



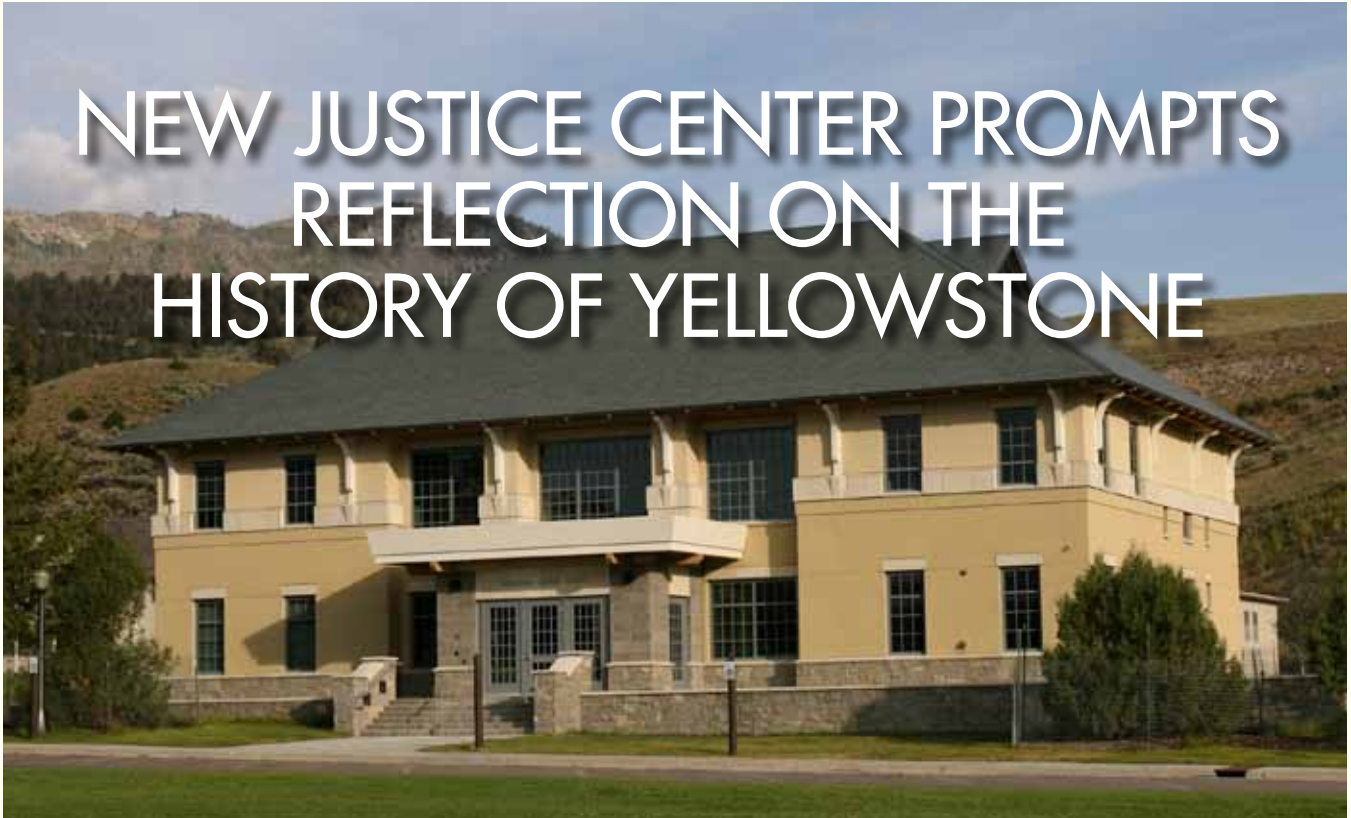
Y E L L O W S T O N E

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DISCOVERY

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NEW JUSTICE CENTER PROMPTS REFLECTION ON THE HISTORY OF YELLOWSTONE



The new Yellowstone Justice Center provides a state-of-the-art home for Yellowstone's federal courthouse. Photo: NPS

By April Christofferson
Yellowstone Association

Visitors to the Mammoth Hot Springs area this past year have noticed the presence of an impressive new building as they approach Mammoth from the North Entrance road. The long-awaited Yellowstone Justice Center, completed in August 2008, already bustles with activity as it provides a state-of-the-art new home for Yellowstone's federal courthouse. For some, the new facility also prompts reflection on the history of Yellowstone and its unique judicial system.

From Lawless Yellowstone to Effective Criminal Justice

It might sound far-fetched to propose that a book review written in 1885 helped lead to the creation of Yellowstone National Park's judicial system, but a look at the

early history of the park and its most ardent advocates may lead to just that conclusion.

When Congress voted to set Yellowstone aside as this country's first national park in 1872, it ordered the Secretary of the Interior to protect the park and its resources. But the legislators overlooked

one important thing—allocating any money for those purposes. As a result, illegal activities threatened not only the park itself in the first years of Yellowstone, but its residents and visitors as well.

Theft, gambling, assault, and even murder were all too common. So was profiteering from the use of the park's resources. Railroad promoters and concessioners saw Yellowstone as a virtual money-making machine. One famous example is Ole Anderson, who sold "coated specimens"—ordinary objects, such as coins and bottles, he placed in the hot springs at Mammoth to coat them with chalk-like travertine deposits. Tourists snatched them up eagerly, unaware that by the time they arrived home, their souvenir often would have shaken loose its coating.

Perhaps the biggest and most persistent problem, however, was poaching.

What's Inside...

- NEW FILM AT CANYON VISITOR EDUCATION CENTER
- CALL FOR WINTER VOLUNTEERS
- KEN BURNS DOCUMENTARY NOW AVAILABLE FOR PRE-ORDER

“In the pioneering venture of creating a national park, Congress overlooked the item of providing money for administration and protection; consequently for a period of five years no government funds were available and hunters had things pretty much their own way in Yellowstone.” (Oberhansley, 1937)

As it turned out, poachers boldly profited from killing and selling the park’s newly protected wildlife for many years. And if they were apprehended—an unlikely occurrence given the fact that there was no one on the payroll to enforce Congress’s dictate to protect the park’s resources—the punishment usually served as little-to-no deterrent.

“The harvest of big game animals in the park by commercial hunters, particularly elk and bison, soon turned into an outright slaughter.... For the first 22 years of the existence of Yellowstone, park and national authorities, such as the Secretary of the Interior and concerned senators, fought a continuous

and unsuccessful battle to stop the killing of game animals in the park.” (Wright, 1992, p.4)

In 1883, Secretary of the Interior Carl Schurz finally issued a regulation prohibiting hunting and killing of wildlife inside Yellowstone, and Congress authorized \$40,000 for management of the park. The money was intended to create a park police force, but there was still no statutory authority to put any teeth into prohibitions against hunting, so the poaching situation improved little. “...all hunting in Yellowstone was prohibited by law but no court was provided to try cases, the only punishment being arrest and expulsion from the park and confiscation of outfit. This proved to be an excellent gamble for poachers with cheap outfits when a good head was worth \$400.” (Oberhansley, 1937)

The situation was further complicated by conflicts over jurisdiction. The states of Montana and Idaho each

extended into Yellowstone, but most of the park was originally located in Wyoming’s Uinta County. Questions began arising about jurisdiction within the park, and in response, in 1884, the Wyoming Territorial Legislature passed the Wyoming Act. This act 1) annexed Yellowstone into Wyoming’s Uinta County, 2) authorized the appointment of two justices of the peace and two constables to keep the law inside Yellowstone, and 3) authorized one-half of the fines assessed to violators to be paid to the Wyoming territorial treasury.

This last, self-serving provision resulted in notoriously stiff fines. In fact, a scandal arose when, in 1884, Justice of the Peace Hall, from his court in the Lower Geyser Basin, incorrectly found Illinois Congressman and Judge Lewis E. Payson guilty of leaving a fire burning at his campsite and charged him a whopping \$1,000 (which was later reduced to \$1). The Wyoming Act was soon repealed. This incident reportedly played into Congress’s failure to allocate funds in the subsequent year for the park, but there may have been another motive as well.

“In 1884, Congress failed to make an appropriation for the park. It has been speculated that Congress did this to force the military to take control of Yellowstone, thus assuring better protection.... Secretary of the Interior Lamar therefore requested that army troops be stationed to protect the resources and to administer the park. The first detachment of cavalry arrived in 1886, and Captain Moses Harris assumed the duties of acting park superintendent.” (Wright, 1992, p.5)

The military remained in charge of the park for 30 years, until the National Park Service was created in 1916. Under the military’s control, things improved; however, in the first years, a statutory remedy to punish violators was still lacking.

Throughout this early period of park history, one of this country’s first conservationists, George Bird Grinnell, maintained a strong vocal support for Yellowstone. Grinnell never hesitated to use his position as a writer for *Field and Stream* magazine to muster support for the park and the protection of its wildlife. But *Field and Stream’s* readership was mostly hunters and fishermen. He needed a bigger following to rally the kind of support Yellowstone required to safeguard its wildlife.

TABLE OF CONTENTS:

Resource Notes.....	6
Explore Yellowstone!.....	7
Institute News.....	8-9
Park Store.....	10-11
Just for Kids!	12
Membership.....	13-15



THE MISSION OF THE YELLOWSTONE ASSOCIATION

The Yellowstone Association, in partnership with the National Park Service, fosters the public’s understanding, appreciation and enjoyment of Yellowstone National Park and its surrounding ecosystem by funding and providing educational products and services.

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That support came in several forms. First and foremost was a person who eventually came to symbolize this nation's first national park: Theodore Roosevelt. Roosevelt had written a book entitled *Hunting Trips of a Ranchman*, which Grinnell reviewed for *Field and Stream* in 1885. Describing the book as charming but naïve, Grinnell roused Roosevelt's ire. However, when Roosevelt contacted Grinnell for an explanation, the two men found they shared a common passion for wildlife. They soon forged a strong bond that resulted in the 1887 formation of the Boone and Crockett Club. The Boone and Crockett Club made protecting Yellowstone a top priority. But while the club's efforts to block a railroad through the park were successful, poaching of wildlife in the park continued to be a major problem.

This stemmed in part from the fact that the nation as a whole did not yet have Yellowstone on its radar screen. That would change in 1894, when another reporter for *Field and Stream*, Emerson Hough, reported the arrest and release of notorious poacher Edgar Howell. On May 13 of that year, two military scouts caught Howell skinning five bison he had poached in the Pelican Valley. Reporter Hough just happened to be in the park at the time. He sent a report of the incident to Grinnell, who promptly published it in *Field and Stream*.

"Let us remember then, first, that Howell was killing cows and yearlings; second, that the few buffalo left are helpless when pursued in the snow; third, that for a crime of this sort Congress provides no penalty! As this is written the word comes that the Secretary of the Interior has ordered the release of Howell from custody. On this basis he can now go into the Park again and kill more buffalo." (Schullery, 1979, p.142)

This report finally caught the nation's eye and caused an outpouring of rage, accompanied by demands for protection of Yellowstone's wildlife. Within 13 days of Howell's arrest, Congress passed the Lacey Act (named after Iowa Congressman John Lacey, also a Boone and Crockett member). The Lacey Act made killing wildlife inside the park a federal offense, punishable with fines of up to \$1,000 and two years in jail. The act also provided Yellowstone with a U.S.

commissioner who would have the authority to try and sentence persons violating the park rules.

The "Stone House" and Its Residents

On June 20, 1894, John W. Meldrum (formerly the acting governor of the Wyoming Territory) became the first U.S. commissioner of Yellowstone. His salary: \$1,000. Thus began Yellowstone National Park's current judicial system.

The Lacey Act also provided \$5,000 for an office for the commissioner as well as an office and jail for the U.S. marshal. These funds were used to build the first stone building at Fort Yellowstone. Located next to Liberty Cap and the Mammoth Terraces (near where enterprising Ole Anderson lived and set up shop), the building included an office, jail, and residential space on the first floor, as well as bedrooms upstairs. Meldrum moved in upon its completion in 1894. Court was actually held in his residence.

Meldrum served as U.S. commissioner until his death in 1936. During his 41-year tenure, he earned the nickname "Grand Old Man of Yellowstone." A Department of the Interior report detailing the cases tried before Meldrum between October 1907 and October 1908 gives an idea of the crimes he dealt with.

The punishment he meted out appeared commensurate with the seriousness of the offense. On November 9, 1907, soldier G.V. Allen was charged with carving a name on a tree and fined \$5 and costs. George Broadbent was found guilty of killing an elk, and on December 4 of that year, he was fined \$100 plus costs. On January 28, 1908, G.J. Gibson, who was charged with hunting wild animals in the park, was committed to the guardhouse for a period of 50 days and ordered to pay costs and forfeit his guns, traps, and snowshoes. Bruno Hoepfner was charged with disorderly conduct and "bad behavior" within the limits of Yellowstone National Park on August 31 and fined \$50 and costs. (Department of the Interior, 1908.)

After Meldrum's 41-year tenure, T. Paul Wilcox was appointed U.S. commissioner. He served for 17 years, again living in and adjudicating from what became known as the "Stone House." James W. Brown succeeded

Wilcox and served for 28 years before Stephen Cole, the current head of Yellowstone's judicial system, was appointed on May 1, 1981.

Stephen Cole was practicing law and working as a part-time magistrate in Worley, Wyoming, in 1980 when he was invited to participate in the "Magistrate of the Week Program." After only one week in Yellowstone, Cole knew he had found what he wanted to do with his life. He applied for the position recently vacated by Judge Brown and, in 1981, moved his family into the Stone House.

The title of the job that Cole assumed had changed names since the inception of the judicial post. It changed from U.S. commissioner to U.S. magistrate in 1968 as a result of the Federal Magistrate's Act. That act broadened the authority of magistrates and enhanced and created new duties (including more civil duties and preliminary criminal duties). In 1990, by virtue of other pieces of legislation that have increased the magistrate's duties, the job title changed again, this time to U.S. magistrate judge, the title Stephen Cole holds today.

Crimes committed in the park are federal offenses. Judge Cole is responsible for all initial appearances, both misdemeanor and felony, and for all trials, motions, and sentencing

continued on page 4



George Bird Grinnell was a writer for *Field and Stream* and strong supporter of the park and its wildlife. Photo: NPS