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NEW ZEALAND ARCHAEOLOGICAL ASSOCIATION NEWSLETTER



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PROTECTION OF PREHISTORIC SITES OVERSEAS

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The title suggests a world-wide review of protection afforded sites in countries other than New Zealand. Obviously this would be a large and difficult task which does not seem to be necessary. I intend, rather, to select examples of protection of prehistoric sites in certain countries overseas, to make useful comparisons with what is being done in New Zealand. After all, what we seek is some guidance from the experience of others; the solutions we adopt will be our own, fitted to the curiosities of life in New Zealand, its existing legislation, and the all-important attitude of New Zealanders toward their prehistoric heritage.

It is well to remember that there are various ways of preserving prehistoric (and historic) records, not always involving the physical remains themselves. "Protection", according to the Shorter Oxford English Dictionary, may be defined as "the keeping of a mistress in a separate establishment", but this is perhaps too personal an approach to the problem. Such love affairs develop only during excavation of a site, a process which results in a form of placing one's mistress in a separate establishment, namely published records and unpublished notes, or collections in public repositories. What we are more concerned with here, however, is a kind of protection that results in continued physical survival of the country's prehistoric heritage, so that as excavation proceeds this heritage may continue, on the one hand, to be transferred to public repositories and published records where all may enjoy it, and, on the other hand, to a legislative policy which secures for future generations a small but significant portion of the sites themselves as monuments to the past. In this context, protection meaning to "act as official or legal protector or guardian of", is the sense of the word we seek. Thus it is largely examples of official or legal protection overseas which I shall examine.

Local and national archaeological and historical societies, universities, museums, local bodies, interested individuals and professionals all participate in effecting protection of prehistoric sites, but they do so usually within the framework of national legislative acts, and national departments, bodies or agencies whose responsibility it is to implement these acts. In short, effective protection of what is, after all, a national heritage, ultimately rests on the extent to which the nation legislates such protection, and even more important, the extent to which it sets up effective bodies or agencies financially able to implement such legislation. Without this, more restricted efforts on the part of particular societies, such as ours, cannot hope to achieve any lasting success.

We shall look first at Britain which is justly famous for the national protection she has long afforded her prehistoric sites and ancient monuments, and for the attitude of her people who see this as just. Sir Harold Emmerson, permanent secretary to the Ministry of Works from 1946 to 1956, entitles one of his chapters on the operations of the Ministry of Works, "The State as the Guardian of the Past".

The first Ancient Monuments Act was passed in 1882, and acknowledged the State's interest in preservation of ancient monuments. It contained no element of compulsion or preservation, but depended on the co-operation and goodwill of owners of monuments. In 1913, however, the first Commissioner of Works was given power to prevent the damage or destruction of monuments. This power has been expanded by further acts in 1931 and 1953. Today, the Ministry of Works is, among its other duties in this field, required to compile and publish lists of monuments whose preservation is of national importance.

The listing or scheduling of sites as of national importance is accomplished by Ancient Monuments Boards appointed by the Minister as advisory bodies. They consist of eminent archaeologists and historians and representatives of learned societies and interested public bodies. Troubles over adequate and even coverage obviously exist in this system, but in England, Scotland and Wales some 6,961 such sites had been

scheduled by 1950 and the number had risen to 10,269 in 1958. These are "scheduled sites" let me remind you, and do not include anything like the total number of archaeological remains that are known. As scheduled sites they enjoy a certain protection, the owners and occupiers being notified of the following obligations on their part:

- (1) an owner must give the Ministry of Works three months' notice of any intention to repair, alter, or demolish the site,
- (2) failure to comply with this regulation subjects the owner to appropriate penalties,
- (3) if the Minister refuses to grant permission for the proposed alterations, and the owner persists, an Interim Preservation Notice may be served, in which case the Monument immediately comes under the protection of the Ministry of Works,
- (4) after twenty-one months the Minister may make a Preservation Order which, in case of objection, is subject to confirmation by Parliament. Compensation is normally paid to the owner.

The attitude of mind which allows such a system to work is revealed in Emerson's concluding remark:

"Fortunately owners are usually prepared to treat their monuments with proper care or to abandon proposals for destruction, and Preservation Orders are rarely needed." (1956, 60).

In New Zealand, such legislative infringements on the rights of the individual property owner do not seem to be regarded as reasonable or politically possible, and the opposite attitude of mind is everywhere to be encountered.

A more frequent danger, Emerson notes, is that brought about by significant advances in the ability to modify the landscape for economic gain or industrial development. In such cases the protection of the monument becomes more difficult and negotiations with planning authorities, developers and various local government bodies and national departments are required. The Minister is even able, with the owner's agreement, to carry out archaeological investigations whether the monuments are under his care or not. This power has, according to evidence given in 1960, been extensively used in recent years, although usually only when a site's

destruction is threatened, and not simply for purposes of research. To quote the Ministry of Works memorandum:

"In some instances the Ministry has been able to suggest slight alterations of plans by which monuments have been preserved intact. More often the Ministry has been obliged to assume responsibility for investigation of the monument by an archaeological excavation or by having a full record made by survey and photographs. The Ministry's expenditure on archaeological excavations of this nature increased from 18,500 pounds in 1953-54 to 35,350 pounds in 1958-59. The Ministry could not itself undertake excavation in all such cases and often makes a grant instead to a local excavation committee or archaeological society." (1960,5-6)

The Ministry of Works does more than protect monuments, it helps in their preservation. As a general rule no attempt is made to restore these to their original form, but surface debris is tidied and unwanted plants and trees removed to preserve the existing remains. On such sites qualified archaeologists may excavate with the permission of the Minister on the condition that all results are published. Thus permanent protection of the nearly 600 monuments under the direct charge of the Ministry of Works does not preclude their excavation as has sometimes been advocated in New Zealand. Only a lack of additional funds for repair and upkeep of monuments in their direct care has prevented the Ministry of Works from acquiring further sites. The problem, Emerson believed, was not, therefore, to prevent destruction of monuments through ignorance or lack of interest; it was rather the lack of finance which dictated a policy of selection. The select committee also considered this problem of "deterioration by neglect", common to both scheduled monuments and those in the direct charge of Ministry, and advocated various means for making the limited resources provide reasonable maintenance for the greatest number of them.

And what are these limited resources? According to Emerson, the Ministry of Works in Great Britain spent some 2,000,000 pounds between 1946 and 1956 on the preservation, maintenance, and custody of ancient monuments and historic Crown buildings, excluding those that are at present occupied. The 1959-60 budget called for the expenditure of 822,000 on Ancient Monuments alone - more than half the 1,550,420 budgeted for historic buildings and ancient monuments for that year, but still less than a ten-thousandth of the national income. Set beside the provision for the only similar body

in New Zealand, the N.Z. Historic Places Trust, however, such figures indeed seem generous, and in this context it is important to reflect that the proportion spent on ancient Monuments in New Zealand (of which there are a greater number documenting by far the longer span of New Zealand's history) is but a fraction of the small total available to the Trust.

The conclusions one reaches after reviewing the situation in the British Ministry of Works are these. Financially, the sites which document New Zealand prehistoric and protohistoric periods have no effective guardian, at least not in the State. Nor do they have a guardian in the form of personnel representing the State. Nowhere is there a staff, similar to the qualified archaeologists and other personnel employed by the British Ministry of Works, who do the planning, provide the technical advice, and conduct the excavations so necessary to any effective form of National protection. We have, moreover, only begun to educate the New Zealand public and develop the attitude of mind toward the protection and preservation of prehistoric and protohistoric monuments, which is such a valuable part of the English tradition. The local and national societies with which the British Ministry of Works co-operates so closely, and on which they partly depend, are available in New Zealand but a Governmental Body or Agency specifically charged with keeping a register of all ancient monuments of national importance, with powers and finance to preserve or excavate them, with an officer and staff to implement these policies, is nowhere to be seen.

The dilemma, in my view, in New Zealand is precisely this: No matter how effective our association, its local societies, institutions and museums, or individuals, we cannot achieve our aim until a Governmental Agency or Body becomes an official or legal protector or guardian of the past. In short, by English standards, we have yet to get our mistress adequately catered for in a separate establishment. She is still scattered between the New Zealand Historic Places Trust (which, as Mr. Ormond Wilson informed us during these meetings, places its emphasis on the narrow definition of Historic, so that much which is prehistoric is excluded), the Department of Lands, and the Nature Conservation Council, and has no effective paramour.

To date, it is in the field of salvage or rescue archaeology that the NZHPT, the Department of Lands, and the Nature Conservation Council have shown themselves in greatest sympathy with our aims, and I would not want my remarks to be misunderstood by failing to acknowledge our debt in this regard. Nor can we expect these bodies to do that for which the law does not provide. Rather we must press on with the job of changing national attitudes until we generate sufficient political pressure for a change in the law.

Now let me turn to another aspect of protection for ancient monuments in Great Britain. One can hardly hope to achieve protection for sites until they are known and their value assessed, at least in a preliminary manner. Here the contribution of the Ordnance Survey is pertinent. From the production of the first government-sponsored maps in Great Britain, archaeological remains have been marked on them. This is also true in New Zealand, but in Great Britain this has been done more effectively and for a longer time, because it is the responsibility of a Government Body. It is well known that our Association is to a great extent carrying out this same task, with initial financial help from the Trust to establish the system, but without any governmental sponsorship. We receive some general assistance from the Department of Lands and Survey in the form of maps and aerial photographs, while government surveyors have recorded some sites, which appear on various of the Department's maps. But to my knowledge, the Lands and Survey Department neither consults our files when revising their maps, nor has any policy for seeing that this information is systematically recorded on any set of maps of New Zealand. Thus if a set of maps for the various prehistoric and protohistoric sites in New Zealand of which we now have records on over 3,086, were to appear, it would have to be published by our Association. In short, access to information of some importance in ensuring protection for sites affected by new projects is not readily available.

In Britain, the first phase in the development of the Ordnance Survey from 1801 to 1920 saw their surveyors co-operating with local societies and informed persons when recording ancient sites. The work, as a result, was uneven and dependent to a very great extent on the local surveyor and the presence or absence of local societies. In the second

phase of development of archaeology in the Ordnance Survey, from 1920 to 1940, an Archaeological Officer, O.G.S. Crawford, was in charge, and with a small staff and limited finance a virtual revolution was slowly accomplished. In fact, one may say that Crawford literally, as well as figuratively, put field archaeology in Britain on the map. A third phase began in 1947 under changed conditions: C.W. Phillips, its head, describes these well:

"Further, it was necessary to deal with this as soon as possible because new developments in the use of land were cutting a swathe through the surviving monuments in a way hardly contemplated before 1940. The employment of more powerful agricultural machinery, the ploughing of marginal lands, the extension of the Forestry Commission plantations, and the growth of suburbs were taking their annual toll.

The description, of course, applies equally well to conditions in New Zealand: but while we still languish in the first stage of development of the Ordnance Survey, its archaeological division was reformed to meet the new conditions by:-

- (1) recruiting sufficient qualified staff to deal with the increased volume of work (In 1959 they had 51 people on the staff, 30 in recording, 15 in the field);
- (2) creation of a proper archive of archaeological topography;
- (3) additional emphasis on fieldwork so that practical knowledge of the actual state of sites could be used in their review and assessment.

And how does this programme furnish protection? The answer is simple: planning which protects archaeological sites requires knowledge of what exists, its importance and location, and its present physical state. In Great Britain at least two Government Agencies, the Ministry of Works and the Ordnance Survey, are known to hold and publish records of prehistoric monuments. One of them furnishes maps which locate such sites. Whether it be new roads, dams, suburban development, quarrying, or gas lines, those responsible for planning have an official body of information on prehistoric sites to which to turn when making their plans, while those responsible or interested in site protection can often say without extensive delay what will be affected by such programmes. True, there are still problems, but not like those in New Zealand. Here we have managed to establish our mistress, the Site Record File, within our association. With some initial help from NZHPT, and generous

contributions of time and effort by our members, it has become a record of which we can be proud. Unfortunately, however, our mistress lacks an official national guardian, and in my view this is unfortunate. She is now a lady worthy of greater recognition.

More briefly, now, let us turn to the New World. I should first like to cite the British Columbia Archaeological and Historical Sites Protection Act, 1960, as one of the more recent in the field of site protection. The basic principle of the Act is that it is in the public interest to protect the archaeological and historical heritage of that Province, and the public interest overrides that of any individual. The Minister is made guardian of this public interest and given broad powers he may (not shall) use. One power is the right to name any site in the Province an archaeological site of importance, and when necessary acquire title to it. Once designated a site may not be excavated or otherwise altered without a permit. This is similar to the control by the Ministry of Works over the scheduled sites in Great Britain. Here, however, we are confronted by the extent to which a legal principle can be ignored, especially Anglo-Saxon concepts of land ownership.

"In Anglo-Saxon law, archaeological remains are regarded as the property of the owner of the land on which they occur, and our antiquities laws are designated to protect only those remains on public lands. In contrast, in most other countries, particularly those whose systems of jurisprudence are based on Roman Law, antiquities are regarded as the property of the state and, in theory at least, are protected from needless destruction." (Wendorf (1962, 76).

Scheduling or designating a site in Great Britain or British Columbia partly overrides this principle, while safeguarding the rights, especially to compensation, of the individual property owner. In fact, he may ultimately proceed if such compensation is not forthcoming and he remains insistent on destruction or alteration of the site. A few such powers exist in New Zealand as well, tucked away in the Public Works act 1928 and the Reserves and Domains Act 1953, as Mr. McFadgen describes in a paper which follows. He notes, however, that they would "be used with considerable discretion", presumably because of our stricter adherence to Anglo-Saxon law. Even under conditions of public outcry, I can discover no case of an archaeological site to which

they have been applied. In New Zealand the existing public interest still does not override that of the individual in such matters.

In the United States the National Park Service of the Department of the Interior gives Scenic Parks and National Monuments the same kind of permanent protection and maintenance by trained staff, as the British Ministry of Works. It also organizes programmes of salvage archaeology. More recently in the field of salvage archaeology an Inter-Agency Archaeological Salvage Program operates, co-ordinating the efforts of a number of State and Federal Agencies with those of Museums, Universities and Archaeological or Historical Societies. In this field we seem to be slowly developing a similar system in New Zealand, and could well afford to emulate some of their more formal procedures. On the other hand, no conception of Pre-historic National Monuments open to the public, or as a source of tourist enjoyment or revenue, seems to exist.

However, I wish to use an example from the United States for quite another purpose to illustrate the inadequacy of outdated legislation by itself as a means of protection. In the United States a Federal Law for the Preservation of American Antiquities was passed in 1906 and served as a model for many similar State Laws. These laws emphasize particularly, as was common in a period of object oriented archaeology, the preservation of remains for exhibition and display in museums, without paying much attention to the broader goals now expressed in archaeology. Moreover, it has largely been the professional archaeologists and public institutions who have applied for permits to excavate on Federal lands. The amateurs fossicked away, heedless of the law and were seldom, if ever, prosecuted. Legislation by itself, in short, was something of a failure in protecting archaeological resources, although more intelligent legislation, the authors who made this review believe, could prevent this destruction (Agogino and Sachs, 1960:45). In their view, an agency charged with this responsibility and with power to enforce its policy is required to accomplish this goal. New Zealand, then, is not alone in the field of inadequate or outdated legislation for conserving its pre-historic heritage, or unusual in not mobilizing and implementing those laws

which exist to obtain some measure of protection. Again, it would seem to call for us to change public attitudes through education, to bring pressure to increase the use made of existing legislation, and to establish an effective form of communication with those Government Departments and Agencies which can aid our cause.

Conclusion

Site protection of important national monuments in many countries overseas, only three of which we have mentioned here, far outstrips anything we have in New Zealand. Intelligent legislation is needed to close the gaps, but laws themselves will not accomplish the task. Only a Government Department, Agency, or Body charged with this responsibility and staffed with personnel and provided with finance sufficient to carry out the task, will really solve the problem - and this we do not have. The problem is closest to solution in the field of salvage archaeology, where we enjoy some Governmental acknowledgement of responsibility. To achieve more we need a change in the public attitudes which accept that we have no prehistory worth protecting or preserving and that public interest in this matter does not override that of the individuals to destroy this heritage. It also requires a change in the New Zealand Historic Places Trust which is now charged primarily with responsibility for the historic European heritage of its New Zealand residents, and forced by financial considerations to be highly selective. It must, therefore, decline full responsibility for the prehistoric and protohistoric heritage left by the Maori segment of that population. As the building of a cosmopolitan society requires an equally cosmopolitan approach to its history and attention to the preservation of cultural heritages from both sources, it seems highly desirable that our Maori maiden soon be granted full legal recognition as something more than mistress of our Association, and established separately in a Trust of her own.

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Symposium on Salvage Archaeology

Dr. R.C. Green (Chairman)

Participants: L.M. Groube, J.R.S. Daniels, R.A.L. Batley, T. Hosking.

In the symposium on salvage archaeology in New Zealand Mr. Daniels stressed the need to distinguish between two types of salvage archaeology: that which was foreseeable in relationship to known plans for the country's development and could be met by planned programmes of archaeological survey undertaken by local societies before the sites were threatened, and that which was emergency in nature for which we had to develop a more flexible means than now exists in order to cope. Other contributors discussed sources for finance, relationships with local and governmental bodies and the Maori people, as well as the degree of planning necessary in salvage excavations where time is limited.