

THE CAPE COD NATIONAL SEASHORE

A Landmark Alliance

CHARLES H.W. FOSTER



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Preface

This volume is the second in a set of case studies concerned with the various institutions that have been created to manage bioregional resources in the six states that comprise New England, where bioregional experimentation has been in full flower since the early days of the colonies.

Bioregionalism is the act of responding to natural resources or environmental issues and events that occur in transboundary settings. Good examples are river systems that flow indiscriminately across state and even international boundaries, migratory birds and fish that range on a continental or transoceanic scale, and regionwide environmental effects such as the movement of contaminants through air, water, or living systems. If natural resources are to be managed as whole systems as the ecologists suggest, then techniques for the management of particular resources in particular places must be adapted to the transboundary settings in which they occur naturally. And all of this must take place within a political environment generally hostile to institutions extending beyond conventional boundaries.

The setting for this case study is Cape Cod, Massachusetts. Unlike the earlier volume, which dealt with twenty-eight defined river basins within a fifty-thousand square mile region extending from the Canadian border to Long Island Sound, this Cape Cod bioregion embraces a modest fifty square miles of land and water and thirty-nine miles of ocean beach along what is inelegantly referred to as the "backside" of Cape Cod. Rather than six states, there are six New England towns—Provincetown, Truro, Wellfleet, Eastham, Orleans, and Chatham—independent communities incorporated more than two hundred years ago that, to this very day, defend fiercely their individual rights and prerogatives. Into this inhospitable environment in 1961 came a new national park—the Cape Cod National Seashore—the first of a new generation of national conservation projects and a pioneer in several important respects. Contained within the authorizing legislation for the Seashore was provision for a statutory advisory commission consisting of representatives of the jurisdictions affected.

The pages that follow recount the experience of the Cape Cod National Seashore Advisory Commission during the first twenty years of its existence. The account is written from my perspective as a participant in the early days and an interested observer in later years. The record has been drawn from the minutes of 143 official meetings (nearly four thousand

pages in all) and from personal interviews with more than sixty of its participants. At the end of this account, an attempt is made to analyze that experience and relate it beyond the purely Cape Cod setting to the larger question of how any conservation area can be properly responsive to the localities within which it occurs, yet also faithful to the mission it represents. But a second experience is recounted as well—how the Seashore communities were able to overcome their innate parochialism and perform a distinguished role in the management of a significant bioregional resource.

In principle, six unifying elements tend to contribute to a viable bioregion.¹ First it must be *spatially* distinct, marked by such elements as topography, landscape, climate, soils, drainage, or biota. It must also have a sense of *social* identity (i.e., be popularly identifiable as a region). An *economic* identity is usually helpful—a recognized place to produce goods, deliver services, and sustain commercial activities. Ready definition in *planning* or *administrative* terms can provide two other potentially unifying elements. Finally, a sense of *political* identity and cohesion is important, for a bioregion must inevitably have the capacity to advance its own interests and resolve at least a measure of its own problems. Not each of the six unifying elements is of equal significance, however. If the area in question does not have a high degree of social and political integrity, any bioregional program or institution is unlikely to prevail. Conversely, the more unifying elements that overlap and are mutually reinforcing, the more likely it is that a bioregional program or institution will succeed. Prevailing biological wisdom notwithstanding, mere ecological integrity will not be persuasive unless people also see themselves as living in a distinct region.

In the Seashore's case, the Great Beach and its associated uplands provide a distinct spatial identity. Less certain are its other environments—the heathlands, bay shore, and inland marshes—which extend beyond the Seashore's authorized boundaries. The management of these resources requires cooperative action by other jurisdictions and, as such, stimulates the Seashore's participation in larger bioregional efforts.

As a social concept, Cape Cod has always been distinct. In art, history, literature, and culture, it is widely known. Within the region itself, the lower Cape is recognized as different. Its social organizations are often distinctive. It has its own newspapers and television station.

In economic terms, there is no dominant industry. Traditional agricultural and fishing activities have declined over the years, and manufacturing is limited to local crafts. The largest economic activities are land development and service to seasonal visitors. Of emerging significance is Cape Cod's position as a retirement community, a growth industry of its own. Delineated by the transportation "spine" of Routes 6 and 28, the lower Cape has an economic identity, but its real economic center is the Seashore itself.

Viewed administratively and politically, the dimensions of the bioregion are at least marginally distinct. Administrative and planning activities tend to concern themselves with Barnstable County as a whole, whose limits extend even beyond the Cape Cod Canal—the natural boundary for Cape Cod. But even for Cape-wide projects, such as the master plan prepared by the Cape Cod Planning and Economic Development Commission, it is not unusual to treat the lower Cape as a separate subregion. The six towns involved in the Seashore represent distinct political units, although their small, year-round populations give them little political clout in either the state capital or in Washington.

Turning to the bioregional institutions themselves, the prognosis for most is still far from favorable, in the New England region at least. We suspect that institutional viability is associated in some way with the size, degree of representativeness, active participation, and continuity of its membership. The manner of creation and the provisions for accountability are other important factors. Regional acceptance can also hinge upon the size and scope of the operation and the degree of professionalism displayed by the management and staff. Authority questions invariably arise. There is a mistaken tendency to equate influence with authority. In the particular quicksand of multiple political jurisdictions, the influence and, indeed, the survival of a bioregional institution may actually be favored by minimal authority. Powerless to compete against and threaten other jurisdictions, the institution's views, oddly, may gain special credence. The tendency to regard bioregional institutions as fixed and stable entities ignores the reality that their operating environments are changing constantly. Thus, the institutions with the built-in flexibility to adjust their activities, modify their membership, and remain truly responsive to the concerns of their constituencies, are those most likely to succeed over time.

The sum total of the above suggests that the Cape Cod National Seashore, and its Advisory Commission, came into being within a setting innately capable of sustaining a viable, bioregional program. Whether or not this promise has been fulfilled will be discussed in the account that follows.

Acknowledgments

The idea for this book grew out of the author's personal service from 1962 to 1966 as the first chairman of the Cape Cod National Seashore Advisory Commission. The concept crystallized in 1975 when the Conservation Foundation, a Washington-based policy and research center with special interests in parks and recreation, agreed to sponsor an evaluation of the Cape Cod experience. The resources for the study, limited to expense reimbursement only, were derived privately. When the work began, two other participants were recruited to lend a hand. One was Francis P. Burling, former managing editor of *The Cape Codder*, the leading weekly newspaper for the lower Cape; the other was Robert F. Gibbs, the man who served as the first superintendent of the Cape Cod National Seashore. Both individuals came out of retirement to constitute the project's interview team and to develop materials for which they had special insight or expertise. Just before his untimely death, Burling published separately his recollections under the title *The Birth of the Cape Cod National Seashore* (Leyden Press, Plymouth, Mass.), describing in human terms the period of legislative enactment which he had covered so extensively for *The Cape Codder*. Gibbs's account of the effort to acquire the lands and waters of the Seashore and to administer its special zoning provisions is the cornerstone of the descriptive and land acquisition sections of the present book. The intent of the study team was to capture not just the facts but the full flavor of the Cape Cod experience before time erased such memories. It is literally impossible to credit the many individuals who made that possible, but a few should be mentioned at this time.

William K. Reilly and William E. Shands of the Conservation Foundation provided encouragement throughout the duration of the project. The five superintendents of the Seashore and the four Advisory Commission chairmen during this period were liberal with their impressions and insights. Valuable clerical and support services were provided by the Bio/Enviro Section of Arthur D. Little Inc. of Cambridge, Massachusetts. Lastly, special thanks are owed to Marjorie S. Burling (Mrs. Francis P. Burling) of Brewster, who willingly and capably transcribed the interview material, allowed the special map of Cape Cod to be reproduced, and, from her spe-

cial perspective as personal secretary to four of the Seashore's superintendents, reinforced our sense of a project worth doing. It is to her that this account is gratefully dedicated.

Needham, Massachusetts
December 1984

C. H. W. F.

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Contents

Preface vii

Acknowledgments xi

Introduction 1

The Cape Cod Advisory Commission 9

The First Meeting 9

The Early Years 12

The Maturing Years 30

The Coming of Age 40

The Second Decade 45

The Cape Cod Experience 63

The Authorization Period 63

The Operational Period 65

Land Acquisition and Zoning 67

The Advisory Commission 71

The Bioregional Experience 82

Appendixes

A. *Chronological Summary* 87

B. *Individuals Interviewed* 92

C. *Cape Cod National Seashore Advisory Commission Meetings* 94

D. *Cape Cod National Seashore Advisory Commission Members* 97

E. *Attendance by Voting Members, 1962-1981* 98

F. *Administrative Charter—February 29, 1984* 100

G. *Public Law 87-126: 87th Congress, S. 857, August 7, 1961* 102

Notes 112

Selected References 121

Index 123

Introduction

Fifty miles southeast of Boston, as a determined sea gull might fly, lies the northernmost tip of Cape Cod. Thence thirty-nine miles in a southerly direction extends the area known as the Great Beach, the longest stretch of unspoiled seashore on America's entire North Atlantic coast. Yet, paradoxically, Cape Cod represents significant human as well as natural history. It was Bartholomew Gosnold, for example, arriving in the region on May 14, 1603, who conducted the first explorations and named the new land for the schools of fish so plentiful off its shores. The famed Mayflower Compact was signed not in Plymouth but in Cape Cod's Provincetown Harbor on November 11, 1620. And as the settlers came ashore to find their first fresh water (Pilgrim Spring), their first food (Corn Hill), and their first glimpse of Indians (First Encounter Beach), it was foreordained that the Cape Cod story would be one of close interaction between man and land. Small wonder then that National Park Service director Conrad Wirth encountered not representatives of Cape Cod's nine Indian sachems, but of six militantly independent New England towns, when he took the podium at Eastham's crowded town hall the evening of March 23, 1959, to announce that his agency would actively pursue the establishment of a national seashore park on Cape Cod.²

The story of the Seashore's establishment has been ably told by Francis P. Burling in his insider's account of the legislative proceedings entitled *The Birth of the Cape Cod National Seashore*. Suffice it to say, almost two years would elapse between the submission of Senate 2636, the initial legislation drafted by Massachusetts senators Leverett Saltonstall and John F. Kennedy, and the enactment of Public Law 87-126, to authorize the establishment of the Cape Cod National Seashore, on August 7, 1961. To prepare the reader for the rapid pace of people, places, and events to follow, this brief natural and social history of Cape Cod has been prepared.³

Like so much of New England, the landscape of Cape Cod is a reflection of its geological history. During the final stages of the Pleistocene period fifteen thousand years ago, glacial ice covered all of Cape Cod. When the ice began to melt, the unsorted mass of materials (till) transported by the glacier formed ridges known as moraines. One such formation, the Sandwich moraine, is the dominant landscape form of Cape Cod. But the glacier

contributed other features as well. It left behind occasional large boulders (erratics), such as Doane Rock in Eastham, which bear witness to the geological events of the past. Blocks of glacial ice, embedded in the ground, were replaced by rising groundwater to form the rounded, "kettle-hole" ponds of Wellfleet and Truro so favored by summer residents and visitors. And the glacier created so-called outwash plains—deposits of gravel, silt, and clay formed by the glacial meltwater streams as they discharged to the ocean. These served as the earliest sites for agriculture and remain important today as promising sources of fresh water.

But the landscape of Cape Cod is also the by-product of the constant interaction of the sea and its adjacent land mass. At roughly the midpoint of the Great Beach in Truro, Wellfleet, and Eastham, the high cliffs described so eloquently by Henry David Thoreau continue to erode at a rate of three feet a year. Longitudinal ocean currents transport eroded material north and south to nourish the barrier beaches at Provincetown and Chatham. Farther inland, the process of accretion has created connected land masses of what are still termed Great, Griffin, and Boundbrook islands by native Wellfleeters and the official U.S. Geological Survey. Astonishing though it may seem today, ships' owners used to watch from these sites for their fleets at sea. In earlier times, the actions of wind and sea are believed to have created an open passage from ocean to bay in the vicinity of Eastham; it is now marked indistinctly by a series of shallow ponds and inland marshes. Eastham's Salt Pond estuary and Orleans's Pleasant Bay are reminders of the power of these past interactions. Even today, the ocean periodically flexes its awesome muscles. The great storm of February 1978, for example, breached the beaches in Eastham and Provincetown in a matter of hours.

At least seven distinct landscape types occur within the Cape Cod National Seashore. The *Great Beach* is its most dramatic feature, extending from Race Point, Provincetown, to the Monomoy National Wildlife Refuge in Chatham. In Provincetown and Truro, the beach is wide, gently sloping, and backed by high dunes. From Highland Light south to Coast Guard Beach in Eastham, the beach narrows below high sand cliffs to provide an unusual sense of isolation. South of Coast Guard Beach, the beach takes the form of a sand spit less than a quarter of a mile wide backed by low dunes, salt marshes, and, still farther south, the open waters of Pleasant Bay. An important characteristic of the Great Beach is its convexity. In a sizable portion of the Seashore, a user can enjoy the ocean beach with minimal visual intrusion from others. Behind the Seashore in Provincetown and Truro lie some eight square miles of spectacular *dunes*, some more than eighty feet in height. The impact is especially dramatic coming into Prov-

incetown on Route 6, where Pilgrim Lake serves as a reflecting body for a particularly massive set of migrating dunes. The scene is a dynamic one—sunken forests engulfed by sand, areas of tangled shrubs and waving beach grass, and patches of delicate and beautiful wildflowers. In South Wellfleet and North Eastham, a relatively level *plain* extends from Route 6 to the edge of the sea cliffs, the site of small farms until their abandonment and subsequent invasion by pitch pine, scrub oak, and beach plum. Moving southward, another dominant landscape feature is *Nauset Marsh*. The marsh itself is extensive with abundant wildlife and distinctive ecology; but the setting is noteworthy as well, for the marsh is surrounded by rolling hills and old fields invaded by juniper, a panorama readily appreciated from the Salt Pond Visitor Center in Eastham. Outward from the Great Beach, enhanced by the bars and rips created by constant wave action against the shore, lies a rich and productive *offshore* environment, one of the ten best saltwater sport fishing areas in the United States.

Within the inland portions of the towns of Truro and Wellfleet, the landscape shifts again. Ancient river valleys and quiet, deep-set, freshwater *ponds* provide a striking contrast to the restless Atlantic. Here also occur the lovely “*pamets*,” the Indian term for the stream-cut, outwash channels that juxtapose heath, marsh, and water so strikingly within these winding inland valleys. And on the *Cape Cod Bay* side of the Seashore occurs an entirely different landscape, even more serene in nature. Thirteen additional miles of gently sloping beach surround Jeremy Point, the narrow peninsula that separates Wellfleet Harbor from Cape Cod Bay. Extensive fresh water marshes adjoin the Herring River and the former “islands.” A striking feature is the heath-covered hilltops, interspersed with old homes that command a panoramic view of the harbors and surrounding woodlands. It is here that traditional Cape Cod architecture is at its classic best.

Associated with these landscapes are important plant and animal communities. Except for small remnants of the original beech and maple forest, the vegetation is now dominantly pitch pine and scrub oak, often the aftermath of wildfires and agricultural land abandonment. Yet remarkable species diversity still exists within the Seashore, including extensive areas of bayberry barrens, salt grass, and beach grass communities. Thirty-six species of mammals are known to inhabit these areas and, at times of peak migration, more than 150 species of birds have been identified in a single day. Saltwater fish of many species, including shellfish, are taken both by commercial and recreational fishermen. Small but active fishing fleets ply their trade from Provincetown and Chatham, and the recreational boating industry is extensive throughout the entire lower Cape. But it was Henry Beston, writing in *The Outermost House*, who described the setting best:

“outermost cliff and solitary dune, the plain of the ocean and the far, bright rims of the world, meadow land and marsh and ancient moor: this is the. . . outer Cape”.⁴

Viewed culturally, Cape Cod’s earliest inhabitants were, of course, Indians, who were a dominant force until their instrument of submission to King James in 1621. After annexation by the Plymouth Colony in 1630, Cape Cod began the process of colonization and settlement characteristic of all the colonies. Beginning in 1640, the colonial legislature (termed the Great and General Court) followed the practice of awarding grants of land to small groups of individuals who wished to live and worship together. The official business of the community came to be dealt with at annual town meetings where each inhabitant was accorded the right to speak and vote on a given issue. Between such sessions, a smaller group of chosen individuals, termed *selectmen*, conducted the business of the community, holding office on an elective basis. Selectmen exercised only those powers granted to them by town meeting action; they were merely the spokesmen and executive officers for their communities. This remarkable form of direct democracy remains the practice in all of Cape Cod today.⁵

In the early days, sheer subsistence was the dominant imperative. The early settlers were primarily farmers and herdsman who found Cape Cod’s bony soil hardly hospitable to agriculture. Grain crops, such as wheat, corn, oats, and rye, were grown as food for both man and animal. Marsh grass was harvested as hay for livestock. A new agricultural industry—the growing of cranberries—had its origin on Cape Cod. Taught by friendly Indians, the early settlers also became proficient at fishing, learning to harvest the abundant finfish and shellfish in Cape Cod waters. A British naval base established in Provincetown during the Revolutionary War interrupted this promising activity, necessitating a rebuilding of the fishing fleet when hostilities ceased, a precursor of the extensive development investments Boston merchants would make in later years. At the turn of the nineteenth century, the first saltworks were installed on Cape Cod, an industry that enjoyed only marginal success. It was not until the advent of the railroad, the installation of major new road systems such as the mid-Cape highway, and the construction of the Cape Cod Canal, that transportation improvements would stimulate the Cape’s most significant industry—land development and visitor services.

By the mid-twentieth century, the outer region of Cape Cod was a thriving, self-contained, political community composed of six highly independent towns. Its year-round population was twelve thousand, swelling at least fivefold during the summer months.⁶ Thanks to a heavy reliance on the seasonal visitor and a minimal demand for year-round services, the communities were remarkably well-off. Land was plentiful, the demand

for vacation properties was high and growing, and the local governance system was such that the town official could play a direct role in the development process. Indeed, many were personally involved—as landowners, facility operators, or purveyors of essential legal, financial, appraisal, engineering, or building services. Planning was primitive at best; zoning was in its infancy. To many on the outside and an increasing number of native Cape Codders, the region was threatening to kill the goose that was laying the golden egg—tourist revenues—through uncontrolled development. The situation was especially rampant in Wellfleet and Truro, and increasingly so in the seashore portions of Eastham. The northernmost town, Provincetown, hemmed in by the state-owned Province Lands, was appreciably different. Its extensive colony of artists and artisans made it the intellectual capital of the lower Cape. At the other end, Chatham's relative sophistication and its primary orientation toward the Nantucket Sound side of Cape Cod made the problem somewhat less acute here.

But an odd coalition of summer residents and year-rounders was beginning to form—a coalition dedicated to the proposition that some sort of major conservation action was essential to the future well-being of the Cape. Town and state action would not be enough; a national park for Cape Cod appeared both timely and appropriate. The early advocates of this approach were not popular, but their stature was such as to command thoughtful attention. In the Massachusetts legislature was Edward C. Stone, a summer resident of Hyannis and the senior and respected state senator representing the Cape and the islands. In government service was Francis W. Sargent, Massachusetts commissioner of natural resources, himself a summer resident of Orleans. At the local level was John Worthington, local businessman and selectman from the town of Truro. And in Congress, the unlikely but eminently workable combination of Republican senator Leverett Saltonstall and Democratic senator John F. Kennedy had privately instructed their personal staffs to make the preservation of the lower Cape and, particularly, its Great Beach a matter for priority attention.⁷

Wirth's appearance in Eastham's town hall on the moonlit night of March 23, 1959, was premature,⁸ because the Seashore's enabling legislation would not be entered into Congress until September 3, 1959. But as the National Park Service director told some five hundred assembled Cape Codders, the agency's survey report, supported privately by foundation contributions, had recommended a national park to include both the Great Beach and an extensive inland acreage stretching clear across the Cape to the bay shore of Wellfleet. It was this issue more than any other that stirred local sensibilities, spurring Rev. Earl B. Luscombe, pastor of the Wellfleet and Eastham Methodist churches, to declaim: "Men of the lower Cape, come, meet the foe, cast off all lethargy; arise to meet the present hour!"⁹ This

local interests did—at field hearings in Eastham in December of 1959 and 1960, and at additional legislative hearings in Washington during the early part of 1961. But by August of 1961, with cosponsor John F. Kennedy newly installed as the nation's thirty-fifth president, the legislation emerged from conference committee with a favorable recommendation. It was signed into law by President Kennedy on August 7, 1961.

As enacted by the Eighty-seventh Congress, Public Law 87-126 establishing the Cape Cod National Seashore was a lengthy document.¹⁰ Virtually one-third of its provisions specified the exact boundaries of the new Seashore. Another third detailed the landmark provisions for land acquisition and local zoning. A final substantive section of the bill provided for a Cape Cod National Seashore Advisory Commission, an instrument that carried forward Senator John F. Kennedy's earlier observations of an effort to "properly harmonize the national, state and private interests which are involved in a venture of this nature."¹¹

Section 8 of the act established an advisory commission of ten members, appointed by the secretary of the interior from nominations submitted by eight specified jurisdictions. Each of the six lower Cape communities was allotted a representative, as was Barnstable County as a whole. Two members would represent the commonwealth of Massachusetts. One additional member would be appointed directly by the secretary of the interior, who would also designate the chairman of the Commission. Advisory Commission members were to serve terms of two years' duration but were subject to renomination without limit by their respective jurisdictions. The Commission as a whole would terminate ten years after the official establishment of the Seashore by the secretary.

The act was silent on the exact manner of operation of the Advisory Commission except that it would operate through majority vote. Congress purposely avoided rigid detail in specifying the responsibilities of the Commission, preferring a large measure of judgment and discretion on the part of participants.

After much debate about giving the Commission actual powers, the act included a general section 8(f) calling for consultation with the Commission "from time to time" with respect to development and acquisition matters, and a specific section 8(g) requiring the secretary of the interior to seek the advice of the Commission before issuing any permits for commercial or industrial uses of property or establishing any public-use areas for recreational activity. The statute specified that the Advisory Commission must submit such advice "within a reasonable time after it is sought."

Although much of the earlier debate over the Seashore legislation had focused on its size and boundaries, the advisory commission proposal had also attracted attention. The issues were those of numbers, representation,

powers, and duration. The earlier legislative drafts had called for a permanent advisory commission of nine members with purely advisory powers. After the field hearings in Eastham in December of 1959 and 1960,¹² Senate sponsors had incorporated a Barnstable County representative, language specifying the commission's role in commercial and recreational uses, and a ten-year life for the Commission.¹³

Congressman Hastings Keith of the Massachusetts Ninth District was the chief champion of the Advisory Commission,¹⁴ but if the National Park Service were to have its way, no advisory commission would be created. Director Conrad Wirth's personal attitude toward such advisory bodies, dating back to his father's experience as superintendent of parks for the city of Minneapolis, had encouraged a servicewide policy of opposition to the establishment of park advisory bodies.¹⁵

Nevertheless, by November of 1961 Acting Assistant Director Robert W. Ludden could advise Wirth that nominations for chairman of the Advisory Commission had been received from all of the governmental groups specified in the legislation.¹⁶ Despite a request for two nominees, from which the secretary of the interior would select one member, most of the jurisdictions had nominated a single individual to be certain that the secretary had no such latitude. There was lively competition for the slot of secretary's designee with the matter ultimately settled by President Kennedy himself.¹⁷

In a prudent move, Director Wirth was actively advocating as chairman one of the governor's nominees, Massachusetts commissioner of natural resources Charles H. W. Foster. The Park Service had worked with Foster in the past in various professional capacities, whereas the secretary of the interior's nominee was certain to be a political appointment. Besides, a state member was apt to sit better with Cape Cod residents than a representative of the Washington bureaucracy.

By early January, official notices of appointment were in the mail to the new Advisory Commission members, requesting acceptances "in view of your interest in conservation on Cape Cod."¹⁸ The official Interior press announcement went out on January 9, 1962.¹⁹ It was assumed that the first meeting of the Advisory Commission would be held within a matter of weeks, and on Cape Cod. There was, therefore, widespread reaction and considerable speculation when the first meeting date was announced for February 16—in Washington, D.C.