

## Cultural History of the Adirondack Park

*From Conservation to Environmentalism*

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During the nineteenth century, the Adirondacks became one of America's sacred places. The process by which certain American places came to enjoy special significance was a complex cultural phenomenon, born of the confluence of European romanticism, the rise of industrial capitalism, the emergence of a professional class with leisure time, and the increasing wealth of many (but hardly all) Americans.<sup>1</sup> After the Civil War, as transportation arteries improved and comfortable hotel accommodations became widely available, the vacation became an annual ritual for American families of means. And places where the nation's natural heritage remained relatively unchanged were especially appealing.<sup>2</sup> At these sacred places, affluent Americans could restore body and soul via the beneficent powers of nature and by observing the rituals of touristic performance that became well understood among the professional classes. American tourists visited the springs of Virginia, the coasts and mountains of New England, and the Adirondack Mountains. Later, as transcontinental transportation improved, tourists discovered the spectacular scenery of the great American West.<sup>3</sup>

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Beginning in the 1840s, a rich literature of travel and sport, of which Joel T. Headley's *The Adirondack: or, Life in the Woods* (1849) is the best example, portrayed the Adirondacks as a scenic and spiritually redemptive retreat from the stresses of a country rapidly becoming urbanized and industrialized.<sup>4</sup> In the Adirondacks, as with a few other sacred places, the holiness of the place led to early calls for protection against the ravages of an increasingly despoiling industrial culture, the primary manifestation of which in the Adirondacks was an apparently insatiable appetite for lumber and other wood products.<sup>5</sup> Albany journalist Samuel H. Hammond considered the combination of fragility and sacredness of the Adirondacks in the 1850s and concluded,

The old woods should stand here always as God made them, growing old until the earthworm ate away their roots, and the strong wind hurled them to the ground, and new woods should be permitted to supply the place of the old so long as the earth remained. There is room enough for civilization in regions better fitted for it. It has no business among these mountains, these rivers and lakes, these gigantic boulders, these tangled valleys and dark mountain gorges.<sup>6</sup>

This romantic conviction that the Adirondacks merited protection for scenic and spiritual reasons was one of two major threads in the drive toward preservation. The other was the widely held belief that healthy Adirondack forests were essential to the reliability of the water flowing to critical transportation arteries like the Erie Canal and the Hudson River. First promoted by Vermonter George Perkins Marsh in his international best seller, *Man and Nature* (1864), the fundamental connection between intact mountain forests and the watershed vital to both agriculture and transportation in the valleys below became a key element in the arguments advanced for protecting Adirondack forests. In *Man and Nature*, Marsh had presented prodigious evidence showing how clear-cutting or otherwise removing mountain forests interrupted the gradual release of rain and snowmelt and led to cycles of flood and drought, and his

warnings resonated profoundly with New Yorkers alert to developments in the state's northern forests.<sup>7</sup>

The utilitarian argument advanced by Marsh and the psychological or spiritual position so eloquently expressed by Headley, Hammond, and many others combined to inspire a growing constituency advocating protection of Adirondack forests. A critical contention in the protectionist arsenal—the idea of the Adirondacks as somehow different from the rest of New York, worthy of special concern—appears throughout the documentary record. In 1872, the New York legislature, slowly becoming aware of the threats to the state's northern forests posed by uncontrolled logging and the fires that so often followed in the loggers' footsteps, established a citizen commission to examine the possibility of creating a public park in the Adirondacks. A year later, when this commission reported to the legislature and recommended the establishment of such a park, it observed, "After a careful consideration of the projected forest park, with its practical bearing upon the interests of the people of the whole State, we are of the opinion that the protection of a great portion of the forest from wanton destruction is absolutely and immediately required."<sup>8</sup>

In the expansive, exploitative Gilded Age, the idea that the state could even contemplate removing a large part of its natural wealth from the hands of cut-and-run loggers or the other handymen of contemporary industrial capitalism was remarkable. At that point, the state could not muster the legislative momentum to effect any sort of protection. But only ten years later, in 1883, as concern about threats to the environmental stability of the region's forests and the watershed that depended on them mounted, the state went so far as to declare that it would no longer sell any Adirondack lands still in its possession.<sup>9</sup> And two years after that, in a move of lasting and monumental importance, the state established the New York State Forest Preserve, comprising publicly owned land in both the Adirondacks and the Catskills; at the time the Adirondack total was about 681,000 acres. The 1885 Forest Preserve law contained the clause, "the forest preserve shall be forever kept as wild forest lands";

these words have become an indelible feature of not only Adirondack but the nation's environmental discourse.<sup>10</sup> It is important to note that this law focused on the land, not the trees; that is to say, it prohibited the alienation of the land of the Forest Preserve from the state's public domain, but it did not explicitly prohibit the removal of trees. Indeed, within only a few years, the state was undertaking to permit logging operations on its Forest Preserve.<sup>11</sup>

The tentative steps toward protection of the northern forests, moreover, focused on the idea of regional forest and watershed stability. From the start the state assumed, though imprecisely, that what happened on private land occurred within its purview. The park commissioners of 1872 noted, "When we find individuals managing their property in a reckless and selfish manner, without regard to the vested rights of others, it becomes the duty of the State to interfere and provide a remedy."<sup>12</sup>

In its *Annual Report* for 1890, the Forest Commission, charged by the legislature to administer the recently created Forest Preserve, observed the importance of protecting a contiguous, viable forest, what it envisioned as "one grand, unbroken domain." In this report, it submitted a map to the legislature delineating with a blue line the forested area it believed the state should protect in an Adirondack Park. If such a park were to be created, the commission acknowledged that the state might not be able to buy the large private clubs, most of which had only recently been established. In that case, the commissioners hoped that some legal instrument could be devised to secure public access to the clubs' lands and forests.<sup>13</sup> In addition to anticipating one of the uses of scenic easements, this expectation confirms the early existence of the state's assumption that private land in the Adirondacks possessed special significance.

It was precisely this concern for protecting the northern forest in a regional sense—regardless of current ownership—that led, in 1892, to the establishment of the Adirondack Park. In 1891, the Forest Commission had again pushed its proposal for a park, suggesting that the legislature create a park of some 2,847,000 acres in Essex, Franklin, Hamilton, Herkimer, and Warren Counties.

The commission, moreover, requested that it be empowered to purchase all the private land within the bounds of the proposed park.<sup>14</sup> When the legislature met the following year and finally established the park (though without funding to buy private land), its intent was to mark the contiguous area of the northern forest where the state had an interest. The park included "all lands now owned or hereafter acquired by the state" in specified Adirondack towns. It was to be dedicated to public use, watershed protection, and a "future timber supply."<sup>15</sup>

A crucially important feature of the park legislation was that it still did not explicitly distinguish between public land, already defined as part of the Forest Preserve, and private lands. The park boundary indicated an ideal more than a reality. It surrounded an extensive, contiguous part of northern New York—2,807,760 acres—considered vital to the state's welfare, both for its role in regulating watersheds and for its potential for recreation.<sup>16</sup> But the park law did not provide any strategy outlining what the state intended to do with respect to the vast expanses of private land within its bounds.

The final element in this era of intense conservation activity was the extension of constitutional protection to the state-owned Forest Preserve. By the early 1890s, New Yorkers still concerned about the watershed supplying water to transportation arteries were becoming increasingly alert to the insufficiency of the Forest Preserve law, which was widely interpreted to permit logging in the Forest Preserve. The state bureaucracy, moreover, seemed to be entirely too cozy with the regional lumber barons.<sup>17</sup> A state constitutional convention was scheduled for the summer of 1894, and the New York Board of Trade and Transportation saw this as an opportunity to effect stronger protection for the Forest Preserve, this time for the trees in addition to the land on which they stood. After lengthy debate, the convention adopted a provision submitted by the Board of Trade and Transportation:

The lands of the state, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept

as wild forest lands. They shall not be leased, sold, or exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be sold, removed, or destroyed.<sup>18</sup>

This provision has been included, in precisely the same language in every subsequent New York constitution, proposed or adopted, most recently in 1967.<sup>19</sup> It makes the New York State Forest Preserve one of the best-protected landscapes on the planet.

The rigorousness of the constitutional protection, coupled with the vagueness behind the park law of 1892, led in unanticipated directions. State land was now unambiguously defined. With the authority of the constitution behind it, the public domain suddenly achieved a significance it had not previously enjoyed. At the same time, private property also came to be seen in new ways, and the first no-trespassing signs appeared in the Adirondacks.<sup>20</sup> For decades New Yorkers, both local and downstate, had thought of the Adirondack region as a vast, forested place; they hunted and fished, collected firewood, and moved freely about, mostly unconcerned with the details of ownership. In a period of a few years, that changed dramatically. There was the Forest Preserve, where anyone could hunt, fish, or camp. And there were private lands, some owned and exclusively used by wealthy club members (e.g., the Adirondack League Club, near Old Forge, founded in 1890); some owned and logged by woods products companies; and some, mostly in or near the villages, owned as the year-round homes, farms, or businesses of Adirondack residents. The Adirondacks had been split into separate domains—intricately intermixed, but nonetheless distinct.

It took many decades of ambivalence and uncertainty—until the 1960s, in fact—before the state seriously addressed the importance of private land in the Adirondacks. But from the start, there was this clear understanding: whether for protection of an adequately functioning watershed or for saving a recreational retreat, New York, as a collective polity, showed its concern with maintaining the forested character of the Adirondacks, irrespective of whether the land was owned by the state or by private individuals, clubs, or corporations.

Of course, it was the very failure to decide what to do if and when the state abandoned its intent to own all the Adirondacks that presented New York with the need to take another look at private property in the mid-twentieth century.

Throughout the activity of the 1880s and 1890s, moreover, the fate of the Adirondacks was almost exclusively discussed and settled by people from outside the region. Governors, journalists, legislators, and tourists all had opinions about what should be done, but seldom was the voice of a year-round Adirondack resident heard. In the process of legislating protections for Adirondack Forests, local practices—including hunting and fishing for food rather than for sport and gathering firewood—were severely restricted, or even prohibited, by a growing state bureaucracy.<sup>21</sup> A pattern of resentment of what seemed like outside indifference to local needs was established.

For half a century, the distance separating Adirondack reality, where the region was rigidly divided between Forest Preserve and millions of acres of private land, from the Adirondack dream of one contiguous, protected Adirondack Park, was mostly ignored. During this time, most of what was interesting in Adirondack legal and judicial history flowed almost exclusively from efforts to establish the constitutional status of the Forest Preserve—what did “Forever Wild” really mean?—as a series of court decisions and opinions from attorneys general meandered toward clarity.<sup>22</sup> At the same time, the Forest Preserve was growing, as the state slowly added to its acreage. The summit of Mount Marcy, for example, did not become part of the Forest Preserve until 1919.<sup>23</sup>

There were, to be sure, important developments on private land, but they were incremental and largely ignored. Logging continued, though subject to state regulations that for the most part eliminated the threat of massive fires like those that raged across hundreds of thousands of acres just after the turn of the century.<sup>24</sup> The critical change, barely noticeable at first, was the construction of vacation homes for middle-class families. In the late nineteenth century, two kinds of people came to the Adirondacks in the summer. Millionaires built the famous Great Camps, while the middle class lodged at

hotels and boarding houses or camped in the woods. Beginning after World War I, developers discovered the profits to be made in selling relatively small lots, especially along lake and river shores, to families of comfortable means but not in the same class as the Vanderbilts and Rockefellers, who for a generation had been rustivating snugly in their opulent wilderness retreats.<sup>25</sup> Over the next several decades, hundreds of miles of previously undeveloped shorelines were lost to second-homes. This process was so slow that until mid-century it did not appear to threaten the regional, forested landscape that the park legislation of 1892 had declared was vital to the state's welfare.<sup>26</sup>

Finally, in the 1960s, an era of broad-spectrum political protest led, in part, to a new environmental consciousness, including a concern about the nation's remaining expanses of relatively undeveloped open space. The reinvigorated environmental movement gave birth to Earth Day, April 22, 1970, wherein 20 million Americans participated in an eclectic combination of teach-ins, guerrilla theater, street fairs, and environmental protest.<sup>27</sup> This was the same year that legal scholar Joseph Sax, writing in the *Michigan Law Review*, argued that the historic Public Trust Doctrine, which traced its roots to the sixth century and the Code of Justinian and which had been used for a millennium and a half (though certainly sporadically and with mixed results) to protect those features of the natural heritage vital to the common welfare, should be reinterpreted and expanded to embrace all the things “so particularly the gifts of nature's bounty that they ought to be preserved for the whole of the populace.”<sup>28</sup>

Sax was, among other things, concerned about unregulated development, and New York State saw this issue as especially pressing as it contemplated, finally, what was happening to private land in the Adirondacks. Two years earlier, in 1968, Governor Nelson Rockefeller had appointed the Temporary Study Commission on the Future of the Adirondacks and charged it to examine threats to the integrity of the northern forests.<sup>29</sup>

In the middle of December of 1970, the Temporary Study Commission sent 181 recommendations to the desk of Governor Rockefeller. These recommendations constituted the beginning of

the modern era for the Adirondacks. While the completion of the Northway (I-87) in 1967 helped bring this region closer to the population centers downstate, and while a recreation boomlet had begun a few years earlier, it was the bombshell at the heart of the Temporary Study Commission's plan for the future—the establishment of an Adirondack Park Agency and the delegation to it of parkwide planning authority for private lands—that made the Adirondack Park what we know it to be today.

The work of the Temporary Study Commission, the establishment of the Adirondack Park Agency and, especially, the very idea of regional planning were part of the new environmental consciousness of the 1960s and 1970s, which the report of the Study Commission explicitly acknowledged: "The concern is nationwide. Significant action has been instituted in many state capitals. Can New York afford to ignore its Adirondacks?"<sup>30</sup> In addition to concern about clean air and water and the many other issues that galvanized the first Earth Day, the notion of regional planning was gaining momentum.

In large part, the drive to effect regional planning was a response to rapid, mostly uncontrolled loss of open space to sprawling post-World War II suburbs, of which Long Island's Levittown is perhaps the best-known example. Around virtually every urban center in the United States, Americans, abetted by miles and miles of the new interstate highway system, were building uncountable new houses; eventually, some people began to ask whether this was altogether a good thing.<sup>31</sup> This skepticism about uncontrolled development and the consequent implementation of more effective zoning eventually became known as the "Quiet Revolution," following a report summarizing its tenets drafted for the Council on Environmental Quality in 1971 by Fred Bosselman and David Callies, attorneys and experts in American land-use law. In addition to the well-known and path-breaking Hawaii Land Use Act of 1961, other important examples were both state-wide applications—for example in Vermont, Oregon, and Florida—and regional efforts, as in the New Jersey Pine Barrens, the California coast, and Lake Tahoe.<sup>32</sup>

The tentative steps toward regional land-use regulation and planning depended on a new understanding of the term "land."<sup>33</sup> As Bosselman and Callies noted, up until the years immediately following World War II, Americans clung to a fundamentally nineteenth-century notion of the meanings of this much-freighted word. "Land" nearly universally implied something that enabled its owner to make money, either through some sort of resource extraction or use or through sale or development. The postwar change of sentiment that introduced wetlands into the classification of "land" and gave them "value" was thus a remarkable step. Obviously, this change was at least partly a function of the emergence of the science of ecology, which dramatically helped to expand our awareness of just what constitutes such a slippery concept as "value."<sup>34</sup> Where to the nineteenth-century farmer, value derived from the crops a parcel of land could produce, or where to the logger value depended on board feet of lumber, by the mid-twentieth century value could also mean how a specific place fit into complex webs of interdependence, including its capacity to support wildlife, filter water, or add to the value of often distant other places. In other words, something that nearly everyone understands today—that places, just like all of the natural world, are interconnected—entered the culture of planning and land-use decisions and encouraged protecting, or at least planning for, regions as opposed to individual lots or neighborhoods.

At the same time that land came to be understood as more than what it might produce or sell for, its finitude also penetrated the public consciousness. When people see land as something finite, then the value of land is both increased and complicated. The culture of abundance that had characterized American thinking since the arrival of Europeans in the New World finally came to be challenged.<sup>35</sup> All of this is part of the shift to seeing land as a resource as well as a commodity. So long as land was merely a commodity, zoning existed only to protect the commodity value of those land owners sufficiently powerful to exercise their will on local politics. Once it became a resource (while never really losing its commodity value),

then environmental and social concerns entered into the realm of zoning. Where those responsible for zoning had previously asked only what would protect or enhance the economic value of this land, they now began to ask, "What is the best use for this land?" These new ways of understanding land manifested themselves from coast to coast: what happened in Hawaii or Oregon also came to pass in the Adirondacks.

These tectonic changes in what zoning meant constituted the context for the Temporary Study Commission and its recommendations. Locally, we had the construction of the Northway, an explosion in second-home development in Vermont, the growing affluence of a mobile and acquisitive middle class, and the same concern with enjoying and protecting nature that gave us the Quiet Revolution. Joining the regional-zoning movement constituted the latest chapter in the long saga of New York's efforts to protect the forested character of the Adirondacks.

"A crisis looms in the Adirondack Park," wrote the commissioners. "Throughout this country unplanned development of both public and private land is despoiling resources once considered limitless." Noting that the Adirondack Park's capacity to be a sanctuary from modernity, in other words a sacred place, had largely escaped the worst of post-World War II sprawl, they further observed, "Whether it will continue to be one depends on the foresight and resolve of all New Yorkers."<sup>36</sup> Widespread development of second-home villages, the construction of garish theme parks, strip mines—these and a host of other environmental disasters were possible and even likely, given the laissez-faire attitude of the state toward the 60 percent of the Adirondack Park it did not own.

The Study Commission's solution was clear: "A massive state action program is necessary to make the Adirondack Park a viable and lasting entity. This program must be concerned with both the private and the public lands." They went on to note, "The key to maintaining the Park as a *lasting* entity lies in the avoidance of misuse by all landowners, large and small."<sup>37</sup> The commission's charge boiled down to a twofold thrust: use regional zoning to limit inappropriate

development on private land and promote careful expansion and consolidation of the Forest Preserve.

The Temporary Study Commission recommended the establishment of an Adirondack Park Agency, to be housed in the executive branch of state government, with zoning powers over private land and authority over how the Department of Environmental Conservation managed the Forest Preserve. The New York legislature created the park agency in 1971. In 1972, the agency submitted its Adirondack Park State Land Master Plan to the governor, and in 1973 it released its Adirondack Park Land Use and Development Plan. According to the terms of the legislation creating the agency, the State Land Plan required only approval by the governor, while the Adirondack Park Land Plan required the imprimatur of the legislature.

The key element of both plans was zoning. Both the Forest Preserve and all private land were classified into a wide variety of categories, on the basis of, among other things, historic uses, ecological conditions, and scenic or recreational value. The zoning of private land proved immediately and explosively controversial, as the APA strove to limit development on millions of acres of previously undeveloped land. The story of how the Adirondack Park Land Plan works, how its original intent was blunted by the legislature, how it has been amended and implemented over the last three and a half decades, and whether or not it has been successful is the primary subject of the remainder of this section.