomas Alan Sullivan (Washington: U. S. Government Printing Office, 1947), p. 140.

CHAPTER III

Growth of Interest in American Indian Antiquities, 1889-1906

Public and scholarly interest in American Indian antiquities grew rapidly after 1889, in spite of a lull during the depression years of 1893-97. As early as 1885, Charles Eliot Norton and his associates in the Archaeological Institute of America saw the need for affiliated groups in cities other than Boston. In that year they admitted chapters from Baltimore and New York. By 1898 there were affiliated groups in Philadelphia, Chicago, Detroit, Minneapolis, Madison, Pittsburgh, Cincinnati, Cleveland, and Washington, D.C. During the next few years nine more chapters were added, among them societies in Colorado, Utah, and Washington and two in California.[35] Members of these flourishing groups came from influential circles, in widely distributed Congressional districts, and their articulate support impressed Congressional committees when legislation to protect antiquities came before Congress.[36]

The possibility of a national organization of anthropologists was broached within "Section H" of the American Association for the Advancement of Science as early as 1896. In that year, Franz Boas,

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35. See the sixth, eleventh, and seventeenth Annual Report of the Archaeological Institute of America.

36. Preservation of American Antiquities, House Rep. No. 2224, 59th Cong., 1st Sess., p. 2.

often called the founder of modern anthropology, organized the Anthropological Club in New York. In 1899 it was amalgamated with the virtually dormant American Ethnological Society and infused with new vitality. About the same time the Anthropological Society of Washington, originally formed in 1879 and sponsor of The American Anthropologist, further strengthened itself by inducting the 49 members of the Women's Anthropological Society of America, which had been a parallel group for a number of years. Although leaders in the American Association for the Advancement of Science tended to resist formation of separate national bodies for each discipline, the Geological Society of America, the American Chemical Society, and the American Society of Naturalists had nevertheless been successfully launched before 1900. After some initial differences between W. J. McGee and Franz Boas, the anthropologists of Washington and New York agreed on the form of a national organization, and the American Anthropological Association was founded on June 30, 1902.[37] A committee of the new Association was to play a key role in formulating antiquities legislation in 1905-06.[38]

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37. George W. Stocking, Jr., "Franz Boas and the Founding of the American Anthropological Association," American Anthropologist, 62 (1960), 1-17. See also an unsigned article in American Anthropologist, N.S., V (1903), 178-92.

38. See an unsigned article, "Recent Progress in Anthropology," American Anthropologist, N.S., VIII (1906), 504. Also Edgar L. Hewett, "Preservation of American Antiquities; Progress during the Past Year; Needed Legislation," ibid., 109-114.

Public interest in American archaeology was further aroused by three widely admired international exhibitions. In 1892 the Columbian Historical Exposition was held at Madrid, Spain, to commemorate the four hundredth anniversary of the discovery of America by Christopher Columbus. The exposition, according to Dr. Walter Hough of the National Museum, exhibited "the greatest collection of Americana ever under one roof" up to that time. The United States section occupied six rooms, embracing a long list of exhibitors, including the National Museum and the Bureau of Ethnology. One large hall was devoted to collections brought from the American Southwest by Dr. Jesse W. Fewkes, who was associated with Frank Cushing in the work of the Hemenway Southwestern Archaeological Expedition. Sand pictures and altars were exhibited for the first time with other objects, both ancient and contemporary, from the Hopi tribe representing the sedentary Indians of the Southwestern United States. The exhibit won high praise, and a catalogue was published by the U. S. Government as part of its official report.[39]

A much larger public exhibition of American Indian antiquities was featured the next year, 1893, at the World's Columbian Exposition

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39. Henry W. Haynes, "Progress of American Archeology during the Past Ten Years," American Journal of Archaeology, Second Series, IV (1900), 19. See also Walter Hough, "Columbian Exposition in Madrid, 1892," American Anthropologist, VI (1893), 271-72.

in Chicago. The planning and execution of this exhibition had fortunately been placed in charge of Frederick W. Putnam. As early as 1891, the work of gathering material was begun, and eventually as many as one hundred persons were employed in making collections, which came from Greenland and Labrador; from Alaska and Canada; from nearly all the Indian tribes of the United States; and from the West Indies, Yucatan and other parts of Mexico, Honduras, Ecuador, Peru, Bolivia, and even Patagonia. Younger anthropologists later to become well known joined the undertaking, including Franz Boas, chief assistant to Putnam, and W. H. Holmes, who succeeded John Wesley Powell as Chief of the re-named Bureau of American Ethnology in 1902. Such an exhibit of the ethnology and antiquities of the New World had never been seen before and excited wide interest. The major portion of the collections remained in Chicago after the exposition closed and formed the foundation of the Field Columbian Museum, a direct outgrowth of the World's Fair.[40] The Louisiana Purchase Exposition, held in St. Louis in 1904, provided another highly impressive display of Indian antiquities and whetted public interest still more.

During this period the National Museum substantially enlarged its collections, and public museums of archaeology and ethnology

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40. Ibid., Haynes, pp. 20-21.

were founded in several other major cities, several in affiliation with universities. In 1889 a Museum of American Archaeology was established in Philadelphia by the University of Pennsylvania. In 1894 the anthropology program of the American Museum of Natural History in New York City was much strengthened when Frederick W. Putnam accepted charge of it, in addition to his duties at Cambridge, and brought in Franz Boas to work with him. By 1906 anthropological collections that included American Indian antiquities were also on display, among other places, at the Yale University Museum in New Haven, the Brooklyn Institute Museum, Phillips Academy in Andover, Massachusetts, the Delaware County Institute of Science, the Ohio State Archaeological and Historical Society in Columbus, the Minnesota Historical Society, the Milwaukee Public Museum, the University of California at Berkeley, and the Bishop Museum in Hawaii. These and other evidences of burgeoning national interest in anthropology were fully described in a comprehensive presentation to the Congress of Americanists held in Quebec in 1906. Entitled "Recent Progress in American Anthropology: A Review of the Activities of Institutions and Individuals from 1902 to 1906," it was subsequently published in The American Anthropologist, where it occupied more than one hundred pages.[41]

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41. Unsigned article, "Recent Progress in American Anthropology: A Review of the Activities of Institutions and Individuals from 1902 to 1906," American Anthropologist, N.S., XIII (1906), 441-554. This is an excellent summary of the status of American anthropology in 1906.

Published reports of new archaeological discoveries further aroused public interest. Some were popular accounts, such as The Land of the Cliff Dweller, by F. H. Chapin, and Some Strange Corners of Our Country by Charles F. Lummis, both appearing in 1892 and Bandelier's fictionalized story, The Delight Makers, published in 1890. Equally important were the scholarly publications issued each year by the Bureau of Ethnology (renamed the Bureau of American Ethnology in 1895), the National Museum, and the Peabody Museum, and the professional journals and papers sponsored by the Archaeological Institute of America and the Anthropological Society of Washington and its successors. Through these channels, for example, Victor Mindeleff published his account of "Pueblo Architecture," in 1886, and Cosmos Mindeleff his descriptions of the "Aboriginal Remains in the Verde Valley" in 1891 and "The Cliff Ruins of Canyon de Chelly" in 1894. Among many other professional writings, Dr. J. W. Fewkes described his "Archeological Expedition to Arizona in 1895" and his explorations in "Pueblo Ruins near Flagstaff, Arizona" in 1900 and 1904. Dr. Walter Hough described the work of the Museum-Gates Expedition in "Archeological Field Work in Northeastern Arizona" in the report of the National Museum for 1901. The next year he followed it with a popular account in Harper's Magazine entitled "Ancient Peoples of the Petrified Forest of Arizona." These and accounts of other antiquities by such

investigators as Cushing, Frederick W. Hodge, and Edgar L. Hewett were eagerly read by a growing constituency of anthropologists, curators, and educated laymen.

Meanwhile, the discipline of anthropology was establishing itself in colleges and universities. In 1899, George Grant MacCurdy, instructor in prehistoric anthropology at Yale University, reported to "Section H" of the American Association for the Advancement of Science on the "Extent of Instruction in Anthropology in Europe and the United States." He found that in Europe 37 institutions were offered instruction in anthropology with a teaching force of 58, while in the United States 11 institutions offered instruction with a teaching force of 17. In this comparison the United States did not fare badly.[42] Frederick W. Putnam played an important role in this movement, training future anthropologists at Harvard and the Peabody Museum, and helping organize new departments in other universities. Thus in 1901 Putnam participated in organizing a Department of Anthropology under A. L. Kroeber at the University of California in Berkeley.[43] Putnam's committee in this enterprise included Benjamin I. Wheeler, president of the University, with whom Newton B. Drury, a future director of the

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42. George Grant MacCurdy, "Extent of Instruction in Anthropology in Europe and the United States," Proceedings of the American Association for the Advancement of Science, Forty-Eighth Meeting, Held at Columbus, Ohio, August, 1899, pp. 382-90.

43. "Recent Progress in American Anthropology."

National Park Service, was later closely associated, and John C. Merriam, then a young assistant professor, later to serve as the influential chairman of the committee whose work between 1928 and 1935 laid a broad foundation for the interpretive program of the National Park Service. Nearly all these people went formally on record with Congressional committees in support of the Antiquities Act of 1906.

CHAPTER IV

Vandalism and Commercialization of Antiquities, 1890-1906

Rising public interest in the history and art of the southwestern Indians in the 1890's was accompanied by a swelling demand for authentic prehistoric objects. The desires and needs of growing numbers of collectors and dealers, exhibitors and curators, teachers and students, added to the native curiosity of cowboys, ranchers, and travelers, created an avid demand for original objects from the cliff dwellings and pueblo ruins of the Southwest. Most of these ruins were situated on public land or Indian reservations. There was no system of protection and no permit was needed to dig. Professional archaeologists were few in number; in America their science was in its infancy and little known to the public. The eager seeker for artifacts had one chief worry--that some one else would reach a ruin rich in valuable objects before he did. The result was a rush on prehistoric ruins of the Southwest that went on, largely unchecked, until about 1904.

The early stages of this rush accompanied the spread of prospecting and ranching in Colorado, New Mexico, and Arizona during the 1880's and 1890's. Cowboys pursuing wandering cattle through the mesquite and up remote canyons began to come upon

ancient ruins never before seen by white men. In this way, one December day in 1888, ranchers Richard Wetherill and Charles Mason discovered Cliff Palace high on a canyon wall in the Mesa Verde area of southwestern Colorado. This silent, spectacular, many-roomed dwelling, protected by an overhanging cave and the arid climate of the Southwest, had survived almost undisturbed for seven centuries. On the same day, in a nearby canyon, they discovered another large cliff dwelling they named Spruce Tree House. Neither the walls nor the contents of these ruins were to remain intact for long. Richard Wetherill and his brother, Alfred, were soon digging in the rooms. Joined at various times by three other brothers--John, Clayton, and Wynn--they excavated large quantities of decorated pottery, curious implements of stone, bone, and wood, ancient skulls, and other intriguing objects. The Wetherills sold part of their finds to the Historical Society of Colorado but kept a still larger collection.[44]

Word of these spectacular discoveries spread rapidly in America and abroad. Among those whose exploring instincts were aroused was Gustav Erik Adolf Nordenskjöld, son of the famous Swedish geologist and Arctic explorer. In 1891, when he was twenty-three years old, he determined to see the Mesa Verde country for himself. Arriving in Colorado, he made the Wetherill ranch his headquarters, and with the constant help of Richard and Alfred

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44. G. Nordenskjöld, The Cliff Dwellers of the Mesa Verde, Southwestern Colorado: Their Pottery and Implements, trans. D. Lloyd Morgan (Stockholm, P. A. Norstedt and Soner, 1893), p. 12.

Wetherill and their workmen, and needing no one's permission, he explored and excavated in Cliff Palace and many other ruins throughout the summer. He took a large collection of prehistoric objects back to Stockholm and in 1893 published a popularly written, handsomely illustrated account of his investigations called The Cliff Dwellers of the Mesa Verde.[45] Nordenskjöld's expedition and the loss of a large and valuable collection aroused both admiration and deep resentment among American archaeologists and provided strong arguments in Congress for protective legislation. Repeated efforts made in later years by Dr. Jesse L. Nusbaum, long-time Superintendent of Mesa Verde National Park, to secure the return of the collection proved fruitless. It is in Finland's National Museum in Helsinki today.

The practise of indiscriminate digging went on for years. Superintendent Hans Randolph of Mesa Verde National Park later described the cumulative vandalism at Cliff Palace (not added to the park until 1913), in these words:

> Probably no cliff dwelling in the Southwest has been more thoroughly dug over in search of pottery and other objects for commercial purposes than Cliff Palace. Parties of "curio seekers" camped on the ruin for several winters, and it is reported that many hundred specimens therefrom have been carried down the mesa and sold to private individuals. Some of these objects are now in museums, but many are forever lost to science. In order to secure this valuable archaeological material, walls were broken down with giant powder often simply to let light into the darker rooms; floors were invariably opened and buried kivas mutilated. To facilitate this work and get rid of

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45. Ibid., Chaps. I and II.

> the dust, great openings were broken through the five walls which form the front of the ruin. Beams were used for firewood to so great an extent that not a single roof now remains. This work of destruction, added to that resulting from erosion due to rain, left Cliff Palace in a sad condition.[46]

The vandalism so conspicuously illustrated at Mesa Verde spread all over the Southwest, to small ruins and large, in caves and in the open. By the mid-1890's, it was flourishing widely, as is evident in Dr. J. Walter Fewkes' description of a large cliff dwelling called Palatki, or "Red House," situated in the Red Rock country southwest of Flagstaff, Arizona. What he saw there inspired Dr. Fewkes to an eloquent plea for protective legislation, which appeared in the American Anthropologist for August 1896:

> Palatki has suffered sorely at the hands of the Apaches, who have wrenched many of the beams from the walls for firewood and overthrown sections of the front wall. As a rule, the southwestern ruins are now suffering more from the white man than from the Indian. If this destruction of the cliff-houses of New Mexico, Colorado, and Arizona goes on at the same rate in the next fifty years that it has in the past, these unique dwellings will be practically destroyed, and unless laws are enacted, either by states or by the general government, for their protection, at the close of the twentieth century many of the most interesting monuments of the prehistoric peoples of our Southwest will be little more than mounds of debris at the bases of the cliffs. A commercial spirit is leading to careless excavations for objects to sell, and walls are ruthlessly overthrown, buildings torn down in hope of a few dollars' gain. The proper designation of the way our antiquities are treated is vandalism. Students who follow us, when these cliff-houses have all disappeared and their instructive objects scattered by greed of traders, will wonder at our indifference and designate our negligence by its proper name. It would be wise legislation to prevent this vandalism as much as possible and good science to put all excavation of ruins in trained hands.[47]

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46. Quoted by John Ise, Our National Park Policy: A Critical History (Baltimore: Johns Hopkins Press, 1961), p. 145, from the annual report of the Secretary of the Interior for 1909, p. 486.

47. J. Walter Fewkes, "Two Ruins Recently Discovered in the Red Rock Country, Arizona," American Anthropologist, IX (1896), 269-70.

As early as 1889 the demand for southwestern antiquities had become so great that forgeries were common. In that year, W. H. Holmes, later Chief of the Bureau of American Ethnology, commented on the debasement of Pueblo art. He noted that terra-cotta figurines were being sold in the Pueblo towns of New Mexico "rudely made from clay, not after aboriginal models, but from the suggestions of whites." It was highly annoying to museum curators to have such objects donated by persons who had bought them in good faith, at a good price, believing them to be antiques and who expected them to be cherished and exhibited. "The country is flooded," he said, "with cheap, and scientifically speaking, worthless earthenware made by the Pueblo Indians to supply the tourist trade."[48]

In 1901, Dr. Walter Hough completed five months of field work in northeastern Arizona for the National Museum. He made observations at more than fifty-five village sites, including three groups of ruins in the vicinity of Petrified Forest, and excavated in eighteen sites. "The great hindrance to successful archaeologic work in this region," he observed, "lies in the fact that there is scarcely an ancient dwelling site or cemetery that has not been vandalized by 'pottery diggers' for personal gain."[49]

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48. W. H. Holmes, "Debasement of Pueblo Art," American Anthropologist, III (1889), 320.

49. Walter Hough, "Notes and News," American Anthropologist, N.S., III (1901), 590.

In 1903 T. Mitchell Pruden reported the results of a comprehensive survey he had just completed of the many prehistoric ruins of the San Juan watershed in Utah, Arizona, Colorado, and New Mexico. In earlier days, he observed, pot-hunters pulled down the walls of ruined dwellings and dug beneath the rooms. Later, however, they discovered that burial mounds offered more treasure, and "the fury of the pot-hunter has been diverted to them."[50] In the Hovenweep area, he reported, "Few of the mounds have escaped the hands of the destroyer. Cattlemen, ranchmen, rural picnickers, and professional collectors have turned the ground well over and have taken out much pottery, breaking more, and strewing the ground with many crumbling bones."[51]

When extensive ruins were found by ranchers on public land that was still open to settlement, applications for homesteads were sometimes filed solely to acquire the ruins, with no intention of practising agriculture or making improvements. Preservationists charged that such entries were an abuse of the land laws and fraudulent. A conspicuous example of the alienation of an important archaeological site through the operation of the homestead laws was Gran Quivira, the ruin of an important 17th century Spanish mission adjoining an extensive Pueblo Indian site in Socorro County, New

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50. T. Mitchell Pruden, "The Prehistoric Ruins of the San Juan Watershed in Utah, Arizona, Colorado, and New Mexico," American Anthropologist, N.S., V (1903), 237.

51. Ibid., p. 263.

Mexico. A homestead entry had been filed some years before 1905. About that time, after a long contest, the entry was declared valid and a patent was issued to the claimant.[52] In the 1890's, Richard Wetherill, the discoverer of Cliff Palace at Mesa Verde, filed an entry on the great and classic Pueblo Bonito ruin in Chaco Canyon, near Farmington, New Mexico. His unperfected claim on a major ruin became a center of controversy until in 1904 the land was finally withdrawn by the General Land Office from sale or entry, and excavations then in progress on the unperfected claim were halted.[53]

The responsibility for such indiscriminate pot-hunting and abuse of the homestead laws cannot be put solely onto the shoulders of cowboys and ranchers, whose modest schooling and outdoor life hardly embraced scientific archaeology. The principal demand for authentic prehistoric objects came from private collectors, exhibitors, and museum curators in the East and in Europe. Sometimes handsome objects were purchased by important institutions and not too many questions asked. Even some well-financed and widely publicized expeditions did not escape criticism.

Perhaps the most famous case of alleged pot-hunting was in Chaco Canyon, New Mexico, a center of controversy among preservationists from 1900 until 1907 when it was finally made a national

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52. Edgar L. Hewett, "Preservation of Antiquities," American Anthropologist, N.S., VII (1905), 570.

53. Ise, p. 145, quoting a letter from Dr. Jesse L. Nusbaum to Floyd E. Dotson, March 7, 1956.

monument. Here were not merely one or two ancient structures but the ruins of a dozen great prehistoric communal dwellings together with hundreds of smaller archaeological sites, many of them, with good reason, believed exceptionally rich in artifacts. This extraordinary concentration of ruins had been known since 1849 when Lt. J. H. Simpson of the Corps of Topographical Engineers first visited the Canyon. His observations of eight major ruins, illustrated with drawings by the artist, R. H. Kern, were published in 1852. Although many others visited the Canyon in the ensuing years, it was Richard Wetherill, rancher, guide and discoverer of Cliff Palace in Mesa Verde who stimulated the first extensive excavations. Following a visit to the Canyon in 1895 Wetherill proposed to B. Talbot Hyde and Frederrek E. Hyde, Jr., of New York City, wealthy philanthropists, collectors and heirs to the Babbitt soap fortune, that they sponsor excavations in the Chaco Canyon ruins. The Hydes sought advice from Professor F. W. Putnam of Harvard, who agreed to serve as scientific director, and from the American Museum of Natural History, which agreed to accept collections of artifacts. The Hyde Exploring Expedition was formed in 1896. Its principal aim was the exploration of Pueblo Bonito, the most imposing of all the Chaco Canyon ruins, a great semi-circular stone structure covering more than three acres which at its peak of development in the twelfth century contained over 800 rooms in an arrangement at least five stories high. Professor Putnam designated George Pepper, one of his students, as

field director, and Richard Wetherill as excavation foreman. The digging of Pueblo Bonito proceeded under these arrangements during the summers of 1896-1899. Some 198 rooms and kivas were excavated and most of the artifacts, including several complete rooms, were donated by the Hydes to the American Museum of Natural History.[54]

As reports of the extent and nature of these excavations reached the state capital of Santa Fe, and were communicated to New York and Boston, concern developed among interested archaeologists and laymen that irreplaceable antiquities of Chaco Canyon were quite possibly being unscientifically pot-hunted and certainly were being taken out of New Mexico. On May 1, 1900, the Santa Fe New Mexican published an article describing the excavations. On November 17, the Santa Fe Archaeological Society sent a resolution to Secretary of the Interior E. A. Hitchcock urging him to take action to protect the antiquities of Chaco Canyon. An investigation had already been made by the General Land Office, but now Special Agent S. J. Holsinger was assigned to make another and more thorough one. In June 1901 he reported that Richard Wetherill and his brothers had removed entire prehistoric timbers from Pueblo Bonito, dismantled and shipped complete rooms to the American Museum of Natural History, and probably had excavated other prehistoric objects and sold them wherever they could find a market. Holsinger recommended withdrawal of forty townships from settlement preparatory to making Chaco

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54. Lloyd M. Pierson, "A History of Chaco Canyon National Monument," an unpublished manuscript in the library of the Division of Archaeology, National Park Service, Washington, D.C., 1956, 48-55.

Canyon a national park. Meanwhile, however, Wetherill had filed a formal homestead claim on a section of Chaco Canyon that included Pueblo Bonito and two other major ruins, Chettro Kettle and Pueblo del Arroyo. This situation added to many other instances of known or alleged pot-hunting and vandalism hastened the movement for administrative and legislative action in Washington, D.C., to protect American antiquities on the public lands.[55]

The spirit of the times was well-expressed by T. Mitchell Pruden in 1903:

> In the early days, before the problems connected with these ruins had become clear and definite, the simple collection of pottery and other utensils was natural and not without justification. But it is now evident that to gather or exhume specimens--even though these be destined to grace a World's Fair or a noted museum--without at the same time carefully, systematically, and completely studying the ruins from which they are derived, with full records, measurements, and photographs, is to risk the permanent loss of much valuable data and to sacrifice science for the sake of plunder.[56]

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55. Frank Bond, "The Administration of National Monuments," Proceedings of the National Park Service Conference held at Yellowstone National Park, September 11 and 12, 1911 (Washington, D.C.: Government Printing Office, 1912), 85-86.

56. Pruden, p. 288.

CHAPTER V

The Temporary Protection of Ruins

Until the Antiquities Act was passed in 1906, the chief weapon available to the Federal Government for protecting antiquities on public land was the power to withdraw specific tracts from sale or entry for a temporary period. As the problem of protection grew and as complaints reached the General Land Office in steadily increasing numbers, this power was exercised more and more frequently. An early example was Frijoles Canyon in northern New Mexico.

Bandelier's unusual novel of Indian life in this region, called The Delight-Makers (1890), gave imaginary life to his earlier reports of "cavate" dwellings at the base of the walls in Frijoles and neighboring canyons and to the nearby pueblo ruins. Edgar L. Hewett began intensive studies of these antiquities about this time. Before long a proposal developed for a Pajarito National Park, to embrace many of these ancient dwellings and the country around them. By July 1900 the General Land Office had withdrawn a large area around Frijoles Canyon from entry, sale, settlement, or other disposal pending a determination of the advisability of setting the region apart as a national park.[57]

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57. Cliff Dwellers' National Park, House Rep. No. 2427, 56th Cong., 2d Sess., pp. 1-6.

About this time a movement was started in Denver, Colorado, to save the celebrated cliff-dwellings of Mesa Verde. A group of ladies organized the Colorado Cliff-Dwellings Association and launched a vigorous and effective campaign to establish Mesa Verde as a national park. Not content to wait for federal action, as early as 1900 they succeeded in leasing from the Ute Indians, for $300 a year, a portion of the land where cliff-dwellings were situated, and began planning for the repair of roads and erection of a rest-house. Mrs. Gilbert McClurg became the unusually able and effective Regent of the Association and Mrs. W. S. Peabody a strong Vice-Regent.[58] Whether the Colorado Cliff-Dwellings Association borrowed the title of Regent from the widely admired Mount Vernon Ladies Association of the Union is unknown, but it seems possible. Pending a determination of the advisability of establishing the area as a national park, the General Land Office, sometime before 1904, withdrew an extensive part of the Mesa Verde area from sale, entry, settlement, or other disposal.[59]

On April 4, 1905, Secretary of the Interior Hitchcock finally withdrew critical portions of the lands in Chaco Canyon which Special Agent Holsinger had recommended in 1901 be protected. The

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58. American Anthropologist, N.S., II (1900), 600-01.

59. Edgar L. Hewett, "Government Supervision of Historic and Prehistoric Ruins," Science, N.S., XX (1904), 723.

official withdrawal embraced the section of land containing Pueblo Bonito, Chettro Kettle and Pueblo del Arroyo on which Richard Wetherill had already filed a homestead claim in 1900. Special Agent Frank Grygla of the General Land Office was sent to investigate the conflict between Wetherill's claim and the withdrawal. He found that Wetherill had constructed buildings worth five thousand dollars on his land, was raising sixty acres of corn, five of wheat, two of vegetables, and reportedly had five thousand sheep, two hundred horses, and four hundred chickens. Furthermore, Wetherill informed Grygla he would relinquish his rights to the three major ruins on his homestead to the Government.[60] Under these circumstances, the General Land Office concluded that a cancellation of Wetherill's claim for fraudulent entry would be "difficult and probably unjust," and that there was some evidence that instead of excavating the ruins at this time Wetherill was protecting them.[61] Final resolution of the conflict, however, awaited passage of the Antiquities Act the next year.

From 1897 to 1902 Binger Hermann served as Commissioner of the General Land Office and approved important withdrawals. He was followed by W. A. Richards, Commissioner from 1903 to 1906, who was equally active in the cause of preservation. Richards'

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60. Pierson, op.cit., pp. 49-54.

61. Bond, op.cit., pp. 85-86.

enlightened attitude is well expressed in a letter he wrote to Hewett on October 5, 1904:

> This office fully appreciates the necessity for protecting these ruins and the importance of furthering in every way possible, researches in connection therewith which are undertaken for the benefit of recognized scientific and educational institutions, with a view to increasing the knowledge of such objects and aiding in the general advancement of archeological science; and it desires to aid all such efforts to the full extent of its power, while, at the same time, endeavoring to effectually protect the ruins and relics on the public lands from ruthless spoliation by parties plying a trade in such matters.[62]

Commissioner Richards went on to describe public land withdrawals already made. In New Mexico, in addition to the Pajarito Cliff Dwellers area, withdrawals had been made in the Jemez Cliff Dwellers region and at El Morro, or Inscription Rock; in Arizona at Petrified Forest and Montezuma Castle; and in Colorado at Mesa Verde. Custodians had also been appointed for Casa Grande, Walnut Canyon, and Canyon del Muerto, all in Arizona, but there were no funds for others.

Many ruins were not on public lands but in forest reserves and therefore, although still under the jurisdiction of the Commissioner of the General Land Office in 1904, subject to different land laws. Richards' letter to Hewett said he was issuing new instructions on the care and protection of the ruins to forest officers responsible for patrolling the forest reserves,

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62. Hewett, "Government Supervision of . . . Ruins," 722.

especially where important prehistoric structures were known to be located--for example, in the Gila River Forest Reserve, New Mexico, and the Black Mesa and San Francisco Mountains Forest Reserves in Arizona.[63]

Ruins on Indian reservations presented still another problem. They were under Commissioner A. C. Toner of the Office of Indian Affairs. He also supported preservation objectives, however, and on October 22, 1904, he wrote Hewett that he was that day again instructing officials in charge of the various reservations--particularly the Navajo, Moqui, and Hualapi--"to use their best efforts to keep out intruders and relic hunters and to see that such remains of antiquity . . . are kept intact until such time as proper scientific investigation of the same can be had."[64]

The total effect of these combined measures was considerable. As Hewett saw it, even before general legislation was enacted a force of forest supervisors, rangers, special agents, Indian school superintendents and teachers, Indian agents, farmers, police, and the Indians themselves had been mobilized to protect the ruins from vandalism and unauthorized looting and to save them for scientific investigation.[65]

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63. Ibid., p. 723.

64. Ibid., p. 725.

65. Ibid., p. 726.

The early 1900's was a great period for applying scientific management to the public lands and forest reserves of the West. President Theodore Roosevelt, Gifford Pinchot, the father of American forestry, J. W. McGee, until 1902 Powell's principal assistant in the Bureau of American Ethnology, and their many followers envisioned that in the Roosevelt administration the basic policies and the management programs for western lands and waters would emanate from scientists and engineers rather than from legislators and politicians.[66] Close collaboration between the General Land Office and Dr. Hewett bore out this concept. As Hewett wrote in Science in November 1904: "A system of governmental protection of archeological remains is manifestly an accomplished fact, as much so and after the same manner as is the protection of timber on public lands."[67]

Hewett's comparison of archaeological sites with timber resources was significant. Beginning in 1891, timber resources on the public lands benefited from special legislation. In that year an amendment to the General Land Revision Act of 1891 granted the President authority to create permanent forest reserves by executive proclamation. By 1901, under this authority, 41 forest reserves had been set aside containing over 46 million acres. In his first year as President, Theodore Roosevelt created 13 new

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66. See Samuel P. Hays, Conservation and the Gospel of Efficiency: The Progressive Conservation Movement, 1890-1920 (Cambridge: Harvard University Press, 1959), especially Chaps. V and VII.

67. Hewett, "Government Supervision of . . . Ruins," p. 727.

forests containing more than 15 million additional acres.[68] Until 1905 these forest reservations were administered by the General Land Office. When the problem of permanently protecting selected prehistoric ruins on the public lands arose, it was natural for officials of this agency, who were familiar with timber protection procedures, to propose that the President be granted similar authority to create archaeological reservations, citing Congressional authority for forest reservations as a precedent.

But in their view the authority should go further than antiquities and include permanent protection of scenic and scientific resources on the public lands as well. Interesting discoveries were constantly being made of caves, craters, mineral springs, unusual geological formations, and other scientific features that appeared to merit special protection by the nation. Bill after bill was introduced in Congress to set aside one or another such area as a public reservation, to be permanently protected for the public benefit. Because no other designation seemed as appropriate, these proposals usually called for establishing the feature as a national park. The General Land Office made investigations of many such proposals. For example, in his annual report for 1900, Commissioner Binger Hermann stated that in that year reports had been made on two groves of mammoth trees in California, Wind Cave in South Dakota, a petrified forest

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68. Hays, p. 47.

in Arizona, the proposed Pajarito National Park, and a proposed Shoshone Falls National Park. Some of these natural areas were temporarily protected by withdrawals--Petrified Forest, for example. Others were the subject of special acts of Congress. In this manner Crater Lake became a national park in 1902, Wind Cave in 1903, Sullys Hill in 1904, and Platt in 1906. Meanwhile, the proposed establishment of Colorado Cliff Dwellings National Park, Colorado, and Pajarito National Park, New Mexico, were also pending before Congress. From 1900 to 1906 Commissioners Hermann and Richards of the General Land Office consistently recommended general legislation to authorize the President to establish prehistoric and scientific resources on the public lands as national parks just as he had already been granted authority to create forest reservations.[69]

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69. Annual Report of the Commissioner of the General Land Office for 1901, p. 154; for 1902, pp. 115-17; for 1904, pp. 322-23; for 1905, p. 40; for 1906, pp. 47-48. These reports are quoted in a multilithed copy of a document on deposit in the files of the Office of Archeology and Historic Preservation, National Park Service, entitled "Information about the background of the Antiquities Act of 1906," prepared by Robert Claus, Division of Interior Department Archives, National Archives, Washington, D.C., dated May 10, 1945. Hereafter cited as Claus.

CHAPTER VI

The Antiquities Act, 1900-06

The legislative history of the Antiquities Act falls into three different phases, which culminated in passage of the law in 1906.[70]

The First Round

Sometime late in 1899 the American Association for the Advancement of Science established a committee to promote a bill in Congress for the permanent preservation of aboriginal antiquities situated on federal lands. It was called the "Committee on the Protection and Preservation of Objects of Archaeological Interest." Dr. Thomas Wilson, lawyer, diplomat, and since 1887 curator of prehistoric archaeology in the U. S. National Museum, was named Chairman and Frederick W. Putnam, N. H. Winchell, G. K. Gilbert, A. W. Butler, and George A. Dorsey members.[71] The same year the Archaeological Institute of America set up a Standing Committee on American Archaeology, with Charles P. Bowditch of Boston as chairman and F. W. Putnam and Franz Boas as members.[72] The two committees

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70. Three earlier accounts of the legislative history of the Antiquities Act have been helpful in researching this one. (1) Claus, (2) Ise, and (3) John Dishon McDermott, "Breath of Life: An Outline of the Development of a National Policy for Historic Preservation." Manuscript, 115 pages, March 1966. Copy in files, Office of Archeology and Historic Preservation, National Park Service, Washington, D.C. Hereafter cited as McDermott.

71. Proceedings of the American Association for the Advancement of Science: Forty-Ninth Meeting, held at New York, N.Y., June, 1900 (Easton, Pa., Published by the Permanent Secretary, December 1900), p.xii.

72. American Journal of Archaeology, Second Series, III (1899), 665. See also VI, Supplement (1902).

agreed to combine their efforts with Dr. Wilson serving as "Chairman of the Committees of the two Societies."[73] By this means the experience and knowledge of both classical and American archaeologists were brought to bear on the preservation of prehistoric antiquities in the United States.

The course of subsequent events is not entirely clear, but it appears that Dr. Wilson arranged, with the assistance of S. V. Proudfit, an attorney assigned to the Department of the Interior and a member of the Anthropological Society of Washington, for the drafting of a comprehensive antiquities bill.[74] The draft bill, with an accompanying explanation, was then published for the information of the two societies. The bill began with a major provision that:

> The President of the United States may from time to time set apart and reserve for use as public parks or reservations, in the same manner as now provided by law for forestry reservations, any public lands upon which are monuments, cliff-dwellings, cemeteries, graves, mounds, forts, or any other work of prehistoric, primitive, or aboriginal man, and also any natural formation of scientific or scenic value or interest, or natural wonder or curiosity together with such additional area of land surrounding or adjoining the same, as he may deem necessary for the proper preservation and subsequent investigation of said prehistoric work or remains.[75]

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73. Thomas Wilson to Walter Hough, March 31, 1900, copy in files of Office of Archaeology and Historic Preservation, National Park Service, Washington, D.C.

74. Preservation of Historic and Prehistoric Ruins, Etc., Senate Ex. Doc. No. 314, 58th Cong., 2d Sess., pp. 7-8. Hereafter cited as S.Doc.314.

75. Undated, unsigned, printed document entitled "A Bill for the Preservation of Prehistoric Monuments, Ruins, and Objects, and to prevent their Counterfeiting, and for other Purposes." 10 pages including explanation of bill. Files, Office of Archeology and Historic Preservation, National Park Service, Washington, D.C.

This is the first link between historic and natural areas in the history of federal preservation legislation. It also introduced the word "monuments" into the language of conservation in the United States, though in a somewhat different sense than it eventually acquired.

In an explanation accompanying the bill, much emphasis was placed on the sharp contrast between the excellent protection afforded antiquities by most European governments and the almost total absence of such protection in the United States.

> Turkey, Greece, Egypt, the Barbary States, and other Oriental countries have exercised the various rights of eminent domain in regard to prohibition of entry upon or excavation of such works. Persia (in Assyria and Babylonia) has pursued the same course. Notable instances of these are to be found in the work done by the Archaeological Institute of America in Greece, and of the University of Pennsylvania at Nippur.
>
> In all these countries governmental permission must be obtained before excavations can be made, and this permission is a subject for diplomatic negotiations. Nearly all countries in western Europe have laws making similar provision in respect of their prehistoric monuments. Many years ago Great Britain provided that the government would act as trustee and guardian of such monuments and earthworks whenever requested by the owners. This secured the preservation of Stonehenge . . . In France the society for the preservation of monuments megalitheques chooses the monuments it desires, and on its recommendation they are condemned and purchased. Italy, Spain, and other countries supervise excavations, whether made on public or private lands, and reserve the right of prior purchase of any objects found. In our own continent the governments of Mexico and the Central American States pursue the same course, and permission is as much required to excavate and bring to light the prehistoric ruins of the Aztecs and the Mayas as to excavate for the Nicaragua Canal.

> The United States stands almost, if not entirely, alone without any law to make any of these prohibitions or to supervise or grant permission for similar investigations.[76]

The explanation went on to cite conspicuous instances of the loss of American antiquities to other countries. Russia, it was said, had carried away from Alaska more aboriginal objects for display in her museums than had the United States. A Swedish expedition had taken a large and valuable collection back to its museums from the pueblo ruins of Colorado and New Mexico. One of the finest displays of prehistoric implements from Ohio was to be found in the Blackmore Museum in Salisbury, England, placed there by the English investigators Squier and Davis after their exploration of ancient mounds in the Mississippi Valley.[77]

Among its other provisions, the bill authorized the Secretary of the Interior to grant permission for archaeological excavations to qualified institutions and made unauthorized excavations a misdemeanor subject to fine. On February 5, 1900, Representative Jonathan P. Dolliver of Iowa, presumably at the request of Dr. Wilson, introduced a somewhat revised form of this bill in the House as H.R.8066.[78]

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76. Ibid., pp. 4-5. Rev. Henry Mason Baum secured the Greek antiquities laws and had them translated for the information of the House Public Lands Committee where they remained on file. See S.Doc.314, p. 8.

77. Ibid., pp. 5-6.

78. Edmund B. Rogers (Comp.), History of Legislation Relating to the National Park System through the 82d Congress (a collection of photostats in 108 Vols., deposited in the Departmental Library, U.S. Dept. of the Interior, Washington, D.C., 1958), Vol. IV, Appendix A, for copy of H.R.8066. Hereafter cited as Rogers.

Now that the antiquities issue had been raised in Congress, competing viewpoints were quickly made known. On February 6, the day after Representative Dolliver introduced his bill, Representative John F. Shafroth of Colorado, a member of the Public Lands Committee, whose state contained many well-known cliff dwellings, introduced his own bill, H.R.8195. A westerner, Representative Shafroth was not interested in promoting new Presidential authority to create parks of undetermined extent on the public domain. Instead, his bill simply declared that any unauthorized person who harmed an aboriginal antiquity would be subject to fine, imprisonment, or both.[79] This quick solution to the problem was soon recognized as too simple, however. On March 7, Shafroth introduced a second bill, H.R.9245, which directed the Secretary of the Interior to have the Geological Survey make a survey of public lands in Colorado, Utah, Arizona, and New Mexico where ruins of temples, houses, and other prehistoric structures were known to exist and recommend which were of sufficient importance for permanent preservation. The Secretary was authorized to set aside lands upon which such important ruins were situated, not to exceed 320 acres for each ruin. The lands thus set aside were to be placed in the custody of the Bureau of American Ethnology of the Smithsonian Institution.[80]

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79. Ibid. for H.R.8195.

80. Ibid. for H.R.9245.

All three antiquities bills now before Congress were referred for consideration to the House Committee on the Public Lands, whose Chairman was Representative John F. Lacey of Iowa. On March 7, 1900, he sent the three bills to Secretary of the Interior Ethan A. Hitchcock, who promptly referred them to Binger Hermann, Commissioner of the General Land Office. On March 20, Hermann expressed strong approval of legislation to preserve prehistoric ruins and other objects of interest to science on the public lands. He especially emphasized "the need for legislation which shall authorize the setting apart of tracts of public land as National Parks, in the interest of science and for the preservation of scenic beauties and natural wonders and curiosities, by Executive Proclamation, in the same manner as forest reservations are created."[81] In the absence of such general legislation, it was necessary to procure a separate law for each national park, which usually required several years, during which serious scientific losses often occurred.

Commissioner Hermann found all three of the pending bills unsatisfactory, and instead he proposed a substitute bill. For the next six years, with some modifications, this bill embodied the views of the Department of the Interior on the form antiquities

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81. Claus, p. 3.

legislation should take. Although not well received by the House Committee on Public Lands, this bill was nevertheless introduced by Representative Lacey, at the request of the Department, on April 26, 1900.[82]

The title of H.R.11021 reveals a good deal about the Department's thinking. It was called "A Bill to establish and administer national parks, and for other purposes." In 1900 there were only five national parks, not counting the battlefields. By contrast, the number and extent of designated forest reserves, later called national forests, had grown tremendously after 1891. By 1901, as noted above, the Department of the Interior was administering 41 forest reserves containing more than 46 million acres, all created by Executive Proclamation from public lands. This was substantially more land than contained in the entire National Park System in 1969.

The first section of the bill attempted to correct this imbalance. In language not unlike Dolliver's bill but with greater emphasis on scenic and natural areas, it provided that:

> The President of the United States may, from time to time, set apart and reserve tracts of public land, which for their scenic beauty, natural wonders or curiosities, ancient ruins or relics, or other objects of scientific or historic interest, or springs of medicinal or other properties it is desirable to protect and utilize in the interest of the public; and the President shall, by public proclamation, declare the establishment of such reservations and the limits thereof.[83]

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82. Ibid., p. 5.

83. Rogers, Vol. IV, Appendix A, for H.R.11021.

The Department of the Interior was plainly seeking broad discretionary authority for the President to reserve a wide range of resources for public use. Historic as well as scenic and scientific resources, it has been well pointed out, were among those added to prehistoric resources for permanent protection.[84]

The second section provided "that such reservations shall be known as national parks and shall be under the exclusive control of the Secretary of the Interior, who is hereby empowered to prescribe such rules and regulations and establish such service as he shall deem necessary for the care and management of the same." In this language, one may perhaps discern one of the first expressions of the idea of a National Park Service. The Secretary was also authorized to rent or lease parcels of ground in such parks for the erection of buildings to accommodate visitors, the resultant revenues to be placed in a special fund for the care of the parks.

The third section authorized the Secretary of the Interior to permit examinations, excavations, and gathering of objects of interest within such national parks, provided they were undertaken for the benefit of the Smithsonian Institution or a reputable museum, university, college, or other recognized scientific or educational institution. The final section provided penalties for persons unlawfully intruding upon such parks.

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84. McDermott, p. 11.

Interior's proposed bill met with a cool response from the House Committee on Public Lands. As Dr. Thomas Wilson wryly wrote Dr. Walter Hough of the U.S. National Museum on March 31: "Members of Congress have their own opinions concerning the treatment of public lands."[85] On April 19 Representative Lacey wrote Secretary Hitchcock that the committee "seemed to be unanimously of the opinion that it would not be wise to grant authority in the Department of the Interior to create National Parks generally, but that it would be desirable to give the authority to set apart small reservations, not exceeding 320 acres each, where the same contained cliff dwellings and other prehistoric remains."[86] The reluctance of the members of the Public Lands Committee, most of them from western public lands states, to grant general authority to the Executive Branch to create new national parks is understandable in the light of their past experience with the timber reservations act of 1891 and their forebodings of what was still to come. From their viewpoint, later events justified their concern. In his first year in office in 1901-02 President Theodore Roosevelt created 13 new forest reserves, containing 15.5 million acres, on the public lands. In 1907, in response to the views of members from the West, Congress revoked presidential authority to create forest reserves in six western states. Before

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85. See note 69.

86. Claus, p. 5.

signing the revocation act, however, President Roosevelt set aside an additional 75 million acres in forest reserves, "increasing the total to 150,832,665 acres in 159 national forests."[87] Against this background, any proposed antiquities legislation that included broad authority for the President to create new parks or monuments out of the public lands was sure to meet with opposition.

Meanwhile, a subcommittee of the House Public Lands Committee had been assigned the task of studying the various proposals. On April 5 Representative Shafroth introduced H.R.10451, which represented the combined views of the full Committee on Public Lands. The provisions of this bill were about what might have been expected under the circumstances. It authorized the Secretary of the Interior to set apart and reserve from sale, entry, and settlement any public lands in Colorado, Wyoming, Arizona, and New Mexico containing monuments, cliff dwellings, cemeteries, graves, mounds, forts, or any other work of prehistoric, primitive, or aboriginal man, each such reservation not to exceed 320 acres.[88] The bill thus greatly reduced the scope of the proposed legislation, though leaving its administration to Interior. It also authorized the Secretary to permit excavations in such reservations by qualified institutions and made unauthorized excavations or damage a misdemeanor.

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87. Hays, p. 47.

88. Rogers, Vol. IV, Appendix A, for H.R.10451.

On April 21 Representative Shafroth presented a favorable report on this limited bill to the House on behalf of the Public Lands Committee. His report revealed the Committee's growing awareness of the importance of preserving prehistoric antiquities. He cited the large number of prehistoric "dwellings, castles, forts and palaces" in the southwestern region of the United States and their great interest to students of archaeology not only in America but throughout the world. He pointed out that more ruins were being destroyed each year. "The only practical way they can be preserved," he said, "is by creating reservations of the land surrounding each ruin, and providing a penalty for any destruction of the same."[89]

Congress, however, took no action on H.R.10451 or any of the other four bills. Almost four years were to pass before another general antiquities bill was introduced in Congress. The first round of sparring over antiquities legislation among the scientists of the country, the Department of the Interior, the Bureau of American Ethnology, and the House Public Lands Committee ended as a draw.

The Second Round

In January 1902 a new personality and a new society joined the fray over the proper form of national preservation legislation. The

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89. Preservation of Prehistoric Monuments, Etc., House Rep. No. 1104, 56th Cong., 1st Sess., p. 1.

new personality was the Rev. Henry Mason Baum, D.C.L., and the new organization the Records of the Past Exploration Society. Now long forgotten, Dr. Baum and the society he served as president played an active, curious, and in the end controversial role from 1902 to 1905 in the race to protect American antiquities.

Baum edited a new historical journal published in Washington, D.C., called Records of the Past. This journal attempted to report on "the work of historical research and exploration throughout the world, from a literary standpoint."[90] Although his own field was biblical archaeology, Baum found, as he testified in 1904 before the Senate Public Lands Committee, "that, as an editor, it was necessary for me to have a practical knowledge of American antiquities. Therefore, two years ago I visited the mounds of the Mississippi Valley and the more important pueblo and cliff ruins of the Southwest. One of the objects I had in view was to ascertain how the antiquities on the Government domain could best be protected. My expedition led to the drafting of House bill 13349."[91]

The first issue of Records of the Past, which appeared in January 1902, carried as its lead article an exposition of the general principles Baum recommended be embodied in a national preservation law.[92] As he summarized them later for the Senate

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90. S.Doc.314, p. 9.

91. Ibid.

92. Rev. Henry Mason Baum, "Records of the Past and American Antiquities," Records of the Past, I (1902), 1-5.

Committee, these were, "first, that the antiquities be placed under the control of the Secretary of the Interior; second, that the institutions of the country shall have an equal right to excavate the ruins; and third, that all excavations shall be prohibited without a permit from the Secretary of the Interior."[93]. During the next two years, the active and articulate Baum waged a tireless campaign to write these principles into law. He very nearly succeeded. In the course of his efforts, he provoked a major controversy with the Smithsonian Institution.

During the winter of 1903-04, Baum and his associates prepared a draft of their proposed bill and asked Representative William A. Rodenberg of Illinois to introduce it. He was known to be "deeply interested in the subject, and lives within four miles of the largest prehistoric monument in the Western Hemisphere--the Great Cahokia Mound."[94] On March 2, 1904, Rodenberg introduced this bill as H.R.13349 and had 500 extra copies printed for use in promoting the legislation. On March 5 he sent letters to the presidents of leading universities, colleges, museums, and historical and archaeological societies throughout the United States, enclosing H.R.13349 and asking for their suggestions and support. "I introduced the bill," he wrote, "at the request of the Records of the Past Exploration Society, of this City. If the bill meets with your

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93. S.Doc.314, p. 14.

94. Rev. Henry Mason Baum, "Pending Legislation for the Protection of Antiquities on the Public Domain," Records of the Past, III (1904), 103.

approval I will be glad to have you write at once to the Committee having the bill in charge, addressing your letter to the Committee on Public Lands, House of Representatives, Washington, D.C."[95]

Rodenberg's bill placed all historic and prehistoric ruins, monuments, archaeological objects, and antiquities on the public lands in the custody of the Secretary of the Interior with authority to grant excavation and collecting permits to qualified institutions. However, the Secretary was obliged to grant a permit to any state or territorial museum or university to excavate any ruin on public lands within its territorial limits "upon application for such permit being indorsed by the governor." Excavations were to be rigidly regulated, and a complete photographic record of "all objects" found was required, duplicate photographs to be deposited in the National Museum. Forgeries and unauthorized excavations were declared misdemeanors. It was to be the duty of the Secretary to recommend to Congress which ruins or groups of ruins should be made national reservations, but Congress retained complete control over new areas.

The results of Rodenberg's letter were little short of phenomenal. Strongly favorable endorsements promptly poured into the House Public Lands Committee from presidents of universities, historical societies, and museumsthroughout the nation. Twenty-five of the letters were printed in full in the record of hearings held by the Senate Public Lands Committee on April 20, 1904. Among the

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95. Ibid., pp. 106-07, where the text of H.R.13349 is also given.

many prominent endorsers of the bill were Thomas Day Seymour, President of the Archaeological Institute of America; Frederick W. Putnam of the Peabody Museum at Harvard; Benjamin I. Wheeler, President of the University of California; Stephen Salsbury, President of the American Antiquarian Society; William C. Mills, Curator of the Ohio State Archaeological Society; and E. B. Morgan, President of the Colorado State Historical and Natural History Society.[96] Such a favorable response from so many learned institutions and eminent scholars deeply impressed members of the House and Senate Committees on Public Lands. On April 20, at Baum's request, Senator Henry Cabot Lodge of Massachusetts introduced S.5603 in the Senate as a companion measure to Rodenberg's House bill, and it became known as the Lodge bill.[97]

Although Baum and Rodenberg were getting most of the attention, W. H. Holmes, Chief of the Bureau of American Ethnology, and other officials of the Smithsonian Institution had prepared their own antiquities bill the previous winter, and the Board of Regents had approved it.[98] Among those Regents were Senator Shelby M. Cullom and Representative Robert R. Hitt, both of Illinois. On February 5, 1904, Senator Cullom introduced the Smithsonian bill, S.4127, in the Senate; and on February 16, Representative Hitt

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96. S.Doc.314, pp. 11-12.

97. Baum, "Pending Legislation for the Protection of Antiquities on the Public Domain," p. 143.

98. Joseph D. McGuire, "Preservation of Antiquities," American Anthropologist, N.S., VI (1904), 181. McGuire evidently helped draft the Smithsonian bill. See Baum, "Pending Legislation," p.148.

introduced the companion bill, H.R.12447, in the House. This bill had been carefully worked out. For one thing it clearly defined antiquities on public lands as including:

> mounds, pyramids, cemeteries, graves, tombs, and burial places and their contents, including human remains; workshops, cliff dwellings, cavate lodges, caves, and rock shelters containing evidences of former occupancy; communal houses, towers, shrines, and other places of worship, including abandoned mission houses or other church edifices; stone heaps, shell heaps, ash heaps, cairns, stones artificially placed, solitary or in groups, with or without regularity; pictographs and all ancient or artificial inscriptions; also fortifications and inclosures, terraced gardens, walls standing or fallen down, and implements, utensils, and other objects of wood, stone, bone, shell, metal, and pottery, or textiles, statues and statuettes, and other artificial objects.[99]

The Smithsonian bill authorized the President to proclaim important antiquities, thus defined, as public reservations and to determine their boundaries. No protection at all was provided, however, for historical, scenic, or scientific resources on the public lands. All antiquities reservations were to be under the control of the Secretary of the Interior for care and management, but, subject to Interior's regulations, the Secretary of the Smithsonian Institution was to have "supervision of all aboriginal monuments, ruins, and other antiquities." Explorations, excavations, and collections "shall be made only by the Smithsonian Institution or some of its bureaus, or by some State, Territorial, municipal or other duly incorporated museum, or by some foreign museum of national character, or by museums attached to some incorporated college or

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99. Rogers, Vol. IV, Appendix A, for the texts of S.4127 and H.R.12447.

university in the United States which teaches archaeological science." All permits granted by the Secretary of the Interior were to be issued only on the recommendation of the Secretary of the Smithsonian Institution. Any person who willfully damaged any aboriginal antiquity was subject to severe penalties.[100]

On April 22, 1904, the Senate Subcommittee on Public Lands held hearings on the Smithsonian bill, S.4127, and on the Lodge bill, S.5603.[101] Senator Charles W. Fulton of Oregon presided as chairman, and the witnesses included Baum and Frederick B. Wright, the latter secretary of the Records of the Past Exploration Society; and Dr. Francis W. Kelsey, secretary, and Professor Mitchell Carroll, associate secretary, of the Archaeological Institute of America. The record of this hearing, printed by the Senate on April 28, 1904, provided eloquent evidence of the vandalism of American antiquities that had been going on for years and of the broad national support for corrective legislation.

During the hearing witnesses outlined the numerous merits they saw in Senator Lodge's bill. Objections to the Smithsonian bill were offered in restrained but persuasive language by the Archaeological Institute's Secretary Kelsey, classicist and archaeologist of the University of Michigan, whose Pompeii, Its Life and Art, had appeared only a few years before.

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100 Ibid.

101 Ibid. for the Lodge bill, S.5603.

> The first difference of opinion has reference to the division of administration between the Secretary of the Interior and the Smithsonian Institution . . . The objection has been raised by men in whose opinion I have confidence that the arrangement proposed in this bill would lead to constant friction and a clashing of authority, which would be apt to neutralize the beneficial results of the legislation . . . The second consideration which has been urged against this bill is that it gives the Smithsonian Institution an unfair advantage, an advantage which cannot be justified from either a practical or a scientific point of view over any other institution--such as the Peabody Museum at Cambridge, the Natural History Museum of New York, and other large museums--in respect to excavating and in respect to the guardianship of remains that may be recovered by the process of excavation.[102]

On April 25 the Senate Public Lands Committee reported Senator Lodge's bill favorably, and the next day it passed the Senate and was sent to the House. Victory seemed near. "Preparations were made," reported Baum, "to ask unanimous consent for its passage, as Congress was to adjourn the next day."[103] The House Public Lands Committee agreed to seek immediate passage, but representatives of the Smithsonian Institution went to the Hill and voiced strong objections. Midnight and the hour of adjournment arrived and no action had been taken.[104] The bill went over to the next session of Congress.

In the sting of defeat, Baum published a bitter attack on the Smithsonian Institution in Records of the Past for May 1904.[105]

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102 S.Doc.314, pp. 6-7.

103 Baum, "Pending Legislation," p. 147.

104 Ibid., pp. 147-48.

105. Ibid., pp. 148-50.

Emotions were so aroused that some members of his society apparently became embarrassed. The next year Baum's name no longer appeared as editor. He was succeeded by Professor G. Frederick Wright of Oberlin College, an authority on the mounds of Ohio.[106]

With Congress in recess, the archaeologists of the country made a determined effort to heal their differences and also save the Lodge bill. In May 1904, at its annual meeting in St. Louis, the Archaeological Institute of America created a new "Committee on the Preservation of the Remains of American Antiquity," with Professor Thomas Day Seymour of Yale as chairman and each of the seventeen local chapters represented on the committee.[107] On January 10, 1905, this committee met in Washington, D.C., with a similar committee from the American Anthropological Association and "agreed upon a memorandum which is believed to represent the unanimous opinion of American scientists in the archaeological field."[108] On the

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106 Records of the Past, Vol. IV, 1905.

107 American Journal of Archaeology, Second Series, VIII (1904), Supplement, pp. 4-5. Among persons representing chapters on the committee were Miss Alice Fletcher, Baltimore; Mrs. Sara Y. Stevenson, Pennsylvania; Dr. George A. Dorsey, Chicago; Mr. George Grant McCurdy, Connecticut; Dr. W. J. McGee, St. Louis; Dr. Charles K. Lummis, Southwestern Society; Dr. A. L. Kroeber, San Francisco; and Mrs. W. S. Peabody, Colorado—all of whom, with others, went formally on record with Congress in favor of antiquities legislation.

108 American Journal of Archaeology, Second Series, IX (1905), Supplement, pp. 6-7. See also American Anthropologist, N.S., VIII (1906), p. 504.

following day the two committees appeared before the House Committee on Public Lands and presented the scheme of legislation they had prepared. Again in 1904 Representative Lacey had introduced the Interior bill, H.R.13478, "to establish and administer national parks, and for other purposes."[109] Nevertheless, he and his colleagues gave the proponents of the Lodge bill "a most courteous hearing," and on January 19, 1905, they reported it favorably, with amendments recommended by the archaeologists.[110] Among other provisions, these amendments strengthened the authority of the Secretary of the Interior to protect antiquities by authorizing him to make permanent

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109 The main line of the legislative history is most clearly understood by following the course of S.5603, the Lodge bill. It should not be forgotten, however, that the Department of the Interior was still seeking its own bill. In his Annual Report for 1901, Commissioner Binger Hermann again strongly recommended legislation similar to H.R.11021, introduced by Rep. Lacey in 1900, to authorize the President to set apart tracts of public land notable for their scenic beauty, natural wonders, ancient ruins, and relics or objects of scientific or historic interest as national parks. He repeated this recommendation in 1902. His successor, Commissioner W. A. Richards, followed with a similar recommendation in his Annual Reports for 1903 and 1904. H.R.13478, introduced by Rep. Lacey on March 4, 1904, was identical with H.R.11021, which Lacey had also introduced at the request of the Department in 1900. (See Rogers, Vol. IV, Appendix A, for text of H.R.13478.) Nothing came of the Interior bill, however, in the 58th Congress, and it was never again introduced. Neither was the Smithsonian bill re-introduced. To complete the record, it should be noted that Rep. Bernard S. Rodey of New Mexico introduced H.R.12141 on Feb. 10, 1904 "to protect ancient ruins on the public domain," but it got little or no attention. For text see Rogers, Vol. IV.

110 American Journal of Archaeology, Second Series, IX (1905), Supplement, pp. 6-7.

reservations not exceeding 640 acres around important ruins. Nothing was said, however, about scenery or natural wonders.[111] Congress adjourned before the bill could be brought to the floor for a vote.

One more round was necessary in a new Congress, the 59th, before an antiquities bill finally became law.

The Third Round

Until 1905 all the federally owned lands on which aboriginal ruins and pueblos were likely to be found were administered by the Secretary of the Interior. These were the public lands, the Indian lands, and the forest reserves. But since 1898, Gifford Pinchot, Chief of the Bureau of Forestry in the Department of Agriculture, had worked assiduously in and out of Congress for transfer of the forest reserves to his Department. Early in 1905 he achieved this goal when Congress passed the Forest Transfer Act, which President Roosevelt signed on February 1.[112] By 1907 forest reserves under the administration of the Secretary of Agriculture contained more than 150 million acres, on which thousands of Indian sites and ruins were known to be located. This situation added a major jurisdictional complication to the other problems that had to be taken into account in framing antiquities legislation.

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111 Prehistoric Ruins on Public Lands, House Rep. No. 3704, 58th Cong., 3d Sess., pp. 1-2.

112 For a fascinating account of events leading to the Forest Transfer Act, see Hays, pp. 39-44.

At this juncture a young archaeologist from the West began to come into national prominence, and his labors did much to shape the final legislation. He was Edgar Lee Hewett, born on a farm in Illinois in 1865, educated in Hannibal, Missouri, superintendent of schools in Florence, Colorado, in the 1890's, and already an avid explorer of the cliff dwellings and pueblo ruins of Colorado and New Mexico. His first archaeological field work was done in 1896, when he was thirty-one, among the pueblo ruins and cavate dwellings of Frijoles Canyon, near Santa Fe, later Bandelier National Monument. Before long, Hewett was writing for professional journals in the East, and soon he was active in the circles of the American Anthropological Association. In 1904 he began graduate studies in anthropology at the University of Geneva in Switzerland which led to a Ph.D. In January 1906 the Archaeological Institute of America chose him as its Fellow in American Archaeology, and he extended his study of ancient Indian ruins to Mexico.[113] Hewett's unusual combination of western background, farming and teaching experience, first-hand knowledge of ancient ruins on federal lands in the Southwest, and experience as an archaeologist and administrator, enabled him in this period to enjoy alike the confidence of members of Congress, bureau chiefs, staffs of universities and research institutions, and members of professional societies.

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113 James Taylor Forrest, "Edgar Lee Hewett," in Keepers of the Past, ed. Clifford L. Lord (Chapel Hill: The University of North Carolina Press, 1965), pp. 141-56.

In 1902 Representative Lacey decided to visit the Southwest and see for himself some of the pueblos and cliff dwellings that were the subject of bills before his committee. Hewett accompanied him. As Professor Mitchell Carroll reported in 1920, "Major Lacey attributes his archaeological legislation to this expedition in New Mexico with Dr. Hewett."[114]

In 1904, following the sharp conflict in Congress over antiquities legislation, Commissioner W. A. Richards of the General Land Office decided that the situation required a new review of the entire antiquities preservation problem on federal lands. To perform this task he turned to Hewett. On September 3, 1904, Hewett submitted to Commissioner Richards a "Memorandum concerning the historic and prehistoric ruins of Arizona, New Mexico, Colorado, and Utah, and their preservation." For the first time, Hewett's memorandum provided the General Land Office and eventually the Congress with a comprehensive review of all the Indian antiquities located on federal lands in four key states. An accompanying map showed the location of major ruins in the basins of the Rio Grande, San Juan, Little Colorado, and Gila, which he called "the four great seats of prehistoric culture of the so-called pueblo region." Within each basin he identified "the principal groups or districts of ruins of each great culture area." There were twenty such districts. Based on his own observations and those of such leading

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114. Mitchell Carroll, "The Story of Our National Monuments," Art and Archaeology, X (1920), 4.

archaeologists as Fewkes, Hough, Bandelier, Mindeleff, Prudden, and Cushing, he sketched the characteristics of each district and went on to describe many of the individual ruins, among them the proposed Pajarito National Park, Pecos, Gran Quivira, Aztec, Mesa Verde, Chaco Canyon, Canyon de Chelly, Walnut Canyon, Petrified Forest, El Morro or Inscription Rock, Montezuma Castle, Casa Grande, and the ruins along the Gila River.[115] Better than any other single document, Hewett's memorandum clearly foreshadowed, in remarkable detail, the system of archaeological national monuments established in the Southwest following passage of the Antiquities Act.

In 1905 Hewett was appointed member of a committee formed by the American Anthropological Association to work for antiquities legislation, and he soon became its secretary. The members of this committee felt that the Lodge bill, S.5603, which with amendments had very nearly passed the last Congress, should be perfected and reintroduced in the new Congress due to convene in January 1906.[116] But Hewett recognized that the jurisdictional problem created by passage of the Forest Reserve Transfer Act would have to be solved.

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115 Hewett's memorandum was published as General Land Office Circular Relating to Historic and Prehistoric Ruins of the Southwest and Their Preservation (Washington, 1904). It also appears as an Appendix to Rep. Lacey's 1905 report, Prehistoric Ruins on the Public Lands. Lacey published it again in March 1906 as part of another report from his committee.

116 American Anthropologist, N.S., VII (1905), 169.

On December 28, 1905, he discussed this and other points in a paper he read before a joint meeting of the American Anthropological Association and the Archaeological Institute held at Ithaca, New York:

> It is manifestly impossible to concentrate the entire authority in this matter in any one Department. The purposes for which the lands of the United States are administered are so diverse that no Department could safely undertake to grant privileges of any sort upon lands under the jurisdiction of another Department. Accordingly, if archaeological work is proposed on forest reserves the application for permission must be to the Secretary of Agriculture; if on a military reservation, to the Secretary of War; and if on an Indian reservation or on unappropriated public lands, to the Secretary of the Interior. Any other system would lead to great confusion and conflict of interests.[117]

Hewett then presented to the joint meeting a revised draft of an antiquities bill that he believed preserved the spirit of the measure agreed to by the two societies the previous year and at the same time met the wishes of the various federal departments. Which departments and bureaus he consulted in the preparation of this draft Hewett did not say, but subsequent events demonstrated that it reconciled the conflicting interests that had plagued antiquities legislation for six years. At the joint business meeting of the two Associations, Hewett's draft bill was unanimously endorsed.[118] On January 9, 1906, Representative Lacey introduced it in the House as H.R.13349.[119]

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117 Hewett, "Preservation of American Antiquities; Progress During the Last Year; Needed Legislation," American Anthropologist, N.S., VIII (1906), p. 113.

118 Ibid., p. 114.

119 Rogers, Vol. IV, Appendix A, for text of H.R.13349.

John Fletcher Lacey of the Sixth District of Iowa, after whom the Antiquities Act was eventually named, was an outstanding conservation leader at a time when conservation issues absorbed the attention of the nation. Born in 1841, in a one-room log cabin on the Ohio River, he later moved with his parents to Iowa. After serving in the 33d Iowa Volunteers during the Civil War, he studied law. A dedicated student, he compiled all the railway cases in the English language and became an outstanding authority on railroad law. He was elected to Congress in 1889 and with the exception of one term served continuously until 1907. He was an ardent student of Indian affairs, public lands, wildlife, and forestry, and he shaped legislation in all these fields. He defended national parks and forest reserves against attacks by western land looters.[120] As John Ise has written, "Without Lacey's pervasive and persistent influence, the history of conservation in the United States would be very different, and our situation today would be worse, perhaps very much worse."[121]

On February 26 Senator Thomas M. Patterson of Colorado introduced a companion measure to the House bill in the Senate, S.4698. Both bills followed Hewett's draft exactly and read as follows:

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120 DAB, X, pp. 519-20.

121 Ise, p. 148.

A Bill
For the Preservation of American Antiquities

1. 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 Government having jurisdiction over the lands on which said antiquities are situated shall, upon conviction, be fined in a sum 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.

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.

3. That permits for the examination of ruins, the excavation of archeological 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.

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.[122]

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122 Rogers, Vol. IV, Appendix A, for texts of H.R.13349 and S.4698. The text of Hewett's bill is in American Anthropologist, N.S., VIII (1906), 113-14.

This bill took care of six important points not adequately covered in any previous proposal. First, the provisions were made applicable to antiquities situated on any "lands owned or controlled by the Government of the United States." Previous bills applied only to the public lands, leaving their applicability to forest reserves, Indian lands, and military reservations uncertain. Secondly, the authority of the President to establish public reservations was made to include "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest." Senator Lodge's bill, in its several earlier versions, had been limited to historic and prehistoric antiquities and made no provision for protecting natural areas. At some point in his discussions with government departments, Hewett was persuaded, probably by officials of the Interior Department, to broaden his draft to include the phrase "other objects of historic or scientific interest." This language may have come from the old Interior Department bill, H.R.11021. As it later turned out, the single word "scientific" in the Antiquities Act proved sufficient basis to establish the entire system of fifty-one national monuments preserving many kinds of natural areas, including Grand Canyon, Zion, Mount Olympus, Death Valley, Glacier Bay, and Katmai, that were set aside by successive Presidents between 1906 and 1969 primarily though not exclusively for their scientific value. Eight of these monuments later became the bases for well-known national parks.

Thirdly, the President's discretion to proclaim national monuments was made subject to a provision that the limits of such monuments "should be confined to the smallest area compatible with the proper care and management of the objects to be protected." Several earlier bills provided that such reservations be limited to 320 acres or 640 acres. This flexible provision that permitted the President to establish larger areas if justifiable was accepted by western members of Congress and proved vital to successful administration of the act.

Fourthly, the bill introduced the term "National Monument" into the language of conservation. Why Hewett recommended this term is not known. To make small archaeological reservations "National Parks" must have seemed inappropriate and probably difficult to get through Congress. The word "monument" appeared in several earlier bills and may have suggested the term finally adopted. Between 1904 and 1908 Hewett studied at intervals at the University of Geneva and wrote his doctor's thesis in French, entitled Les Communautes anciennes dans le desert americain.[123] Perhaps the term "monument" suggested itself to Hewett because of its wide usage in France.

Fifthly, the bill authorized the Secretary of the Interior to accept the donation of lands in private ownership on which were situated historic landmarks, historic and prehistoric structures,

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123 Forrest, "Hewett," p. 145.

and other objects of historic or scientific interest. This authority appeared a little ambiguous at first, but it was soon sustained after passage of the act and has been utilized many times since.

Lastly, after investing the Secretaries of Interior, War, and Agriculture with authority to grant excavation permits, the bill provided that they make and publish "uniform rules and regulations" to carry out the law's provisions. It seems likely that it was informally understood all around that if the bill passed, the role of the Smithsonian Institution as scientific advisor would be protected and clearly set forth in the uniform rules and regulations, making its definition in the law unnecessary.[124] This may have avoided another controversy.

The House Committee on Public Lands considered H.R.11016 promptly, and Representative Lacey reported it favorably, with minor amendments, on March 12.[125] However, no one seemed to want even these minor changes. Senator Patterson's companion bill, S.4698, was reported favorably by the Senate Committee on Public Lands without change on May 24. The next day it was referred to Lacey's committee in the House. On June 5, Lacey reported it favorably, this time without change, and it passed. On June 8, 1906, it was signed into law by

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124 Hewett, "Preservation of American Antiquities," pp. 110-12.

125 Preservation of American Antiquities, House Rep. No. 2224, 59th Cong., 1st Sess.

President Theodore Roosevelt. Not a single significant word had been altered from the draft bill Hewett had presented to the American Anthropological Association and the Archaeological Institute of America six months before. Because of the strong support he gave the measure in Congress and the key role he played in bringing about its passage for many years, the legislation was familiarly called "the Lacey Act."

CHAPTER VII

Creating Mesa Verde National Park and Chartering the Archaeological Institute, 1906.

From 1900 to 1906, while the provisions of the Antiquities Act were being worked out, two other major proposals were also before Congress to establish large areas of public lands containing many ancient ruins as national parks.

The first was the proposed Colorado Cliff Dwellings or Mesa Verde National Park in southwestern Colorado. Interest in this area of spectacular cliff dwellings and canyons had been continuous since the December days in 1888 when Richard Wetherill and Charles Mason stumbled onto Cliff Palace and Spruce Tree House while pursuing their cattle. As early as 1891, the General Assembly of Colorado petitioned Congress for establishment of part of the Southern Ute Indian Reservation as a National Park to embrace the Mesa Verde ruins. In 1894 "sundry citizens of Colorado" again petitioned Congress for the same purpose.[126] By 1900 Mrs. Gilbert McClurg and Mrs. W. S. Peabody of Denver had organized the Colorado Cliff Dwellings Association and begun to work with scientists and Congressmen for a park bill. On February 22, 1901, Representative

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126 Rogers, House Vol. 58, Part I, p. 1.

John F. Shafroth of Colorado introduced H.R.14262 to create the Colorado Cliff Dwellings National Park, which he reintroduced in the next two Congresses. Progress finally began to be made in 1905 when Representative H. M. Hogg of nearby Cortez, Colorado, introduced H.R.5998 to create the Mesa Verde National Park.[127]

One of the main obstacles to the park was the fact that some of the most important cliff dwellings, including Cliff Palace, were not on public land, but within the Southern Ute Indian Reservation. In the spring of 1906 a survey was made by the Bureau of American Ethnology, with the help of Edgar Lee Hewett, to fix the park boundaries. Hewett accompanied the surveyors and identified the ruins to be included.[128] As thus described, the proposed Mesa Verde park comprised a strip of land along the Mancos River fourteen and a half miles long and several miles wide, embracing a total area exceeding sixty-five square miles. Concerned over important omissions from the park proposal, Hewett wrote Commissioner Francis E. Leupp of the Office of Indian Affairs and suggested an amendment to Hogg's bill providing that all prehistoric ruins situated on Indian lands within five miles of the boundaries of Mesa Verde National Park also be included within the jurisdiction of its

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127 Ibid., Appendix A, for H.R.5998.

128 Francis W. Kelsey, "Recent Archaeological Legislation," Records of the Past, V (1906), p. 341.

officers for administrative purposes. This strip contained an additional 274 square miles. The amendment was promptly accepted by the House Public Lands Committee.[129] As Hewett wrote, "This secures what has been so much desired by all namely the inclusion of all the great Mesa Verde and Mancos Canyon ruins within the National Park."[130]

Impressive support for a Mesa Verde National Park poured in from all over the country. On January 11, 1905, in a public hearing, the many proponents of general antiquities legislation from Boston, New York, Washington, and other eastern cities went on record with Representative Lacey's committee in favor of the Mesa Verde proposal. Westerners were also prominent in their endorsement, including Governor Jesse F. McDonald of Colorado, the Nebraska Academy of Sciences, the Iowa Anthropological Association, the Davenport Academy of Sciences, the Pueblo (Colorado) Business Men's Association, the Colorado Equal Suffrage Association, the Colorado State Horticultural Society, and the Colorado State Forestry Association.[131]

On June 15 the House Committee on Public Lands reported the Mesa Verde National Park bill favorably, and eight days later it had passed both the House and Senate. It was signed by President Roosevelt on June 30, only twenty-two days after he approved the Antiquities Act.

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129 Mesa Verde National Park, House Rep. No. 4944, 59th Cong., 1st Sess. (1906), pp. 1-2.

130 American Anthropologist, N.S., IX (1907), 233.

131 House Rep. No. 4944, 59th Cong., 1st Sess., pp. 1-5. See also Senate Rep. No. 1428, 59th Cong., 1st Sess. (1906), pp. 1-3.

Just why Mesa Verde was given special treatment as a national park instead of being scheduled for preservation as a national monument under the Antiquities Act is not clear. The proposed area may have been thought too large to be made a national monument. Its Colorado sponsors may also have insisted on national park status. In any event Mesa Verde was established as a "national park" in 1906 in the same sense that Chickamauga battlefield was made a "national park" in 1890 and Gettysburg battlefield in 1895. The Mesa Verde act did not refer to "the preservation of all timber, mineral deposits, natural curiosities, or wonders . . . and their retention in their natural condition," as did the acts for Yellowstone (1872), Sequoia, Yosemite (1890), and Mount Rainier (1899). Instead, in authorizing the Secretary of the Interior to prescribe rules and regulations for Mesa Verde, the law provided that "such regulations shall provide specifically for the preservation from injury or spoliation of the ruins and other works and relics of prehistoric or primitive man within said park, and, as far as possible, for the restoration of said ruins."[132] The law also authorized the Secretary to issue permits to qualified persons for excavations. Mesa Verde National Park is essentially one of the historical units in the National Park System.

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132 U.S., Department of the Interior, Laws Relating to the National Park Service, the National Parks and Monuments, comp. Hillory A. Tolson (Washington: Government Printing Office, 1933) for enabling acts for all of these national parks.

Commenting in the fall of 1906 on the passage of this act, Dr. Francis W. Kelsey, classicist and archaeologist of the University of Michigan, soon to be elected president of the Archaeological Institute of America, wrote: "In the next session of Congress provision will undoubtedly be made for the care of the Park . . . Perhaps in the future a special bureau will be organized for the care of the national parks outside of Washington; it would seem as if much might be gained in both efficiency and economy of administration by placing them all under one management."[133]

Also between 1900 and 1906, a large area in northern New Mexico containing numerous Indian ruins was proposed as the Pajarito National Park, to embrace Frijoles, Pajarito, and five other canyons carved in a great volcanic plateau. The cavate dwellings along the base of the canyon walls, and the pueblo-like ruins on the canyon floors, had been described by Bandelier in the 1880's and 1890's. Here too was the setting for his unusual novel, The Delight Makers. It is remarkable that as early as 1888, Representative Holman of Indiana introduced a bill to establish this region as a public reservation "for the preservation from injury or spoliation of all natural and archaeological curiosities."[134] In the 1890's Edgar Lee Hewett began careful studies of these ruins, an undertaking facilitated

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133 Records of the Past, V (1906), 342.

134 Rogers, VI, Appendix A.

by his appointment as president of New Mexico Normal University. In 1899 the General Land Office made its own study of possible protective measures. On December 4 "Detailed Clerk" James D. Mankin submitted a report proposing the establishment of a 153,000-acre complex, containing cliff dwellings, large communal houses, defensive outposts, boulder-marked sites, and burial mounds and crypts, as the Pajarito National Park, named for Pajarito Canyon. Mankin's report emphasized the large number of ruins, stating that one could see "from a single eminence on the Pajarito the doors of more than two thousand of these [cave] dwellings" which, "if arranged in a continuous series . . . would form an unbroken line . . . not less than sixty miles in length."[135]

On July 31, 1900, on the basis of Mankin's report, Commissioner Binger Hermann temporarily withdrew 153,000 acres of public lands in the region from sale, entry, or settlement pending Congressional consideration of the national park proposal.[136] On December 8 Secretary Hitchcock sent the proposal to Representative Lacey with a draft of a bill, which Lacey promptly introduced. After adding an amendment allowing the Secretary to permit grazing, since there were indications of "excellent grama grass" in some parts of the

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135 Cliff Dwellers' National Park, House Report No. 2427, 56th Cong., 2d Sess. (1901), p. 2.

136 Rogers, Vol. VI, Appendix C.

area, as well as "a heavy growth of pine, spruce, and fir," the bill was reported favorably by the House Public Lands Committee on January 23, 1901.[137] But no further action was taken then.

Meanwhile, the Bureau of Forestry in the Department of Agriculture became interested in the timber resources of the region and arranged in 1903 for S. J. Holsinger to study the proposal in the field. His report, sent to the House Committee in 1904, supported deletion of the timber resources from the park proposal and their addition to a proposed Jemez Forest Reserve. This and other adjustments that Holsinger supported reduced the area of the proposed national park from some 240 square miles to less than 55.[138] The Santa Clara Indians, with whom Holsinger met, also needed more land. On July 29, 1905, President Roosevelt transferred some 47 square miles, including much of the remaining area of the proposed park, to the Santa Clara Indians. This action killed the National Park, for the land thus transferred, wrote Hewett, "embraces all the great Puye and Santa Clara group of cliff dwellings, the principal center of interest in the proposed Pajarito National Park." He added that "there can be no question of the justice of this extension," but regretted that some of the

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137 House Rep. No. 2427, 56th Cong., 2d Sess., p. 2.

138 The Pajarito Cliff Dwellers' National Park, House Rep. No. 3705, 58th Cong., 3d Sess. (1905), pp. 2-6.

better timber and grazing land had not been offered the Indians instead of this great group of prehistoric ruins.[139] Although Lacey reported the amended bill favorably in 1905, no action was taken by Congress. Eleven years later, on February 11, 1916, President Woodrow Wilson proclaimed much of this area, some 35 square miles of the Santa Fe National Forest, as the Bandelier National Monument. It was administered by the Department of Agriculture until 1933.

A final archaeological measure enacted by Congress in 1906 concerned the Archaeological Institute of America. Formed in Boston in 1879 as a voluntary association, it had grown to include twenty-one chapters in all parts of the country. By 1906 its officers considered that the time had come to seek to incorporate the Institute formally by Act of Congress. A bill was prepared entitled "An Act Incorporating the Archaeological Institute of America" whose purpose was stated to be "promoting archaeological studies by investigation and research in the United States and foreign countries by sending out expeditions for special investigation, by aiding the efforts of independent explorers, by publication of archaeological papers . . . and by any other means which may from time to time be desirable."[140] This bill was sponsored

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139 American Anthropologist, N.S., VII (1905), 570.

140 American Journal of Archaeology, Second Series, X (1906), 174-75.

in the House by Representative Nicholas Longworth and in the Senate by Senator Henry Cabot Lodge. It passed the Senate April 6, the House May 21, and was signed by President Roosevelt on May 26. By granting this charter in 1906, Congress recognized the importance of citizen participation in archaeological programs in much the same way that in 1949 it recognized the importance of citizen participation in the entire historic preservation movement by granting a Congressional charter to the National Trust for Historic Preservation in the United States.

A whole generation of dedicated effort by scholars, citizens, and members of Congress, which had begun in 1879, culminated in 1906 with the passage by Congress of three important measures to advance archaeology--the Antiquities Act, Mesa Verde National Park, and a charter for the Archaeological Institute of America. More important, this generation, through its explorations, publications, exhibits, and other activities, awakened the American people to a lasting consciousness of the value of American antiquities, prehistoric and historic. This public understanding, achieved only after persistent effort in the face of much ignorance, vandalism, and indifference, was a necessary foundation for many subsequent conservation achievements. Among them were several of great importance to the future National Park System, including the establishment of many national monuments, development of a substantial educational program for visitors, and eventually the execution of a far-reaching nationwide program to salvage irreplaceable archaeological objects threatened with inundation or destruction by dams and other public works and their preservation for the American people.

CHAPTER VIII

The Proclamation of National Monuments Under the Antiquities Act, 1906-1970

The first national monument to be established under provisions of the Antiquities Act was proclaimed by President Theodore Roosevelt on September 24, 1906. It was created to protect Devils Tower, a well-known geological formation in Crook County, Wyoming. The massive stone shaft which gave the monument its name rises abruptly some 600 feet from its base and some 1300 feet above the nearby Belle Fourche River. This unusual geological formation, sometimes visible in that almost cloudless region for nearly 100 miles, was often used by Indians, explorers, and settlers as a guidepost. A temporary forest reservation was created around Devils Tower on February 19, 1892, to protect it from private entry and possession. A bill was subsequently introduced in Congress to establish "The Devils Tower Forest Reserve and National Park" but it failed to pass.[141] The proclamation created an 1152 acre reservation embracing "the lofty and isolated rock" known as Devils Tower which is "such an extraordinary example of the effect of erosion in the higher mountains as to be a natural wonder and an object of historic and great scientific interest."[142] Although historic interest

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141 Frank Bond, "The Administration of National Monuments," Proceedings of the National Park Conference held at the Yellowstone National Park, September 11 and 12, 1911 (Washington, D.C.: Government Printing Office, 1912), pp. 82-83.

142 Proclamation of September 24, 1906 (No. 658), Sullivan, p. 171.

is cited as a factor, this first proclamation created what was essentially a scientific monument—an accurate foretaste of subsequent emphasis in the administration of the act.

Before President Roosevelt left office in 1909 he signed proclamations establishing eighteen national monuments. Six were created primarily to preserve historic and prehistoric structures and objects including El Morro and Chaco Canyon in New Mexico and Montezuma Castle and Tumacacori in Arizona. Twelve were created primarily to preserve "other objects . . . of scientific interest" including in addition to Devils Tower, Petrified Forest and Grand Canyon in Arizona, Natural Bridges in Utah and Mount Olympus in Washington. Nine of these first eighteen monuments were established on lands administered by the Interior Department and nine on lands under the jurisdiction of the Department of Agriculture. Let us look briefly at a sample of the proclamations creating some of these first historic and scientific monuments, noting their characteristics and the implications they suggest for the future administration of the act.

The first historic monument was El Morro in the territory of New Mexico, a famous landmark familiar to the Indians and well known to white men since Spanish times. The proclamation, signed on December 8, 1906, stated that "the rocks known as El Morro and Inscription Rock . . . are of the greatest historical value and

it appears that the public good would be promoted by setting aside said rocks as a national monument."[143] The reservation contained only 160 acres. On the same day, Roosevelt made "Montezuma's Castle" in Arizona a national monument characterizing it as a prehistoric structure "of the greatest ethnological value and scientific interest."[144] It also contained 160 acres. Chaco Canyon was established as a monument on March 11, 1907, embracing 20,629 acres. The proclamation referred to the extensive prehistoric communal or pueblo ruins, generally known as the Chaco Canyon ruins, as possessing "extraordinary interest because of their number and their great size and because of the innumerable and valuable relics of a prehistoric people which they contain."[145] Preservation of the Chaco Canyon ruins had for years been a major objective of archaeologists and ethnologists in all parts of the country. Its establishment on March 11, 1907, protected probably the most important group of prehistoric ruins ever to be made a national monument under the Antiquities Act.

The first scientific monument to be established after Devils Tower was Petrified Forest, initially containing 6,776 acres, designated on December 8, 1906. The proclamation referred to "the mineralized remains of Mesozoic forests" which possess "the greatest

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143 Proclamation of December 8, 1906 (No. 695), Sullivan, p. 177.

144 Proclamation of December 8, 1906 (No. 696), Sullivan, p. 235.

145 Proclamation of March 11, 1907 (No. 740), Sullivan, p. 148.

scientific interest and value." Muir Woods, California, was proclaimed a national monument on January 9, 1908, and set an important precedent as the first monument to be established on land donated to the United States under Section 2 of the Antiquities Act. Muir Woods was the generous gift of William Kent and his wife Elizabeth Thatcher Kent, who had rescued the grove from almost certain destruction only a year before. Kent soon became a Congressman from California, a close friend of Stephen Mather, and sponsor of the bill that created the National Park Service in 1916. The proclamation establishing this 295-acre reservation characterized it as containing "an extensive growth of redwood trees (Sequoia sempervirens) . . . of extraordinary scientific interest and importance because of the primeval character of the forest in which it is located, and of the character, age and size of the trees."[146]

The most remarkable of the early scientific monuments, however, was Grand Canyon. The first eleven historic and scientific monuments to be established had all been comparatively small in size, averaging about 3300 acres. On January 11, 1908, however, Roosevelt proclaimed an immense area in Arizona Territory containing 818,560 acres to be the Grand Canyon National Monument. The proclamation stated that "whereas, the Grand Canyon of the Colorado River. . . is an object of unusual scientific interest, being the greatest eroded canyon

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146 Proclamation of January 9, 1908 (No. 793), Sullivan, p. 240.

within the United States, . . . it appears that the public interests would be promoted by reserving it as a National Monument, with such other land as is necessary for its proper protection." This area had been designated a forest reservation by the president some years before. The proclamation creating the Grand Canyon National Monument was therefore careful to state that its establishment was not intended to prevent use of the lands for forest purposes. The two reservations were both to be effective but "the National Monument . . . shall be the dominant reservation."[147] Thus the first precedent was created for establishing large scientific monuments under authority of the Antiquities Act, a precedent subsequently followed by five other presidents. In 1916, during hearings before the House Committee on Public Lands on bills to establish a National Park Service, J. Horace McFarland, president of the American Civic Association, recalled the circumstances of the Grand Canyon proclamation:

> The reason the Grand Canyon of the Colorado is in the Forest Service was because the American Civic Association was bombarded by some man who insisted that there was a trolley line about to be constructed around it, which would not add to its natural attractiveness. At that time, Mr. Pinchot was the Forester, and I was one of several who made a loud noise in his ear, in consequence of which he went to Mr. Roosevelt, and had the Grand Canyon located as a monument in the forest reserve.[148]

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147 Proclamation of January 11, 1908 (No. 794), Sullivan, p. 28.

148 National Park Service, Hearing before the Committee on Public Lands, House of Representatives, Sixty-Fourth Congress, First Session, on H.R.434 and H.R.8668, bills to establish a National Park Service and for other purposes, April 5 and 6, 1916 (Washington, D.C.: Government Printing Office, 1916), p. 53. An unnumbered report.

The first historic and prehistoric monuments, notably El Morro, Chaco Canyon, Gila Cliff Dwellings, and Montezuma Castle, helped carry out the comprehensive plan for preserving southwestern antiquities that Hewett set forth in his memorandum to the Commissioner of the General Land Office in 1904. There appears to have been little system, however, in selecting most of the early scientific monuments. In those years, no one department or bureau was charged with responsibility for making surveys or developing a comprehensive preservation program under the Antiquities Act. Its provisions, unaccompanied by criteria to guide selections, were variously interpreted by officials in three different federal departments. It is no wonder that Commissioner Fred Dennett of the General Land Office noted in his annual report for 1908 that "the words of the act, 'Historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest,' fix practically no limits as to the character of the object to be reserved, and therefore the monuments vary greatly in their physical characteristics."[149] This interpretation of the law helps explain the subsequent establishment of a much wider range of national monuments than the framers of the act appear originally to have in mind judging from the record of the hearings and related legislative history.

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149 Annual Report of the Commissioner of the General Land Office for 1908, cited by Claus, p. 7.

These observations and examples suggest that a detailed history of the administration of the Antiquities Act from 1906 to 1970 would be long and complex, requiring a volume in itself. The unique character of each of the 87 national monuments proclaimed by successive presidents and the particular circumstances that led to each proclamation deserve investigation and recording. Such a task is beyond the limits of the present study. It is possible, however, to provide a general outline of the progress made in establishing national monuments pursuant to the Antiquities Act from 1906 to 1970 and to offer some general observations on their significance for the growth of the National Park System. No attempt will be made here to trace the interesting history of the adoption of the Uniform Rules and Regulations jointly approved by the Secretaries of Interior, Agriculture and War on December 28, 1906, which define departmental jurisdiction over national monuments and govern the issuance of permits for archaeological excavations as required by Sections 3 and 4 of the Act. Neither is it possible to examine the subsequent course of permit administration or the history of the enforcement of the penalties against vandalism authorized by Section 1 of the Act. We begin our account of the establishment of national monuments with three tables:

TABLE I

36 Historical Areas established as National Monuments by Executive Proclamation under the Antiquities Act, 1906-1969.

by President Theodore Roosevelt:
El Morro, N.Mex., Dec. 8, 1906
Montezuma, Ariz., Dec. 8, 1906
Chaco Canyon, N.Mex., Mar. 11, 1907
Gila Cliff Dwellings, N.Mex., Nov. 16, 1907*
Tonto, Ariz., Dec. 19, 1907*
Tumacacori, Ariz., Sept. 15, 1908

by President Taft:
Navajo, Ariz., Mar. 20, 1909
Gran Quivira, N.Mex., Nov. 1, 1909
Sitka, Alaska, Mar. 23, 1910
Big Hole, Mont., June 23, 1910**[1]

by President Wilson:
Cabrillo, Calif., Oct. 14, 1913**
Walnut Canyon, Ariz., Nov. 30, 1915*
Bandelier, N.Mex., Feb. 11, 1916*
Old Kasaan, Alaska, Oct. 25, 1916*[2]
Verendrye, N.Dak., June 29, 1917[3]
Casa Grande, Ariz., Aug. 3, 1918
Scotts Bluff, Nebr., Dec. 12, 1919
Yucca House, Colo., Dec. 12, 1919

by President Harding:
Aztec Ruins, N.Mex., Jan. 24, 1923
Hovenweep, Utah-Colo., Mar. 2, 1923
Mound City, Ohio, Mar. 2, 1923**
Pipe Spring, Ariz., May 31, 1923

by President Coolidge:
Castillo de San Marcos, Fla., Oct. 15, 1924**
Fort Matanzas, Fla., Oct. 15, 1924**
Fort Pulaski, Ga., Oct. 15, 1924**
Statue of Liberty, N.Y., Oct. 15, 1924**
Castle Pinckney, S.C., Oct. 15, 1924**[4]
Wupatki, Ariz., Dec. 9, 1924
Meriwether Lewis, Tenn., Feb. 26, 1925[5]
Father Millet Cross, N.Y., Sept. 5, 1925**[6]

by President Franklin D. Roosevelt:
Fort Jefferson, Fla., Jan. 4, 1935
Fort Laramie, Wyo., July 16, 1938[7]
Tuzigoot, Ariz., July 24, 1939

by President Truman:
Effigy Mounds, Iowa, Oct. 25, 1949

by President Eisenhower:
C&O Canal, Md.-W.Va., Jan. 18, 1961

by President Kennedy:
Russell Cave, Ala., May 11, 1961

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* Originally administered by the Department of Agriculture
** Originally administered by the War Department
1 Name subsequently changed to National Battlefield
2 Abolished July 26, 1955
3 Abolished July 30, 1956
4 Abolished March 29, 1956
5 Added to Natchez Trace Parkway, August 10, 1961
6 Abolished March 29, 1956
7 Name subsequently changed to National Historic Site

TABLE II

51 Scientific Areas established as National Monuments by Executive Proclamation under the Antiquities Act, 1906-1969. These are now classified as Natural Areas by the National Park Service.

by President Theodore Roosevelt:
Devils Tower, Wyo., Sept. 24, 1906
Petrified Forest, Ariz., Dec. 8, 1906
Lassen Peak, Calif., May 6, 1907*[1]
Cinder Cone, Calif., May 6, 1907*[1]
Muir Woods, Calif., Jan. 9, 1908
Grand Canyon, I, Ariz., Jan. 11, 1908*[2]
Pinnacles, Calif., Jan. 16, 1908*
Jewel Cave, S.Dak., Feb. 7, 1908*
Natural Bridges, Utah, Apr. 16, 1908
Lewis & Clark, Mont., May 11, 1908[3]
Wheeler, Colo., Dec. 7, 1908*[4]
Mount Olympus, Wash., Mar. 2, 1909*[5]

by President Taft:
Oregon Caves, Oregon, July 12, 1909*
Mukuntuweap, Utah, July 31, 1909[6]
Shoshone, Wyo., Sept. 21, 1909[7]
Rainbow Bridge, Utah, May 30, 1910
Colorado, Colo., May 24, 1911
Devils Postpile, Calif., July 6, 1911*
Papago Saguaro, Ariz., Jan. 31, 1914[8]

by President Wilson:
Dinosaur, Utah-Colo., Oct. 4, 1915
Sieur de Monts, Me., July 8, 1916[9]
Capulin Mt., N.Mex., Aug. 9, 1916
Katmai, Alaska, Sept. 24, 1918

by President Harding:
Lehman Caves, Nev., Jan. 24, 1922*
Timpanogos Cave, Utah, Oct. 14, 1922*
Fossil Cycad, S.D., Oct. 21, 1922[10]
Bryce, Utah, June 8, 1923*[11]

by President Coolidge:
Carlsbad, N.Mex., Oct. 25, 1923[12]
Chiricahua, Ariz., Apr. 18, 1924*
Craters of the Moon, Idaho, May 2, 1924
Glacier Bay, Alaska, Feb. 26, 1925
Lava Beds, Calif., Nov. 21, 1925

by President Hoover:
Arches, Utah, Apr. 12, 1929
Holy Cross, Colo., May 11, 1929*[13]
Sunset Crater, Ariz., May 26, 1930*
Great Sand Dunes, Colo., Mar. 17, 1932
Grand Canyon, II, Ariz., Dec. 22, 1932
White Sands, N.Mex., Jan. 18, 1933
Death Valley, Calif.-Nev., Feb. 11, 1933
Saguaro, Ariz., Mar. 1, 1933*
Black Canyon, Colo., Mar. 3, 1933

by President Franklin D. Roosevelt:
Channel Islands, Calif., Apr. 26, 1933
Cedar Breaks, Utah, Aug. 22, 1933
Joshua Tree, Calif., Aug. 10, 1936
Zion, Utah, Jan. 22, 1937[14]
Organ Pipe Cactus, Ariz., Apr. 13, 1937
Capitol Reef, Utah, Aug. 2, 1937
Santa Rosa Island, Fla., May 17, 1939[15]
Jackson Hole, Wyo., Mar. 15, 1943[16]

by President Kennedy:
Buck Island Reef, V.I., Dec. 28, 1961

by President Lyndon B. Johnson:
Marble Canyon, Ariz., Jan. 20, 1969

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* Originally administered by the Department of Agriculture
1 Nucleus of Lassen Volcanic N. P.
2 Nucleus of Grand Canyon N. P.
3 Abolished August 24, 1937
4 Abolished August 3, 1950
5 Nucleus of Olympic N. P.
6 Nucleus of Zion N. P.
7 Abolished May 17, 1954
8 Abolished April 17, 1930
9 Nucleus of Acadia N. P.
10 Abolished August 1, 1956
11 Nucleus of Bryce Canyon N. P.
12 Nucleus of Carlsbad Caverns N. P.
13 Abolished August 3, 1950
14 Incorporated in Zion N. P.
15 Abolished July 30, 1946
16 Incorporated in new Grand Teton N.P.

TABLE III

28 National Monuments authorized by special acts of Congress, 1929-1969: These acts of Congress were approved as follows:

Historic Monuments

by President Hoover:
George Washington B.P., Va., Jan. 23, 1930
Colonial, Va., July 3, 1930[1]
Canyon de Chelly, Ariz., Feb. 14, 1931

by President Franklin D. Roosevelt:
Ocmulgee, Ga., June 14, 1934
Pioneer, Ky., June 18, 1934[2]
Appomattox, Va., Aug. 13, 1935[3]
Patrick Henry, Va., Aug. 15, 1935[4]
Fort Stanwix, N.Y., Aug. 21, 1935
Homestead, Nebr., Mar. 19, 1936
Fort Frederica, Ga., May 26, 1936
Perry's Victory, Ohio, June 2, 1936
Pipestone, Minn., Aug. 25, 1937
Fort McHenry, Md., Aug. 11, 1939
George Washington Carver, Mo., July 14, 1943

by President Truman:
Custer Battlefield, Mont., Mar. 22, 1946.
Castle Clinton, N.Y., Aug. 12, 1946
Fort Sumter, S.C., Apr. 28, 1948
Pensacola, Fla., July 2, 1948[5]
Saint Croix, Me., June 8, 1949

by President Eisenhower:
Fort Union, N.Mex., June 28, 1954
Booker T. Washington, Va., April 2, 1956
Grand Portage, Minn., Sept. 2, 1958

by President Lyndon B. Johnson:
Pecos, N.Mex., June 28, 1965
Alibates Flint Quarries, Tex., Aug. 31, 1965

Scientific Monuments

by President Coolidge:
Badlands, S.Dak., Mar. 4, 1929

by President Lyndon B. Johnson:
Agate Fossil Beds, Tex., June 5, 1965
Biscayne, Fla., Oct. 18, 1968

by President Nixon:
Florissant Fossil Beds, Colo., August 20, 1969

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1 Changed to national historical park June 5, 1936
2 Legislation not implemented
3 Changed to national historical park April 15, 1954
4 Act repealed Dec. 21, 1944
5 Never established as national monument

Examining Tables I and II we note that between 1906 and 1970 eleven presidents proclaimed 36 historic and 51 scientific national monuments under the provisions of the Antiquities Act, or 87 in all. Ten of these monuments, generally small and relatively unimportant ones, have since been abolished by Acts of Congress. The remaining 77 are thriving units of the National Park System. Sixty-three are national monuments, eleven formed the basis for nine national parks, one has become a national battlefield, one a national historic site, and one has been added to a national parkway. The Antiquities Act is therefore the original authority for more than one in every four units in the National Park System. These areas, counting their original boundaries and subsequent additions, many of which were also made by proclamation under the authority of the Antiquities Act, contained approximately 12 million acres in 1970. This is more than 44% of the acreage in the entire National Park System.

Looking at the dates of the proclamations we note that 82 of the 87 national monuments established under authority of the Antiquities Act were proclaimed between 1906 and 1943. Only five national monuments have been proclaimed during the entire 27 years since. These five are Effigy Mounds, Iowa; the Chesapeake and Ohio Canal, Maryland-West Virginia; Russell Cave, Alabama; Buck Island Reef, Virgin Islands; and Marble Canyon, Arizona. Two of these areas were donated to the United States and only the last was created out

of the public lands. In 1943 use of the Antiquities Act as authority for establishing new units in the National Park System came to an abrupt halt following the proclamation of Jackson Hole National Monument in Wyoming by President Franklin D. Roosevelt on March 15 of that year. President Roosevelt's action aroused tremendous and bitter opposition in Wyoming and in Congress.[150] Except for Effigy Mounds, which was donated, no more national monuments were proclaimed for eighteen years. Then on January 18, 1961, just before leaving office, President Eisenhower proclaimed the Chesapeake and Ohio Canal National Monument. This action revived strong opposition in Congress, especially in the Committee on Interior and Insular Affairs, to the continuing exercise of the authority granted to the president in 1906 to proclaim national monuments. Except for Russell Cave, 310 acres, and Buck Island Reef, 850 acres, both proclaimed by President Kennedy in 1961, no more national monuments were established until January 20, 1969, the last day of the administration of President Lyndon B. Johnson. On that day he proclaimed the Marble Canyon National Monument in Arizona embracing 26,000 acres and added 215,000 acres to Capitol Reef, and 49,000 acres to Arches, both in Utah, and 94,500 to Katmai in Alaska. President Johnson declined, however, to accept recommendations made to him to proclaim the Gates of the Arctic National Monument, comprising

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150 Ise, pp. 498-501.

4,119,000 acres in northern Alaska; a Mt. McKinley National Monument, also in Alaska containing 2,202,000 acres adjoining the national park; and a Sonoran Desert National Monument in Arizona embracing 911,700 acres.[151]

Although the authority of the Antiquities Act has been used only five times in the last twenty-seven years to establish new national monuments, it has often been used to enlarge the boundaries of existing national monuments, usually by small additions but sometimes by large ones. The availability of the authority of the act for this purpose has been a significant factor in the efficient management of the National Park System ever since 1916.

Looking at Table III we note that in addition to the 87 established pursuant to provisions of the Antiquities Act, 28 national monuments have been authorized by individual acts of Congress between 1929 and 1969. These monuments were patterned after those created by proclamation and may be considered to some extent a secondary benefit of the Antiquities Act. Three of these monuments were subsequently abolished or their establishment allowed to lapse. The remaining 25 are still thriving units of the National Park System. Twenty-three are still national monuments, and two subsequently formed the basis for national historical parks.

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151 Department of the Interior news release from the Office of the Secretary, January 21, 1969.

In many of these cases special authorizing legislation was necessary because of unusual circumstances, but these legislative actions, especially after 1943, also reflect the determination of Congress to establish its own responsibility for approving additions to the National Park System.

One of the most striking features in the administration of the Antiquities Act during the past 64 years is the surprising disparity between the number and size of the historic monuments as shown in Table I and the scientific monuments shown in Table II. The 36 national monuments classified by the National Park Service as historical areas (after subtracting four that were subsequently abolished or not implemented) contained approximately 155,000 acres in 1970. Only ten contained more than 1000 acres each. The four largest were Fort Jefferson, 47,125 acres; Wupatki 35,232; Bandelier, 29,661; and Chaco Canyon, 20,989. These four monuments alone embraced 133,000 of the 155,000 acres contained in all the historical monuments proclaimed under the act.

More than 750 million acres, or one third of the nation's land was still "owned or controlled by the Government of the United States," in 1970.[152] The main purpose of the Antiquities

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152 One Third of the Nation's Land, A Report to the President and to the Congress by the Public Land Law Review Commission (Washington, D.C.: Government Printing Office, 1970). See especially Chapter One, "Where and What Are Public Lands?", pp. 19-30, and the excellent map which accompanies the report showing the location of all Federal Lands in the United States and the departments and bureaus having jurisdiction.

Act, according to its legislative history, was to preserve "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest" situated on precisely such lands. Surely our great federal domain is not so poor in such historic and archaeological resources that 155,000 acres adequately represents all those of national importance suitable for preservation as national monuments.

By contrast, 51 scientific monuments have been proclaimed under the act. In 1970, 34 of these are still national monuments and eleven have formed the basis for nine national parks including Acadia, Bryce, Carlsbad, Grand Canyon, Grand Teton, Lassen, Olympic, Petrified Forest, and Zion. All these reservations are now classified as Natural Areas by the National Park Service. In 1970 these 34 national monuments and nine national parks, with subsequent boundary changes, contained over 11,800,000 acres. The largest units in the National Park System are among these areas. A particularly conspicuous example is Glacier Bay National Monument in Alaska containing 2,803,522 acres, the largest single unit in the System. It is larger than the largest national park, Yellowstone, plus the Great Smoky Mountains. It is larger than 21 other national parks added together including Acadia, Bryce, Carlsbad, Canyonlands, Crater Lake, Grand Teton, Hawaii Volcanoes, Lassen, Mammoth Cave, Mount Rainier, Petrified Forest, Rocky Mountain, Sequoia, Shenandoah, Virgin Islands, and Zion. Furthermore, another national monument. Katmai in Alaska, is the second largest area in the System.

Containing 2,792,090 acres it is larger than Yellowstone plus Sequoia. Like Glacier Bay, it is larger than 21 other national parks combined.

It must be remembered that both these tremendous reservations were originally proclaimed many years ago, Katmai in 1918 and Glacier Bay in 1925, and both were in what was then very remote country. Other very large scientific monuments include Organ Pipe Cactus, Arizona. 328,691 acres, Joshua Tree, California. 511,580, and Death Valley, California, 1,882,998. There seems to be little record of opposition in Congress to these kinds of presidential actions prior to 1943. It must also be remembered that many of these primarily scientific areas also possessed significant though secondary historical and archaeological interest. While this interest differs greatly from that present in such great National Park System historical areas as Independence Hall, Fort McHenry, or Gettysburg, the role of scientific monuments as "vignettes of primitive America" is part of their fundamental appeal to the American people.

The record for preserving scientific areas under the broad authority of the Antiquities Act is superb. Many superlative and priceless examples of the American natural environment have by this means been given permanent protection. Many splendid and highly important historic monuments have also been established

under this same authority. But the achievement in this category is by comparison very modest and more to the point is inadequate to meet the legitimate needs for historic preservation on federal lands.

Another striking fact revealed by Table II is that 48 scientific monuments are situated west of the Mississippi River and only three east of it. The latter three are Sieur de Monts, Maine, donated to the United States in 1916 and subsequently the basis for Acadia National Park; Santa Rosa Island, Florida, proclaimed in 1939 from lands on a military reservation but abolished by Act of Congress on July 30, 1946; and Buck Island Reef, Virgin Islands, containing 850 acres, proclaimed in 1961. Of course, this small number of eastern scientific monuments is readily understandable since most of the land owned or controlled by the Government of the United States is situated in the west. It highlights the fact, however, that the United States as yet has made no specific provision for the preservation of nationally important scientific monuments, today called "natural areas," situated on the two-thirds of the nation's land not owned or controlled by the United States.

The situation is different in respect to historic monuments. Twelve of the 36 historic monuments are located east of the Mississippi River, including one that was subsequently added to

a national parkway and two that were abolished. Seven eastern historic monuments were established from military reservation lands including the Castillo de San Marcos, Florida, Fort Pulaski, Georgia, and the Statue of Liberty, New York. One was established on land formerly a military reservation—Fort Jefferson, Florida. Furthermore, passage of the National Historic Sites Act in 1935, and the National Historic Preservation Act in 1966, provided a legal basis for a broad national historic preservation program on all lands in the nation regardless of ownership or location, including the two-thirds of the nation's land not owned or controlled by the Federal Government, much of it east of the Mississippi River.

For a long time after the passage of the Antiquities Act in 1906 national monuments were administered by three different federal departments—Agriculture, War and Interior. Some 21 national monuments out of the total of 87 were established on lands under the jurisdiction of the Department of Agriculture. The first of these was Lassen Peak, California, created in 1907 and the last, with two conspicuous exceptions, was Saguaro, Arizona, proclaimed in 1933. Five of these 21 monuments subsequently formed the basis for four national parks—Lassen, Grand Canyon, Olympic, and Bryce. Three of these national parks were already under the jurisdiction of the National Park Service in 1933. On June 10 of that year jurisdiction over the remaining monuments was transferred from the Department of

Agriculture to Interior by order of President Franklin D. Roosevelt. Thereafter officials in the Department of Agriculture lost interest in the proclamation of any new national monuments however nationally important the historic and scientific features on the hundreds of millions of acres of federal lands they administered might prove to be. Other measures for preserving such features not involving any transfers of jurisdiction began to appeal to them more. Cedar Breaks was nevertheless proclaimed a national monument by Roosevelt on August 22, 1933 out of lands within the Dixie National Forest.[153] At that time, however, the Forest Service was still fighting a rear-guard action against the transfer to the National Park Service of the monuments covered by Roosevelt's order of June 10. Ten years later, on March 15, 1943, Roosevelt proclaimed the Jackson Hole National Monument principally out of lands until then contained within the Grand Teton National Forest.[154] This proclamation was issued in spite of bitter opposition from many sources including the Forest Service, livestock groups, and political interests in Wyoming. No new national monument has been established out of lands under the jurisdiction of the Department of Agriculture in the 27 years since 1943.

Nine of the 87 national monuments proclaimed under authority of the Antiquities Act were established on lands administered by the War Department, all of them between 1910 and 1925. The

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153 Proclamation of August 22, 1934 (No. 2054), Sullivan, p. 146.

154. Proclamation of March 15, 1943 (No. 2578), Sullivan, p. 213.

earliest was Big Hole Battlefield created in 1910 and the last Father Millet Cross proclaimed in 1925. By that year the movement was getting under way which led in 1933 to the transfer of these national monuments, and the national military parks and battlefield sites, to the jurisdiction of the Interior Department. In 1924, in hearings before the Joint Committee on the Reorganization of the Government, Secretary of War John W. Weeks recommended that this transfer be made.[155] On April 20, 1928, Secretary of the Interior Hubert Work and Secretary of War Dwight F. Davis signed a joint letter to Senator Gerald P. Nye, Chairman of the Senate Committee on Public Lands and Surveys, transmitting a draft of a bill designed to transfer jurisdiction over these reservations from the War Department to Interior and recommending its enactment.[156] There was a strenuous opposition to the transfer in the House Committee on Military Affairs, however, and the bill was killed.[157] It remained for Director Horace M. Albright to achieve this major reorganization, full of significance for the future of the National Park System, in negotiations with President Roosevelt in 1933. This reorganization, as noted above, also transferred all of Agriculture's monuments to Interior. Albright has fortunately provided the Service

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155 Transfer of National Military Parks, Hearings before the Committee on Military Affairs, House of Representatives, Seventieth Congress, Second Session, on S.4173 . . . January 31, 1929 (Washington, D.C.: Government Printing Office, 1929), pp. 3-10. An unnumbered report.

156. Ibid.

157 Ibid., pp. 11-23.

with a vivid and illuminating account of the fascinating course of this successful negotiation.[158] After 1925 no more national monuments were proclaimed on lands administered by the War Department, perhaps because of concern that just such a transfer of jurisdiction might eventually take place.

There is a curious footnote to this brief account of the War Department and the Antiquities Act. On July 17, 1915, Major General H. L. Scott, Chief of Staff, signed War Department Bulletin No. 27 by order of the Secretary of War.[159] This astonishing document named twelve forts, four redoubts, one battery, one barracks, one battlefield, three Indian mound complexes, and 76 memorials, markers and monuments situated on lands under the jurisdiction of the War Department to be national monuments. Among these historic places were Fort Marion in Florida, Fort Pulaski, Georgia, Forts Pike and Macomb, Louisiana, Fort Mifflin, Pennsylvania, Fort Donelson, Tennessee, and Vancouver Barracks, Washington. The Indian sites included six mounds in Shiloh National Military Park, Tennessee, and an Indian ruin at Fort Apache. The memorials, markers and monuments included numerous individual memorials in national cemeteries as well as the Statue of Liberty. In addition to proclaiming national

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158 Horace M. Albright, "National Park Service Administration of Historic Sites" typewritten manuscript in files of Office of Archeology and Historic Preservation, National Park Service, Washington, D.C.

159 War Department, Bulletin No. 27, July 17, 1915, pp. 1-12.

monuments on fifty different reservations administered by the War Department, Bulletin No. 27 also named old forts on eleven military reservations which while not declared national monuments "are to be marked by appropriate markers as being places of historic interest." Among these were Fort Morgan, Alabama, Fort Barrancas, Florida, Fort Washington, Virginia, Fort Niagara, New York, and Forts Sumter and Moultrie, South Carolina. The Chief of Staff and the Secretary of War were of course without authority to proclaim national monuments, since the Antiquities Act reserved this power to the President. Nevertheless, Bulletin No. 27 was counter-signed by Adjutant General H. P. McCain. It remained in effect for ten years. It was rescinded by Bulletin No. 2 on March 20, 1925, five months after President Coolidge had made Fort Marion, Fort Matanzas, Fort Pulaski, Castle Pinckney and the Statue of Liberty national monuments by presidential proclamation dated October 15, 1924.[160]

Fifty-seven of the 87 national monuments proclaimed under the Antiquities Act were established on lands administered by the Department of Interior. The first was Devils Tower, Wyoming, in 1906, and the latest, Marble Canyon, Arizona, in 1969. Six of these national monuments subsequently formed the basis for five national parks—Acadia, Carlsbad, Grand Teton, Petrified Forest and Zion. Five

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160 War Department, Bulletin No. 2, March 20, 1925, p. 1.

monuments have been abolished. During the famous and important first National Park Conference, held at Yellowstone National Park on September 10-11, 1911, Frank Bond, Chief Clerk of the General Land Office, had many interesting things to say about national monuments, of which 17 were then administered by Interior, ten by Agriculture, and one by the War Department.

> We have now monuments created by man, such as the pueblos, the cliff ruins, and the sepulchers of nameless and unknown peoples, often most extraordinary as to location, character, and size; we have mission churches of the earliest period of Spanish conquest in the Southwest, and also lofty rock towers and cliffs upon which were carved over 300 years ago, with the daggers of the commanders, the names, dates, and other records of their visits and activity there. We have cinder and lava mountain forms, exemplifying geologically recent volcanic activity. We have extraordinary canyons and caverns, lofty piles and monoliths, and natural bridges, magnificent and impressive almost beyond description, the products of erosion. We have also as a monument, a magnificent Pacific coast redwood forest, a grove of sequoia, which, as hardy seedlings, spread their evergreen leaflets to the warming sun almost before man began the written record of his birth and achievements. The great majority of these monuments were made possible because the objects preserved have great scientific interest; but I have at times been somewhat embarrassed by requests of patriotic and public-spirited citizens who have strongly supported applications to create national monuments out of scenery alone . . . The terms of the monument act do not specify scenery, nor remotely refer to scenery, as a possible raison d'être for a public reservation.[161]

Frank Bond also discussed conditions surrounding administration of the 28 national monuments. With the single exception of Muir Woods, protection in 1911 was practically confined to the restraining effects of official warning notices, and a few local make-shift

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161 Bond, pp. 80-81.

measures. No funds whatsoever had as yet been appropriated for any other forms of protection. Furthermore many of the monuments were inaccessible and needed at least some roads and development to become publicly useful. The chiefs of field divisions and the local land officers of the General Land Office together with parallel officials in the Forest Service exercised what supervision they could from distant locations. Bond made a strong plea for custodians, superintendents, or caretakers for the national monuments.[162]

Bond also pointed out that responsibility for national monuments was divided between three departments.

> I believe, therefore, that not only should we have effective local custodianship, but the administration of all national monuments of whatever character or wherever located, or however secured, should be consolidated and the responsibility for their development, protection, and preservation placed where it can be made effective. It is possible that 28 national monuments, or that portion of them that needs development, do not form a sufficiently weighty trust to warrant a separate administrative unit to develop and administer them. If this be true, why not consolidate a little further? Create an administrative unit for the national monuments and national parks together. The method of creating these reserves is different, but after creation there is no evident difference between them. They are as like as two peas in a pod.[163]

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162 Ibid., pp. 96-100.

163 Ibid., p. 100.

The idea of a National Park Service and a National Park System has a much longer history than can be traced here. It appears, however, that these concepts had been growing from various roots for some years and began to crystallize into specific proposals in 1911. On January 9 of that year Senator Reed Smoot of Utah introduced a bill in the Senate to establish a Bureau of National Parks. He reintroduced it on December 7 and on April 26, 1912, reported it favorably to the Senate with amendments from the Committee on Public Lands.[164] This bill went all the way in the direction of consolidation. After a first section establishing a bureau in the Department of the Interior to be called the National Park Service, Section 2 outlines its responsibilities as follows:

> That the director shall, under the direction of the Secretary of the Interior, have the supervision, management and control of the several national parks, the national monuments, the Hot Springs Reservation in the State of Arkansas, lands reserved or acquired by the United States because of their historical associations, and such other national parks, national monuments, or reservations of like character as may hereafter be created or authorized by Congress.[165]

It was to take four more years, and remarkable labors by Stephen T. Mather, Horace M. Albright, and their associates and friends before establishment of the National Park Service was

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164 Bureau of National Parks, Senate Rep. No. 676, 62nd Cong., 2d Sess. (1912), pp. 1-5.

165 S.3463, Calendar No. 607, 62nd Cong., 2d Sess., 1912, p. 2.

finally authorized in 1916, and twenty-two more years before all these reservations were finally consolidated into one National Park System in 1933.

It is not possible in this study to trace the course of the National Park Service bill through Congress during 1915 and 1916. A strong effort was made at that time to consolidate all the national monuments administered by the Departments of Agriculture and Interior under the National Park Service. The two monuments under the jurisdiction of the War Department were passed over. The Forest Service, however, was strongly opposed to the proposed transfer of their monuments to the new bureau and Stephen Mather yielded the point rather than risk having the bill defeated. On May 16, 1916, Secretary of Agriculture D. F. Houston wrote Representative Scott Ferris of Oklahoma, Chairman of the House Committee on Public Lands, that

> unquestionably the Grand Canyon [which was still under the Forest Service] should be established as a national park and placed under the direct administration of the national park service . . . In addition, the Mount Olympus national monument, which is the only other monument under the administration of this department embracing any considerable area, should be given careful consideration as a possible national park, and if not included in such park by congressional action, should be restored to its original status as national forest land. If it should eventually be found desirable to transfer to the park service any of the other nine national monuments in the national forests, this may be accomplished at any time for any particular area by the issuance of a presidential proclamation.[166]

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166 National Park Service, House Rep. No. 700, 64th Cong., 1st Sess., pp. 6-7.

This was on the whole a generous statement. Grand Canyon did become a national park under the Service in 1919. It turned out later, however, that the president lacked legal authority to transfer national monuments from one department to another by proclamation or executive order until passage of the Reorganization Act of 1933 gave him that authority.[167] This fact, together with continuing opposition from many officials in the Departments of Agriculture and War, and from many members of Congress, delayed the consolidation until 1933.

The reorganization of 1933 was an event of epoch-making importance for the National Park Service. It brought about, at long last, the consolidation of all the national parks and national monuments into one National Park System. But it achieved much more. It greatly broadened and strengthened the as yet embryonic historic preservation program of the National Park Service by the addition of all the famous federally-owned national military parks and battlefield sites such as Gettysburg, Antietam, Chickamauga-Chattanooga, Shiloh, and Vicksburg, and such well-known national shrines as Fort McHenry, Abraham Lincoln's Birthplace, and the Lee Mansion. It also added the great national memorials to the System, including the Washington Monument, the Lincoln Memorial, and the Statue of Liberty. And it added the National

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167 Opinions of Attorneys General (Washington, D.C.: Government Printing Office, 1933), Vol. 36, 1929-32, pp. 75-79.

Capital Parks to Service responsibilities, a model metropolitan park system directly under the eyes of Congress.[168] The large and important contribution the War Department made to historic preservation in the United States by the rescue, protection, and development of these many nationally significant historic places during a half century of dedicated effort prior to 1933 is insufficiently understood and appreciated today. The consolidation, however, was absolutely vital to the future of historic preservation on a national scale in the United States. The National Park Service, the historic preservation movement, and the nation will remain indebted to Director Horace M. Albright for his key role in this achievement.

Even though consolidated into one National Park System, most national monuments still suffered in 1933 from serious under-staffing and inadequate or even make-shift facilities for administration, protection, and the reception of visitors. Superintendent Frank Pinkley, in charge of more than a score of Southwestern National Monuments situated in New Mexico, Arizona and Colorado with headquarters at Casa Grande, strove valiantly during a long and constructive life-time to achieve recognition for the importance of national monuments together with sufficient resources for their proper administration. He left as a legacy a tradition of exceptional dedication to conservation and public service which still lives in National Park System areas throughout the Southwest.

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168 Executive Order No. 6228, July 28, 1933, Sullivan, p. 6.

Some progress in staffing and physical facilities was made at certain national monuments during the years of the Civilian Conservation Corps and the Public Works Administration between 1933 and 1941. But the national monuments did not come fully into their own as units of the System until Mission 66. This great program, the fruit of the leadership of Director Conrad L. Wirth, at long last provided the resources to bring every unit of the National Park System to a consistently high standard of protection and carefully controlled but essential physical development. Beginning in 1956 a half century after the passage of the Antiquities Act, Mission 66 provided the housing, the monument headquarters, the visitor centers, and the trails that finally revealed the full significance of the national monuments as parts of our national heritage.

Frank Bond's phrase characterizing national parks and national monuments "as like as two peas in a pod," was often quoted over the years as part of the justification for consolidating the national monuments into the National Park System. It is probably true that many national parks and national <u>scientific</u> monuments are as like as two peas in a pod. But national parks and national <u>historical</u> monuments are not as like as two peas in a pod and never have been. Rather, they are as different as apples and oranges. It took 53 years after 1911 for the fundamental distinction between natural and historical areas to be clearly recognized by the National Park Service and properly reflected in the formal organization of the National Park

System. Based on the strong recommendation of Director George B. Hartzog, Jr. who drafted it, Secretary of the Interior Stewart L. Udall signed a landmark memorandum on July 10, 1964, identifying three categories of areas in the National Park System--Natural Areas, Historical Areas, and Recreation Areas. The memorandum also set forth separate but interdependent general principles for their respective management.[169]

This concept of the National Park System as consisting of three different but related categories of areas was recommended as legislation by Director Hartzog, written into law by Congress in Public Law 91-383, and approved by President Nixon on August 18, 1970. The preamble of that act makes a fitting conclusion to our story:

> Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress declares that the national park system, which began with establishment of Yellowstone National Park in 1872, has since grown to include superlative natural, historic, and recreation areas in every major region of the United States, its territories and island possessions; that these areas, though distinct in character, are united through their interrelated purposes and resources into one national park system as cumulative expressions of a single national heritage; that, individually and collectively, these areas derive increased national dignity and recognition of their superb environmental quality through their inclusion jointly with each other in one national park system preserved and managed for the benefit and inspiration of all the people of the United States; and that it is the purpose of this Act to include all such areas in the System and to clarify the authorities applicable to the system.

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169 U.S. Department of the Interior, National Park Service, Compilation of the Administrative Policies for the National Parks and National Monuments of Scientific Significance (Natural Area Category). Revised August 1968. (Washington, D.C.: Government Printing Office, 1968), pp. 76-80.

[Public--No. 209.]

An Act For the preservation of American antiquities.

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 tract, 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.

Approved, June 8, 1906 (34 Stat. L. 225).

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Appendix B

UNIFORM RULES AND REGULATIONS

PRESCRIBED BY THE SECRETARIES OF THE INTERIOR, AGRICULTURE, AND WAR TO CARRY OUT THE PROVISIONS OF THE "ACT FOR THE PRESERVATION OF AMERICAN ANTIQUITIES," APPROVED JUNE 8, 1906 (34 STAT. L. 225).

1. Jurisdiction over ruins, archeological sites, historic and prehistoric monuments and structures, objects of antiquity, historic landmarks, and other objects of historic or scientific interest, shall be exercised under the act by the respective Departments as follows:

By the Secretary of Agriculture over lands within the exterior limits of forest reserves, by the Secretary of War over lands within the exterior limits of military reservations, by the Secretary of the Interior over all other lands owned or controlled by the Government of the United States, provided the Secretaries of War and Agriculture may by agreement cooperate with the Secretary of the Interior in the supervision of such monuments and objects covered by the act of June 8, 1906, as may be located on lands near or adjacent to forest reserves and military reservations, respectively.

2. No permit for the removal of any ancient monument or structure which can be permanently preserved under the control of the United States *in situ*, and remain an object of interest, shall be granted.

3. Permits for the examination of ruins, the excavation of archeological sites, and the gathering of objects of antiquity will be granted, by the respective Secretaries having jurisdiction, to reputable museums, universities, colleges, or other recognized scientific or educational institutions, or to their duly authorized agents.

4. No exclusive permits shall be granted for a larger area than the applicant can reasonably be expected to explore fully and systematically within the time limit named in the permit.

5. Each application for a permit should be filed with the Secretary having jurisdiction, and must be accompanied by a definite outline of the proposed work, indicating the name of the institution making the request, the date proposed for beginning the field work, the length of time proposed to be devoted to it, and the person who will have immediate charge of the work. The application must also contain an exact statement of the character of the work, whether examination, excavation, or gathering, and the public museum in which the collections made under the permit are to be permanently preserved. The application must be accompanied by a sketch plan or description of the particular

site or area to be examined, excavated, or searched, so definite that it can be located on the map with reasonable accuracy.

6. No permit will be granted for a period of more than three years, but if the work has been diligently prosecuted under the permit, the time may be extended for proper cause upon application.

7. Failure to begin work under a permit within six months after it is granted, or failure to diligently prosecute such work after it has been begun, shall make the permit void without any order or proceeding by the Secretary having jurisdiction.

8. Applications for permits shall be referred to the Smithsonian Institution for recommendation.

9. Every permit shall be in writing and copies shall be transmitted to the Smithsonian Institution and the field officer in charge of the land involved. The permittee will be furnished with a copy of these rules and regulations.

10. At the close of each season's field work the permittee shall report in duplicate to the Smithsonian Institution, in such form as its secretary may prescribe, and shall prepare in duplicate a catalogue of the collections and the photographs made during the season, indicating therein such material, if any, as may be available for exchange.

11. Institutions and persons receiving permits for excavation shall, after the completion of the work, restore the lands upon which they have worked to their customary condition, to the satisfaction of the field officer in charge.

12. All permits shall be terminable at the discretion of the Secretary having jurisdiction.

13. The field officer in charge of land owned or controlled by the Government of the United States shall, from time to time, inquire and report as to the existence, on or near such lands, of ruins and archeological sites, historic or prehistoric ruins or monuments, objects of antiquity, historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest.

14. The field officer in charge may at all times examine the permit of any person or institution claiming privileges granted in accordance with the act and these rules and regulations, and may fully examine all work done under such permit.

15. All persons duly authorized by the Secretaries of Agriculture, War, and Interior may apprehend or cause to be arrested, as provided in the act of February 6, 1905 (33 Stat. L., 700), any person or persons who appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity on lands under

the supervision of the Secretaries of Agriculture, War, and Interior respectively.

16. Any object of antiquity taken, or collection made, on lands owned or controlled by the United States, without a permit, as prescribed by the act and these rules and regulations, or there taken or made, contrary to the terms of the permit, or contrary to the act and these rules and regulations, may be seized wherever found and at any time, by the proper field officer or by any person duly authorized by the Secretary having jurisdiction, and disposed of as the Secretary shall determine, by deposit in the proper national depository or otherwise.

17. Every collection made under the authority of the act and of these rules and regulations shall be preserved in the public museum designated in the permit and shall be accessible to the public. No such collection shall be removed from such public museum without the written authority of the Secretary of the Smithsonian Institution, and then only to another public museum, where it shall be accessible to the public; and when any public museum, which is a depository of any collection made under the provisions of the act and these rules and regulations, shall cease to exist, every such collection in such public museum shall thereupon revert to the national collections and be placed in the proper national depository.

Washington, D. C., December 28, 1906.

The foregoing rules and regulations are hereby approved in triplicate and, under authority conferred by law on the Secretaries of the Interior, Agriculture, and War, are hereby made and established, to take effect immediately.

SGD: E. A. Hitchcock
Secretary of the Interior.

SGD: James Wilson
Secretary of Agriculture.

SGD: Wm H. Taft
Secretary of War.

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