

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
NATIONAL PARK SERVICE  
HORACE M. ALBRIGHT TRAINING CENTER  
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LANDMARK LEGISLATION

The Congress has assigned the National Park Service a vital mission in the total conservation effort. This mission is to manage the resources of the National Park System for the continuing benefit and enjoyment of all of the people.

The National Park Service, therefore, is a people-serving agency. It is also a resource-managing agency.

Among the many legislative enactments creating and defining the National Park System, the following have primary significance in its management:

1. Act of June 30, 1864 (13 Stat. 325), authorizing a grant to the State of California of the "Yo-Semite Valley," and of the land embracing the "Mariposa Big Tree Grove."

This was a tract about 15 miles long with an average width of one mile from the main edge of the precipice on each side of the valley and tracts of about 4 sections embracing the Mariposa Big Tree Grove, ". . . to be held for public use, resort, and recreation" by the State of California, and to "be inalienable for all time."

2. Act of March 1, 1872 (17 Stat. 32), setting aside a certain tract of land near the headwaters of the Yellowstone River as a public park. By this Act the Congress laid down a new public land policy; namely, that portions of the public lands were to be:

". . . reserved and withdrawn from settlement, occupancy or sale under the laws of the United States and dedicated and set apart as a public park or pleasuring ground for the benefit and enjoyment of the people . . . That . . . the Secretary of the Interior . . . shall provide for the preservation, from injury or spoilation, of all timber, mineral deposits, natural curiosities or wonders within said park, and their retention in their natural condition."

The National Park concept decreed in this and subsequent National

Park Acts is concerned with the "retention in their natural condition" of natural features and scenic resources.

In the late 1800's and into the early 1900's, vandalism and indiscriminate looting of prehistoric Indian sites in the southwest resulted in national concern to protect these sites. The result was:

3. Act of June 8, 1906 (34 Stat. 225), for the preservation of American Antiquities. This Act extended the earlier public land policy relating to natural parks to provide authority for the President, by Proclamation, to set aside as National Monuments:

". . . historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon lands owned or controlled by the Government of the United States . . ."

Furthermore, this Act provided for penalties against those persons appropriating, excavating, injuring or destroying any object of antiquity situated on lands owned or controlled by the United States Government without permission of the Secretary of the Department having jurisdiction over the area in question. Allowances were made for institutions to make examinations and excavations as well as to gather objects under permit and regulation as provided by the Secretaries of Agriculture, Interior, and War.

By 1915, there were 13 national parks and 18 national monuments under the direction of the Department of the Interior. In addition, there was one reserve--sometimes listed as a national park, Casa Grande--that was administered by the General Land Office. Five national military parks, all battlefields of the War between the States, were under War Department administration, 8 additional national monuments were under the jurisdiction of the Department of Agriculture and 2 national monuments were under the War Department. The central administration by one agency was apparent and this was partially achieved when:

4. Act of August 25, 1916 (39 Stat. 535), to establish the National Park Service. Congress assigned to this new agency the administration of all the National Parks and most of the National Monuments (did not include those under the Departments of Agriculture or War) heretofore established. In this 1916 Act the Congress also established a broad framework of policy for the administration of these areas; namely, that:

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

In addition, this Act gave the Secretary of the Interior authority to do certain things:

He was to make such rules and regulations necessary for the use and administration of areas under the National Park Service. He could sell and dispose of timber under certain conditions and he could destroy animal and plant life which might be detrimental to the use of the park. He could grant leases for concessioners and he could permit the grazing of livestock if not detrimental to the area, except there could be no grazing in Yellowstone National Park.

The parks and monuments created up until 1920 came from the public domain, then Congress began to formulate a new policy:

5. Act of June 5, 1920 (41 Stat. 917), authorized the Secretary of the Interior in his administration of the National Park Service:

". . . to accept patented lands, rights of way over patented lands or other lands, buildings, or other property within the various national parks and national monuments, and moneys which may be donated for the purposes of the national park and monument system."

This policy was further delineated nearly five years later when:

Act of February 21, 1925 (43 Stat. 958) provided for:

". . . securing of lands in the southern Appalachian Mountains and Mammoth Cave regions of Kentucky for perpetual preservation as national parks."

This Act led to the authorization by the Congress in 1926 of Great Smoky Mountains, Mammoth Cave and Shenandoah National Parks, supplementing Acadia, the first National Park in the east. All of these parks involved the acquisition

of lands in private ownership. The acquisition of such lands, however, was to be accomplished through donations. These actions were significant in that prior thereto the national parks and monuments had been set aside from the public lands.

Funds appropriated by Congress for the parks and monuments have had to be expended only on projects within the areas. This procedure was altered under very specific conditions by:

6. Act of January 31, 1931 (46 Stat. 1053) and the Act of March 4, 1931 (46 Stat. 1570), providing for national park and monument approach roads, respectively.

Thus, funds could be expended to build roads outside the parks and monuments that were approaches to these areas. The criteria for such roads was carefully prescribed and had to be met before it was eligible for classification and expenditure of funds as an approach road.

Another landmark in the legislative history of the Service took place in a move to reorganize the Federal Government.

7. The Act of March 3, 1933 (47 Stat. 1517) provided for the reorganization within the Executive Branch of the Government. From this came Executive Order 6166 - June 10, 1933 and Executive Order 6228 - July 28, 1933. These orders transferred to the Department of the Interior for administration by the National Park Service the national memorials and parks of the Nation's Capital, national monuments, historical and military parks administered by other Federal agencies. Forty-eight areas came from the War Department as well as the national monuments under the Department of Agriculture. Consequently, the number of units in the National Park System virtually doubled over night.

While the Antiquities Act's main theme was with the prehistoric sites it did provide for historical areas. Then the Executive Orders of 1933 added additional historical areas.

In 1935 Congress affirmed a policy on historical preservation.

8. Act of August 21, 1935 (49 Stat. 666), provided for the preservation of historic American sites, buildings, objects, and antiquities of national significance (Historic Site Act). The Congress thus expressly established

". . . a national policy to preserve for public use historic sites, buildings and objects of significance for the inspiration and benefit of the people of the United States."

This Act directed the Secretary of the Interior to carry out wide-ranging programs in the field of history and placed with the Secretary the responsibility for national leadership in the field of historic preservation.

Another provision of this Act, which has had strong influence upon the development of the National Park System, was the establishment of the Advisory Board on National Parks, Historic Sites, Buildings and Monuments.

Sizable donations had been made in the early years of the Service for such things as park land and roads. It was assumed that such donations would continue and there was a need for an agency to accept and care for such donations. Thus:

The Act of July 10, 1935 (49 Stat. 477) created a National Park Trust Fund Board composed of the Secretary of the Interior, Secretary of the Treasury, Director of the National Park Service and two persons appointed by the President for a term of five years each. This Board was

". . . authorized to accept, receive, hold, and administer such gifts and bequests of personal property for the benefit of, or in conjunction with, the National Park Service, its activities, or its service, as may be approved by the Board . . ."

The Act did not prohibit, however, the Secretary of the Interior from accepting, for the United States, gifts or bequests of money for immediate disbursement or other property in the interest of the National Park Service, its activities, or its service as authorized by law.

The policies of the Historic Sites Act of August 21, 1935 were further affirmed in 1949 as further steps were taken to preserve, protect and care for man's historical heritage.

Act of October 26, 1949 (63 Stat. 927) created the National Trust for Historic Preservation in the United States. This was to be a charitable, educational and nonprofit corporation whose purposes would be:

". . . to receive donations of sites, buildings, and objects significant in American history and culture, to preserve and administer them for public benefit to accept, hold, and administer gifts of money, securities and other property of whatsoever character for the purpose of carrying out the preservation program."

The Board of Trustees was designed to include: the Attorney General of the United States, Secretary of the Interior, Director of the National Gallery of Art and not less than six general trustees who must be citizens of the United States.

The wider development of the National Park System again received attention in Congress when:

9. The Act of June 23, 1936 (49 Stat. 1894) authorized a study of the park, parkway, and recreational area programs in the United States. This study was designed to

" . . . provide data helpful in developing a plan for coordinated and adequate public park, parkway, and recreational area facilities for the people of the United States."

It looked toward the development of the National Park System as including areas having primary recreational significance. It did not, however, authorize this study to cover lands under the jurisdiction of the Department of Agriculture.

The broadening of the National Park System took place only seven days later when on June 30, 1936 an act was passed providing for the administration and maintenance of the Blue Ridge Parkway, thus introducing the rural parkway concept into the System.

Further implementation of the broadening scope of the National Park System took place 10 years later.

10. Act of August 7, 1946 (60 Stat. 885) among other things provided:

"Administration, protection, improvement, and maintenance of areas, under the jurisdiction of other agencies of the Government, devoted to recreational use pursuant to cooperative agreements."

The significance of this authority is reflected in cooperative agreements with the Bureau of Reclamation and others for the administration of such areas as Lake Mead, Glen Canyon and similar National Recreation Areas.

Modes of travel were also shapers of policy and the use of aircraft finally was felt in 1950 when the Congress took the following action:

11. Act of March 18, 1950 (64 Stat. 27) authorized the Secretary of the Interior to acquire, construct, operate, and maintain

public airports in, or in close proximity, to national parks, monuments, and recreation areas.

Such airports must be necessary to the performance of the functions of the Department of the Interior and they must be operated as public airports, available for public use on fair and reasonable terms and without unjust discrimination. The first such airport was constructed just outside the west entrance to Yellowstone National Park.

Following the Korean Conflict there was public attention toward the spreading metropolis, or better known as the "urban sprawl." A public's need for additional space for recreation was being blocked by the loss of lands to developments other than for recreation. Furthermore, the orderly development of a comprehensive National Park System was being affected. Then in 1961 Congress established a new approach toward land acquisition for new parks:

12. Act of August 7, 1961 (75 Stat. 284) authorized the Cape Cod National Seashore and by so doing marked a new concept in the development of the National Park System; namely, the use of appropriated funds at the outset to purchase a large natural area in its entirety for public enjoyment as a park.

Prior to this enactment, areas, for the most part, were established either by setting aside portions of the public lands or from lands donated to the Federal Government initially by public or private interests.

Other legislation, while not directed to the National Park Service, has influenced activities of this Service. As such, their provisions are of importance to this Service and must be looked upon also as landmark legislation.

On January 31, 1962, the Outdoor Recreation Resources Review Commission established pursuant to an Act of June 28, 1958, submitted its report to the President of the United States. The report contained far-reaching recommendations affecting the future of outdoor recreation.

Many of the recommendations of the Outdoor Recreation Resources Review Commission are now bearing fruit and their implementation has affected the National Park System. For example, Policy Circular No. 1 of the President's Recreation Advisory Council not only defines National Recreation Areas but also establishes broad guidelines regarding their management. Other pronouncements of the Council may be expected to have a continuing impact upon the national recreation areas of the National Park System.

On April 2, 1962, the Secretary of the Interior established the Bureau of Outdoor Recreation and assigned to it the nationwide recreation planning and related functions of the Secretary then being performed by the National Park Service, under the authority of the Park, Parkway and Recreation Area Study Act of 1936.

The Act of May 23, 1963 charged the Secretary with the responsibility

"to promote the coordination and development of effective programs relating to outdoor recreation." The Act states:

That the Congress finds and declares it to be desirable that all American people of present and future generations be assured adequate outdoor recreation resources, and that it is desirable for all levels of government and private interests to take prompt and coordinated action to the extent practicable without diminishing or affecting their respective powers and functions to conserve, develop, and utilize such resources for the benefit and enjoyment of the American people.

The battle for a National Wilderness Preservation System raged for several years. When finally enacted it encompassed much more than just park lands. As applied to the park:

13. The Wilderness Act of 1964 requires a study of roadless areas of 5,000 acres, or more, within the national parks and national monuments to determine which of these lands may be deemed suitable for inclusion by the Congress in the National Wilderness Preservation System. No lowering of park values is contemplated by the Wilderness Act for national park wilderness, since that act provides, in part, that: . . . the designation of any area of any park . . . as a wilderness area pursuant to this Act shall in no manner lower the standards evolved for the use and preservation of such park . . . in accordance with the Act of August 25, 1916, (and) the statutory authority under which the area was created . . .

With the rising cost of lands for recreational purposes, Congress devised a plan for the raising of such funds:

14. The Land and Water Conservation Fund Act of September 3, 1964 provided the basis for acquiring large acreages for outdoor recreation. This act earmarked entrance and user fees of the National Park System and other Federal recreation areas, receipts from the sale of surplus lands, and motorboat fuel taxes for the fund. Monies from the fund are appropriated by the Congress to the Bureau of Outdoor Recreation for allocation to the Federal agencies for the

purchase of lands for outdoor recreation and to the States for both purchase of lands and the development of facilities for outdoor recreation.

After several years of operation, it was ascertained that the plan for raising land acquisition and/or recreation development monies, was inadequate:

The Act of July 15, 1968, amending the Land and Water Conservation Fund Act, provided authority to "Lease-Back" and "Sell-Back" interest in land acquired, subject to such terms and conditions as will assure the use of the property in a manner consistent with the purposes for which the recreation area was authorized by the Congress. This law also added some of the receipts from the outer continental shelf oil and gas revenues to the Land and Water Conservation Fund. It also allowed for the Golden Eagle Passport to continue through March 31, 1970, after which the entrance and user fee system would be an individual responsibility of each Federal agency.

Concessions had been operating in the national parks from early in Mather's day without the benefit of clearcut policy guidelines.

15. The Act of October 9, 1965, relating to the establishment of concession policies in the areas administered by the National Park Service provides, in part, as follows:

. . . the Congress hereby finds that the preservation of park values requires that such public accommodations, facilities, and services as have to be provided within those areas should be provided only under carefully controlled safeguards against unregulated and indiscriminate use, so that the heavy visitation will not unduly impair these values and so that development of such facilities can best be limited to locations where the least damage to park values will be caused. It is the policy of the Congress that such development shall be limited to those that are necessary and appropriate for public use and enjoyment of the national park area in which they are located and that are consistent to the highest practicable degree with the preservation and conservation of the areas.

In broadening and strengthening Federal responsibility in historic preservation still further:

16. The National Historic Preservation Act of 1966 declared that it is . . . necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies

and individuals undertaking preservation by private means, and to assist state and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

Thus, landmark legislation is not static but rather a living and changing guide to the establishment, as well as the management, of areas of the National Park System. Legislation becomes the foundation document to area operation and, consequently, the successful park administrator not only studies past legislative acts that pertain to his area but keeps an open ear to current and proposed legislation.