

COLORING OUTSIDE THE LINES: A RESPONSE TO PROFESSOR
SEAMON’S ARTICLE *DISMANTLING MONUMENTS*

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In *Dismantling Monuments*,¹ Professor Richard H. Seamon defends President Donald Trump’s recent proclamations modifying the boundaries of two national monuments, Grand Staircase-Escalante and Bears Ears, that Presidents Clinton and Obama each designated at the ends of their Administrations.² Professor Seamon argues that the Antiquities Act³ does not authorize the creation of monuments as large as these,⁴ and that President Trump, who has a constitutional duty to take care that all laws are faithfully executed,⁵ must take action to correct these *ultra vires* acts. He has little doubt that reducing the size of a previously designated national monument is consistent with the text of the Antiquities Act, its legislative history, and the prior practice of former Presidents and earlier Congresses.⁶ He finds additional authority to rescind these designations in a puzzling maxim that since a greater power must be encompassed in a smaller one, reduction in the size of a previously designated monument implies the power to rescind it completely.⁷ He also finds support for his position in congressional silence in the face of similar action by prior presidents, as well as in the existence of a “general rule”⁸ that presidents should not “tie the hands”

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1. Richard H. Seamon, *Dismantling Monuments*, 70 FLA. L. REV. 553 (2018).

2. Proclamation No. 9682, 82 Fed. Reg. 58,089 (Dec. 4, 2017) (modifying Grand Staircase-Escalante National Monument); Proclamation No. 9681, 82 Fed. Reg. 58,081 (Dec. 4, 2017) (modifying Bears Ears National Monument); see also Jennifer Yachnin, *Trump touts Utah rollbacks in row with Romney*, E&E NEWS (Jan. 2, 2019) (“Despite opposition from conservation advocates, Trump undid protections for 85% of the 1.35-million-acre Bears Ears National Monument and nearly half of the 1.9 million acres in the Grand Staircase-Escalante National Monument. Those reductions are being challenged in federal court.”).

3. 16 U.S.C. §§ 431–33 (1906) (current version at 54 U.S.C. §§ 320301–320303 (2012)).

4. Grand Staircase-Escalante is 1,700,000 acres, Hope M. Babcock, *Rescission of a Previously Designated National Monument: A Bad Idea Whose Time Has Not Come*, 37 STAN. ENVTL. L. J. 3, 8 (2017), and Bears Ears is 1,351,849 acres and is jointly managed by the Bureau of Land Management and the Forest Service. *Bear Ears National Monument Questions & Answers*, U.S. FOREST SERV., <https://www.fs.fed.us/sites/default/files/bear-ears-fact-sheet.pdf> [<https://perma.cc/FM3R-YA25>].

5. U.S. Const. art. II, § 3 (“[H]e shall take Care that the Laws be faithfully executed”). President Trump reduced Grand Staircase-Escalante National Monument to slightly less than 50% of its original size and Bears Ears to 16% of its original size. Hannah Nordhaus, *What Trump’s Shrinkage of National Monuments Actually Means*, NAT’L GEOGRAPHIC (Feb. 2, 2018), <https://news.nationalgeographic.com/2017/12/trump-shrinks-bears-ears-grand-staircase-escalante-national-monuments/> [<https://perma.cc/V2S6-64SQ>].

6. Seamon, *supra* note 1, at 575–83.

7. *Id.* at 584–86.

8. *Id.* at 588.

of their successors.⁹

Professor Seamon is not alone in making these arguments,¹⁰ as I am not alone in saying that Professor Seamon's arguments, while well-intentioned, are wrong.¹¹ He exaggerates the persuasive power of congressional silence. He elevates the importance of the statute's original intent. Professor Seamon and I read the text and legislative history of the Antiquities Act differently—he sees unlimited presidential power, I see limits.¹² We disagree on how the law's purpose has evolved over time and whether Congress, the courts, or both have curbed that evolution.¹³ We disagree over the importance of § 204(j) of Federal Land Policy & Management Act (FLPMA), which I, and others,¹⁴ argue reconfirms the textual clarity of § 431 of the Antiquities Act that only Congress can rescind or modify the boundaries of a previously designated national monument.¹⁵ We also disagree about whether the President has an implied power to revoke or modify a previously designated monument—he finds and celebrates that power, I find no such power and warn that its use would violate the separation of powers doctrine and well-established norms of delegated power.¹⁶ Most of these counter arguments can be found in my article, *Rescission of a Previously Designated National*

9. *Id.* at 588–90.

10. *See generally, e.g.*, John Yoo & Todd Gaziano, *Presidential Authority to Revoke or Reduce National Monument Designations*, AM. ENTER. INST. (2017).

11. *See, e.g.*, Mark Squillace et al., *Presidents Lack the Authority to Abolish or Diminish National Monuments*, 103 VA. L. REV. ONLINE 55, 56 (2017); *see also* Mark Squillace, *The Monumental Legacy of the Antiquities Act of 1906*, 37 GA. L. REV. 473, 475 (2003) (discussing the legacy and history of the Antiquities Act as well as proposals to reform or repeal it).

12. *Compare* Seamon, *supra* note 1, at 556 (arguing presidents have the power to revoke or abolish a previously designated national monument, especially when the power has been exercised contrary to the Act's authorization), *with* Babcock, *supra* note 4, at 52–65 (arguing, among other things, that neither the text of the Antiquities Act nor interpretive canons authorize a President to revoke or amend a prior President's designation of a national monument).

13. *Compare* Seamon, *supra* note 1, at 579 (commenting on how presidents “have repeatedly diminished monuments,” and Congress has acquiesced in those actions), *with* Babcock, *supra* note 4, at 5, 16–18, 22–27 (contending that until President Trump “no President has ever rescinded a designation made by a prior President”, that congressional attempts to repeal or amend the Act consistently failed, and that courts have exercised maximum restraint in reviewing presidential designations).

14. *See, e.g.*, Squillace et al., *supra* note 11, at 56 (contending FLPMA makes it clear that the President lacks implied authority to revoke or modify a previous designation).

15. *Compare* Seamon, *supra* note 1, at 597–99 (finding no support in FLPMA's legislative history or text of § 204(j) for such a proposition), *with* Babcock, *supra* note 4, at 52–56 (arguing that § 204(j) reaffirmed the clarity of § 431 of the Antiquities Act that only Congress has the authority to rescind or modify a previously designated national monument).

16. *Compare* Seamon, *supra* note 1, at 584 (stating three reasons why a President has the implied power to revoke prior monument designations), *with* Babcock, *supra* note 4, at 61–65 (rejecting that concept).

*Monument: A Bad Idea Whose Time Has Not Yet Come.*¹⁷

But rather than engaging in hand-to-hand combat with Professor Seamon over who is right with respect to the specific arguments we each make, I think it may be more useful, certainly more interesting, to broaden the discussion to include: (1) the importance over time of an Act's original intent; (2) the correct role of the Take Care Clause in the debate we are having; (3) the use of the interpretive canon of textual ambiguity¹⁸ to resolve our differences; and (4) the impact of his arguments on the separation of powers doctrine.

I. THE UNIMPORTANCE OF A LAW'S ORIGINAL INTENT AND MORE
MODERN APPROACHES TO STATUTORY INTERPRETATION.

The Antiquities Act is quite brief, surprisingly so when one considers how much public land has been protected under its aegis.¹⁹ Section 1 of the Act makes it a crime for anyone to “appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquities” located on lands that the federal government owns or controls without permission from the agency with management authority over those lands.²⁰ The penalties for violating this provision are quite severe—either or both a fine, not to exceed five hundred dollars, or ninety days in jail at a court's discretion.²¹ The Act's most controversial provision is § 431, which authorizes the President, “in his discretion,” “to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest,” on federal lands, “to be national monuments.”²² The section also gives the President discretion “to reserve . . . parcels of land [which shall] in all cases . . . be confined to the smallest area compatible with the proper care and management of the objects to be protected.”²³ The interpretation of § 431

17. 37 STAN. L.J. 3 (2017).

18. See generally Curtis A. Bradley & Neil S. Siegel, *After Recess: Historical Practice, Textual Ambiguity, and Constitutional Adverse Possession*, 2014 SUP. CT. REV. 1 (examining, among other things, the relationship between historical practices and textual ambiguity in a study of the Court's decision in *NLRB v. Noel Canning*).

19. Monuments Protected Under the Antiquities Act, NAT'L PARKS CONSERVATION ASS'N (Jan. 13, 2017), <https://www.npca.org/resources/2658-monuments-protected-under-the-antiquities-act> [<https://perma.cc/NDR3-KUG5>] (listing all the national monuments designated under the Antiquities Act).

20. 16 U.S.C. § 431 (1906) (current version at 54 U.S.C. §§ 320301 (2012)).

21. *Id.*

22. *Id.*

23. *Id.* Often ignored is § 432, which authorizes the Departments of Interior and Agriculture to issue “rules and regulations for the purpose of carrying out” the Act's provisions. 16 U.S.C. § 432 (1906) (current version at 54 U.S.C. §§ 320302 (2012)). Although § 432 is a specific delegation of administrative authority to federal agencies to implement the law's provisions, the section does not cede Congress' superior legislative authority to interpret and implement the Act

is at the heart of Professor Seamon and my disagreement.

While both Professor Seamon and I agree that the Antiquities Act was a product of legislative compromise and largely recount the same legislative history ending in its enactment,²⁴ our agreement stops there. We disagree over the extent to which the final law left room for the protection of more than historical objects, such as large landscapes containing objects of historic or scientific interest, and over the amount of land required to protect those objects. I argue that those two questions are unresolved in either the legislative history or the law itself;²⁵ Professor Seamon argues the reverse.²⁶ We also interpret Congress' failure to check perceived Presidential excess very differently. He attributes Congress' failure to curb what he calls "abuse" of the Act's legislative intent to its institutional inability to act unilaterally. Comparing this to a president who "is as free as a cowboy."²⁷ I see in Congress' inaction, its consistent resistance to the idea of curtailing the President's designation authority—a demeanor made even more striking by the fact that over the years Congress has considered and rejected legislation seeking to rescind or even amend the Antiquities Act for many of the same reasons raised by today's critics of the Act, like Professor Seamon.²⁸ Professor Seamon's failure to discuss how the courts have viewed the scope of the President's powers under the Antiquities Act may be because, with only one exception,²⁹ courts have generally sustained those actions.³⁰

Given the wide divergence in the views of the Act, how much weight

to the Administration. *See* *Waynan v. Southard*, 23 U.S. (10 Wheat.) 1, 43 (1825) ("Congress may certainly delegate to others, powers which the legislature may rightfully exercise itself.").

24. *Compare* Seamon, *supra* note 1, at 561–67 (emphasizing that part of the legislative history supports the Act's narrow focus), *with* Babcock, *supra* note 4, at 13–16 (pointing out that the history left open the type of artifacts to be protected and the amount of land necessary to protect the object that was the subject of the designation).

25. Babcock, *supra* note 4, at 16.

26. Seamon, *supra* note 1, at 567 ("[T]he 1906 Act was designed to allow the President to designate discrete objects as national monuments and, for each such object, to reserve only the smallest amount of land necess[ary] to protect that object." (alteration in original) (internal quotations omitted)).

27. Seamon, *supra* note 1, at 574.

28. *See* Babcock, *supra* note 4, at 18 (discussing some of those criticisms).

29. *Anaconda Copper Co. v. Andrus*, 14 Env't Rep. Cas. (BNA) 1853, 1854 (D. Alaska 1980) (challenging President Carter's use of the statute to designate fifteen new national monuments, to expand the boundaries of two existing monuments, and to withdraw more than fifty-six million acres in Alaska to protect public lands until Congress enacted protective legislation).

30. *See* *Wyoming v. Franke*, 58 F. Supp. 890, 896 (D. Wyo. 1945) ("[I]f the Congress presumes to delegate its inherent authority to the Executive Departments which exercise acquisitive proclivities not actually intended, the burden is on the Congress to pass such remedial legislation as may obviate any injustice brought about as the power and control over and disposition of government lands inherently rests in its Legislative branch.").

should be given to its intent? I argue not much. I believe of greater import is the practice of government institutions in implementing the statute. Here, contrary to Professor Seamon, practice shows presidents generously exercise their discretion to identify and then reserve areas under § 2 of the Antiquities Act, unchecked by the courts or Congress.³¹

In the field of statutory interpretation the idea that “practice informs the content of constitutional law” is referred to as “historical gloss.”³² Courts may and often do consider historical gloss when interpreting the meaning of a statutory text.³³ Governmental practices can also be invoked to support “what legal and political theorists” term “constitutional conventions,” a catchall phrase used by legal and political theorists to cover those “maxims, beliefs, and principles” that “guide officials in how they exercise political discretion.”³⁴ To act contrary to an historical gloss violates a legal understanding, while contradicting a convention violates “the spirit of the constitution, even if it does not violate any particular rule.”³⁵ Thus, historical gloss has legal status and conventions do not.³⁶ Both interpretive approaches have some “normative force”—conventions more so outside the courts as they are not law-based.

The cases discussed in Bradley and Siegel’s articles on interpreting constitutional text involve the allocation of power between Congress and the Executive Branch. In *NLRB v. Noel Canning*,³⁷ for example, the Court wrote that since “the interpretive questions before it concern the allocation of power between two elected branches of Government . . . it would put significant weight upon historical practice,” even if “the nature or longevity of that practice is subject to dispute”³⁸ Although not a matter of constitutional interpretation, the dispute over the meaning of § 431 of the Antiquities Act, involves, among other things, the historical practices of the two elected branches of government. Thus, the resolution of that dispute might be amenable to consideration of historical gloss as

31. Presidents have declared a 157 national monuments since the law’s enactment in 1906. Squillace et al., *supra* note 11, at 55.

32. Curtiss A. Bradley & Neil S. Siegel, *Historical Gloss, Constitutional Conventions and the Separation of Powers*, 105 GEO. L. REV. 255, 257 (2017) [hereinafter Bradley & Siegel, *Historical Gloss*]; see generally Bradley & Siegel, *supra* note 18 (analyzing the Court’s use of historical gloss in *NLRB v. Noel Canning* in the face of textual ambiguity and the concept of constitutional adverse possession).

33. See, e.g., *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 610–11 (1952) (Frankfurter, J., concurring) (“[A] systematic, unbroken, executive practice, long pursued to the knowledge of the Congress and never before questioned . . . may be treated as a gloss on ‘executive Power’ vested in the President by § 1 of Art. II.”).

34. Bradley & Siegel, *Historical Gloss*, *supra* note 32, at 257.

35. *Id.* at 257 (quoting Keith Whittington).

36. *Id.* at 268.

37. 134 S. Ct. 2550 (2014).

38. *Id.* at 2559–60. See also Bradley & Siegel, *Historical Gloss*, *supra* note 32, at 261.

a tool “to help clarify purportedly ambiguous text.”³⁹ In the case of the Antiquities Act, historical practice conforms to a view of unfettered Presidential interpretive discretion, not to the cabined view of Professor Seamon.

Constitutional conventions can also constrain the exercise of governmental authority. Bradley and Siegel suggest that violation of a convention is not simply an act of “bad policy, but a deviation from norms of good institutional citizenship that help sustain the constitutional system.”⁴⁰ Thus, conventions, although not based on law, exercise a moral force on political actors that can be as powerful as a judicially enforced historical gloss put on some statutory text. To the extent that Professor Seamon is endorsing President Trump’s rescission of two previously designated national monuments, he is supporting the violation of those maxims and beliefs that give weight to prior actions taken under congressionally delegated authority.

Use of neither interpretive approach supports Professor Seamon’s position that § 431 of the Antiquities Act constrains a president’s discretion to designate a national monument. In fact, consideration of past practices and maxims might ease the path to resolving open textual questions like what constitutes an object of scientific interest or the size of the reservation.

II. PROFESSOR SEAMON’S ARGUMENT ON THE TAKE CARE CLAUSE IS UNAVAILING.

Professor Seamon argues that the President’s duty to take care that laws passed by Congress are faithfully executed imposes an affirmative duty on the President to “modify or abolish” any national monument designated by a prior President in violation of law.⁴¹ He argues that the Take Care Clause makes a President responsible for violations of federal laws, even if he was not the cause of those violations.⁴² However, in support of that proposition, Professor Seamon cites inapposite cases. Two cases, *Myers v. United States*⁴³ and *Free Enterprise Fund v. Public Co. Accounting Oversight Board*,⁴⁴ involve the Court striking down laws that restricted the President’s authority to remove subordinates⁴⁵—not an issue here. A third case, *Printz v. United States*,⁴⁶ invalidated a law that transferred federal authority for executing a federal law to state and local

39. *Id.* at 263.

40. *Id.* at 266.

41. Seamon, *supra* note 1, at 588.

42. *Id.* at 586.

43. 272 U.S. 52 (1926).

44. 561 U.S. 477 (2010).

45. *See id.* at 513–14; *Myers*, 272 U.S. at 176.

46. 521 U.S. 898 (1997).

law enforcement agents over whom the President had no control⁴⁷—also not pertinent to the situation at hand. The final case he cites, *Lujan v. Defenders of Wildlife*,⁴⁸ involves plaintiffs’ standing to challenge a federal law.⁴⁹ The statement from the case quoted in Professor Seamon’s article that such an interpretation would unconstitutionally “transfer from the President to the courts the Chief Executive’s most important constitutional duty, ‘to take Care that the Laws be faithfully executed,’”⁵⁰ is dicta, taken entirely out of context. To say that “these decision require interpreting the Antiquities Act to allow the President to modify or abolish a monument established by a prior president”⁵¹ is a stretch.

Professor Seamon is right that the Take Care Clause together with Article II imposes on the President the responsibility to be sure that laws enacted by Congress are implemented as Congress intended. Indeed, courts view that clause “as the direct constitutional source of the President’s obligation to respect legislative supremacy” and not to act contrary to law.⁵² However, there is nothing in the Take Care Clause or in how courts have interpreted it that makes the President responsible for *upholding* any law or for *preventing* its violation. For certain, application of the Clause here does not enable President Trump to waive language in FLPMA preventing him from affecting a prior President’s designation of a national monument or accreting to himself the power to rescind or modify an existing monument, when the only authority granted to the President by the Antiquities Act is to identify and protect historic structures and objects of scientific interest.⁵³ Ironically, the Take Care Clause prevents him from doing those things.

“[A]ny authority conferred by the Take Care Clause ‘starts and ends with the laws Congress has enacted.’”⁵⁴ The Take Care Clause prevents the President from creating exceptions to, or exemptions from, a legislative directive.⁵⁵ Yet, this is exactly what President Trump has done by substantially modifying the boundaries of two previously designated national monuments—actions Professor Seamon endorses. As such, these actions are “highly suspect”⁵⁶ and certainly outside the province of the Take Care Clause.

47. *Id.* at 933.

48. 504 U.S. 555 (1992).

49. *Id.* at 557–58.

50. Seamon, *supra* note 1, at 587 (quoting *Lujan*, 504 U.S. at 577).

51. *Id.* at 588.

52. Babcock, *supra* note 4, at 68–69.

53. *Id.* at 69–70.

54. *Id.* at 70 (quoting Jack Goldsmith & John Manning, *The Protean Take Care Clause*, 164 U. PA. L. REV. 1835, 1850 (2016)).

55. *Id.*

56. *Id.*

III. THE INVERTED ARGUMENT THAT THE POWER TO REDUCE IMPLIES THE POWER TO RESCIND AND THE SELF-LABELED “RULE” THAT PRESIDENTS SHOULD “NOT TIE THE HANDS OF THEIR SUCCESSORS” ARE UNPERSUASIVE.

Although Professor Seamon equates them, reduce and rescind are very different concepts—to rescind is to revoke, void, annul, or cancel something, while to reduce is to decrease or lessen something, not to abolish it. The power to reduce the size of something is a lesser power than to cancel something completely. It defies logic to propound, as Professor Seamon does, that a greater power can fit within a lesser power and that the lesser power can imply the existence of a greater power.⁵⁷

Contrary to Professor Seamon, a President being able to reduce the size of a previously designated monument because of a mistake in its boundaries or in the existence of the objects the monument was established to protect does not logically “compel the conclusion” that a subsequent President can revoke that designation.⁵⁸ Even if that were true, President Trump’s proclamations are not an example of his correcting any errors Presidents Clinton or Obama made in their designations. Rather, his proclamations reconfiguring their designations reflect a policy disagreement with his predecessors over how much land should have been reserved.

Executive actions taken pursuant to a legislative delegation, like proclamations designating national monuments, do bind the hands of subsequent executives. Professor Seamon’s attempt to equate a presidential proclamation issued under § 431 of the Antiquities Act with an ordinary executive order, so it can be easily modified,⁵⁹ understates the role of Congress in the former.⁶⁰ “[T]he fact that presidential proclamations designating national monuments are issued under the authority of the Antiquities Act gives them more than the usual hortatory

57. See Seamon, *supra* note 1, at 584–86 (“If the President can *reduce* a monument to exclude lands that the President determines were not properly included in the first place, logic compels the conclusion that the President can *abolish* a monument that the President determines was not properly created in the first place—say, because it did not contain antiquities entitled to protection under the Act.”).

58. *Id.* at 585.

59. *Id.* at 588 (“[T]he difference between Executive orders and proclamations is more one of form than of substance.”).

60. Professor Seamon mistakenly equates presidential action under a specific congressional mandate with presidential executive orders, the over-riding of which he correctly finds common. See *id.*; see also Pamela Baldwin, *CRS Report for Congress: Authority of a President to Modify or Eliminate a National Monument* (2000), <http://congressionalresearch.com/RS20647/document.php?study=Authority+of+a+President+to+Modify+or+Eliminate+a+National+Monument> [https://perma.cc/G3YG-XN73] (commenting that executive orders relate to intra-executive branch actions).

power with respect to the general public”;⁶¹ unlike an executive order, they tie the hands of subsequent presidents unless Congress steps in.

IV. PROFESSOR SEAMON’S ARGUMENTS UNDERCUT THE SEPARATION OF POWERS DOCTRINE.

Although the separation of powers doctrine is not stated in the text of the Constitution, it is “an indispensable part of our theory of politics” in this country, indeed of “our American constitutionalism.”⁶² Respect for the functional distinctiveness of the three branches of government underlies the doctrine, and courts guard against one branch encroaching into the province of the others or any “aggrandizement” of power by one branch to the detriment of the other two that would destabilize the balance of power among them.⁶³ I contend in my article that any action by a sitting President to rescind or modify a previously designated national monument, a power that Congress reserved to itself in the Antiquities Act, impermissibly encroaches on the powers of the Legislative Branch and violates the separation of powers doctrine.⁶⁴

By advocating that President Trump has this authority, Professor Seamon is suggesting that the President can engage in a legislative function—the amendment of a law, here the FLPMA, by excising an offending provision, § 204(j), which prohibits a President from affecting in any way a prior President’s designation.⁶⁵ In § 204(j), Congress made its policy preferences clear that designations by prior presidents cannot be modified or revoked. Professor Seamon is correct that language denying this power to the Secretary did not reserve it to Congress.⁶⁶ But that does not change the essential fact that Congress enacted the Antiquities Act under its sole authority “to dispose of and make all needful Rules and Regulations” governing federal lands,⁶⁷ and that a President, who designates a national monument, is acting under and within that authority. Therefore, only Congress has the power to affect a previous designation—here, the lesser power to revoke or rescind a previous designation is clearly encompassed in the greater, power to designate in the first place. To the extent that those earlier actions by previous presidents exceeded delegated authority in the Antiquities Act,

61. Babcock, *supra* note 4, at 10.

62. Jeremy Waldron, *Separation of Powers in Thought and Practice*, 54 B.C. L. REV. 433, 436 (2013).

63. Babcock, *supra* note 4, at 67.

64. *See id.* at 70.

65. *See id.* at 70–72 (equating presidents ignoring specific congressional directives with their refusing to enforce a law or comply with directives about how a law should be complied with).

66. Seamon, *supra* note 1, at 597.

67. *See* U.S. CONST., art. IV, § 3, cl. 2.

corrective action lies in the Legislative, not the Executive Branch, as the Judicial Branch has made clear; to argue otherwise subverts the separation of powers doctrine.

Much separates Professor Seamon and me regarding the extent to which the Antiquities Act binds subsequent Presidents to respect the actions of their predecessors. Less apparent are the weaknesses in the rationales Professor Seamon uses to support President Trump's action modifying his predecessors designation, including the reliance on the Act's original intent, the robust interpretation of the Take Care Clause imbuing the President with untethered corrective powers, the imaginative re-imagining of certain sophisms, and the subversive reading of the separation of powers doctrine which perversely vests in the President the very powers President Trump accuses Presidents Clinton and Obama of improperly using—coloring outside the statutory lines. But our disagreements are not surprising. They reflect the incessant debate over the use of our public lands that have historically divided this country and, in all likelihood, will continue to divide us as long as those lands exist.