



Office of Insular Affairs

Share

Palmyra Atoll

Overview

The northernmost atoll in the Line Islands Archipelago halfway between Hawaii and American Samoa is Palmyra Atoll. Palmyra is a National Wildlife Refuge administered by the U.S. Fish and Wildlife Services in the Department of Interior as transferred from the Office of Insular Affairs to the U.S. Fish and Wildlife Service on January 18, 2001. The executive, legislative and judicial authority over certain excluded areas of Palmyra Atoll as detailed below remain with the Deputy Assistant Secretary of the Interior for Insular Affairs.

The following historical timeline of Palmyra is provided for informational purposes only. For more information on Palmyra, you may refer to the [U.S. Fish and Wildlife website](#).

History: Under the Hawaiian Flag (Part I)

The atoll received its name from the American vessel Palmyra under the command of Captain Sawle, who sought shelter there on November 7, 1802. On February 26, 1862, His Majesty, Kamehameha IV (1834-1863), Fourth King of Hawaii (1854-1863), issued a commission to Captain Zenas Bent and Mr. Johnson B. Wilkinson, both Hawaiian citizens, to sail to Palmyra and to take possession of the atoll in the king's name.

On April 15, 1862, Captain Bent and Mr. Wilkinson landed in Palmyra and took formal possession of the atoll in accordance with the royal commission.

Captain Bent sold his rights to Palmyra to Mr. Wilkinson on December 24, 1862. This deed was recorded in 1885 in the Royal Registry of Conveyances in Honolulu. It conveyed all of the captain's:

"right, title and interest in and to all the property of whatever description now lying or situated on Palmyra Island (sic) in the Pacific Ocean, which island (sic) by a proclamation of His Majesty, Kamehameha IV, at present belongs to the Hawaiian Kingdom, and also all my right, title and interest in and to any partnership property that I may have an interest in as co-partner with the said Johnson Wilkinson."

After Mr. Wilkinson's death on June 25, 1866, in New Zealand, the captain's and Mr. Wilkinson's rights passed to Kalama (Mrs. Johnson B.) Wilkinson through Mr. Wilkinson's will, which was proved and registered in New Zealand and was later admitted to probate in Hawaii in 1898. *United States v. Fullard-Leo*, 331 U.S. 256, 277-78 (1947). After Mrs. Wilkinson's death in 1885, two of her three heirs transferred all their rights, titles and interests in Palmyra to a Mr. Wilcox, who conveyed the same to the Pacific Navigation Company, which sent a married couple to live in Palmyra September 1885 - August 1886.

By a series of four conveyances between 1888 and 1911 the Pacific Navigation Company's interests were transferred to the Honorable Henry Ernest Cooper Sr. of Honolulu.

In 1892 the Annexation Club, a small group in Honolulu interested in Hawaii's annexation to the United States, if no other measure served, held its meetings privately in the offices of Lorrin A. Thurston, Esq. The thought of such a group had originated with Judge Cooper. Long an ardent supporter of independence for Hawaii, Mr. Thurston had been forced to agree with Judge Cooper that it was wise not to promote annexation but to be ready to act if Her Majesty, Liliuokalani (1839-1917), Queen Regnant of Hawaii (1891-1909), acted, in the group's estimation, *ultra vires*.

Judge Cooper served Saturday-Tuesday, January 14-17, 1893, as the Chairman of the Committee of Safety during the Hawaiian Revolution. On the morning of

Sunday, January 15, 1893, the Committee of Safety met and decided to call a mass meeting on Monday, January 16, to ask to confirm the appointment of the Committee of Safety and to authorize it to take whatever measures it might consider necessary to protect the public interest.

The mass meeting held in the Honolulu Armory on Monday, January 16, was very large, enthusiastic and harmonious. The Committee of Safety, selected on Saturday, January 14, from the membership of the Annexation Club, was confirmed, including Judge Cooper's chairmanship, and given power to "further devise such ways and means as might be necessary to secure the permanent maintenance of law and order and the protection of life, liberty and property in Hawaii." On Monday afternoon the Committee, realizing that the community was in a state of unrest, requested the then American Minister to Hawaii, the Honorable John L. Stevens, to land a force from the U.S.S. Boston, then in the harbor. The Minister acceded to this request, and a body of sailors and marines came ashore late Monday afternoon. This force sent a guard to the American legation and found camping ground about where the present Federal Building in Honolulu now stands.

The Committee of Safety next met on Monday evening, January 16, to consider the organization of a new government. Some sixty citizens attended.

On the morning of Tuesday, January 17, the Honorable Sanford B. Dole completed his duties at the Honolulu courthouse, wrote his resignation as Associate Justice of the Supreme Court of the Kingdom of Hawaii and sent it to the Queen's Cabinet. Justice Dole then went to the headquarters of the Committee of Safety and accepted the Committee's appointment as President of the Provisional Government. Later that same day, from the steps of the Iolani Palace Judge Cooper read the proclamation abrogating the monarchy and establishing the Provisional Government. The proclamation appointed an executive body for the Provisional Government with Justice Dole as President and Foreign Minister. As the reading neared its end, a letter from President Dole announcing the Provisional Government's actions was sent to the American Minister, Mr. Stevens, who responded with a letter recognizing the Provisional Government. The remaining diplomats and consuls in Honolulu received similar notification during Tuesday evening. Before dawn on Wednesday, January 18, President Dole had replies from almost all of them recognizing the Provisional Government.

History: Under the Hawaiian Flag (Part II)

Mrs. Wilkinson's third heir transferred his rights in Palmyra to a Mr. Ringer, whose children in turn transferred their rights in Palmyra to Judge Cooper in 1912. Mr. Ringer's widow sold all her rights, titles and interests in Palmyra to Maui and Clarke in 1912. Judge Cooper petitioned the Hawaii Land Court in 1912 to confirm his title. Maui and Clarke contested the petition and claimed to own Mrs. Ringer's dower interest in an undivided one-third of the atoll. Through the Attorney General of Hawaii, the Land Court decreed that Judge Cooper was the owner in fee simple subject to Mrs. Ringer's dower interest held by Maui and Clarke. *United States v. Fullard-Leo*, 331 U.S. 256, 278 (1947). Judge Cooper made short visits to Palmyra in 1913 and 1914 for two to three weeks and built a house there in 1913. The judge's house collapsed by 1938. *United States v. Fullard-Leo*, 331 U.S. 256, 280 and 283 (1947).

By Captain Bent's and Mr. Wilkinson's actions the Fourth King of Hawaii acquired sovereignty over Palmyra, and the captain and Mr. Wilkinson obtained the private ownership of the atoll's islands. *United States v. Fullard-Leo*, 331 U.S. 256, 265 (1947). The U.S. Supreme Court in 1947 was of the opinion that, where there was power in the king or the officials of his kingdom to convey a title to Palmyra to the captain and Mr. Wilkinson between the years immediately following its annexation to the Kingdom of Hawaii in 1862 and prior to many of the private conveyances occurring in Hawaii much later in the nineteenth century, the Anglo-American doctrine of "lost grant" may be applied. The Supreme Court presumed the conveying of such a "grant" to the captain and Mr. Wilkinson and the subsequent "loss" of the "grant". *United States v. Fullard-Leo*, 331 U.S. 256, 273 (1947).

In order to apply the doctrine of "lost grant", the possession must be actual, open and exclusive. The payment of taxes is important. No taxes were collected from those who claimed to be owners of Palmyra prior to the years 1885-1887, when the Pacific Navigation Company paid taxes on Palmyra to the Kingdom of Hawaii. Assessments were made annually from 1911 until 1959, and taxes were paid regularly during those years to the Territory of Hawaii by the claimants to the property. *United States v. Fullard-Leo*, 331 U.S. 256, 273-75 (1947).

It is apparent that, except for the royal grant from 1862, a paper title existed in Captain Bent and Mr. Wilkinson and their heirs. There is a record of the conveyances in Hawaii since 1885. Hence, there has been a claim of right to exclusive possession. That claim was manifested not only by transfers of paper title but also by the actual user of the property. The courts judge the sufficiency of actual and open possession of property in the light of the property's character and location. Palmyra is admittedly an isolated place, whose possession need be less than continuous to form the basis of a claim. It is true that the Anglo-American rule in applying the doctrine of "lost grant" requires an uninterrupted and long-continuing possession of a kind indicating the ownership of the fee. However, uninterrupted and long-continued possession does not require a constant, actual occupancy where the character of the property does not lend itself to such use. In addition, no other private owner claims any rights in Palmyra. *United States v. Fullard-Leo*, 331 U.S. 256, 279-80 and 281 (1947).

History: Under the American Flag

Palmyra was specified as one of the islands included in the Joint Resolution of the Congress of July 7, 1898, which annexed the Republic of Hawaii to the United States. [Vide Volume 30, Statutes-at-Large, page 750, et Senate Document No. 16, Fifty-fifth Congress, Third Session, page 4.] In 1912, at Judge Cooper's suggestion, the then Governor of Hawaii asked the Secretary of the Interior to send an American vessel to Palmyra to confirm American sovereignty. Thus, on February 17, 1912, the U.S. Navy cruiser *West Virginia* under the command of Rear Admiral W.H.H. Southerland left Honolulu and returned on February 28, 1912, with the announcement that the cruiser's officers had taken formal possession of Palmyra in the name of the United States on February 20-21, 1912.

During the 1940's the U.S. Navy stationed six thousand sailors in the atoll. They dredged a seaplane runway which merged the atoll's two western lagoons into one. A causeway was built on the remaining reef. At the same time, the sailors joined three of the islands into one and built a land plane runway about one mile long, which the U.S. Air Force used until 1961.

Palmyra Atoll was a part of the Territory of Hawaii (United States v. Fullard-Leo, 331 U.S. 256, 266 (1947)) prior to Hawaii's entering the Union on August 21, 1959. Before this date, the Territory of Hawaii provided law enforcement to Palmyra as a part of Hawaii. In as much as the Congress expressly excluded Palmyra from the State of Hawaii by section 2 of the Hawaii Statehood Act (Public Law 86-3, March 18, 1959), legislation was required to provide for law enforcement. The Congress accomplished this by Public Law 86-3(March 18, 1959), which extended the jurisdiction of the U.S. District Court for the District of Hawaii to cases arising in Palmyra (Title 48, U.S. Code, section 644a).

From August 12, 1898, until April 30, 1900, Hawaii (including Palmyra Atoll) was an unincorporated U.S. territory. On the latter date the Congress made the U.S. Constitution and all U.S. laws applicable to Hawaii (including Palmyra Atoll) as elsewhere in the several States and the District of Columbia. On April 30, 1900, Hawaii (including Palmyra Atoll) became an incorporated U.S. territory. (Incorporation has been consistently interpreted as a perpetual state. Once incorporated, an area cannot be de-incorporated.) So, when Hawaii (excluding Palmyra Atoll) was admitted as one of the several States, Palmyra remained and continues to remain an incorporated U.S. territory. It is, in fact, of the fourteen U.S. insular areas, the only incorporated U.S. territory, that is, a Territory. (Under Federal law U.S. insular areas are divided into two categories: incorporated insular areas which use "Territory" with a capital "T" and unincorporated insular areas which use "territory" with a lower-case "t.")

Section 48 of the Hawaii Statehood Act continued to vest all executive and legislative authority necessary for the civil administration of Palmyra in the Secretary of the Interior, until the Congress provided for the government of Palmyra. Section 48 maintained that all judicial authority for the government of Palmyra other than that contained in Title 48, U.S. Code, section 644a, would continue to be vested as well in the Secretary of the Interior. Section 48 allowed that the Secretary might confer on the U.S. District Court for the District of Hawaii jurisdiction in addition to that contained in Title 48, U.S. Code, section 644a, and those judicial functions and duties which the Secretary deemed appropriate for Palmyra's civil administration.

Executive Order No. 10967 (October 10, 1961) restated that the Secretary of the Interior was responsible for Palmyra's civil administration and all executive and legislative authority necessary for that administration and all judicial authority other than that contained in Title 48, U.S. Code, section 644a. Similarly, the order permitted the Secretary to confer on the U.S. District Court for the District of Hawaii jurisdiction in addition to that contained in Title 48, U.S. Code, section 644a, and those judicial functions and duties which the Secretary deemed appropriate for Palmyra's civil administration. This executive order will continue in force until the Congress provides for Palmyra's civil administration.

Secretary of the Interior's Order No. 2862 (March 16, 1962) gave the U.S. District Court for the District of Hawaii jurisdiction in the filing and recording of written muniments of title to land in Palmyra.

Executive Order No. 10967 (October 10, 1961) restated that the Secretary of the Interior was responsible for Palmyra's civil administration and all executive and legislative authority necessary for the administration and all judicial authority other than that which had been conferred on the U.S. District Court for the District of Hawaii. This Executive order will continue in force until the Congress provides for Palmyra's civil administration.

Recent History and Current Jurisdiction

On January 20, 1995, the Honorable Elton Gallegly (R-Calif.), chair of the House Resources Subcommittee on Native American and Insular Affairs in the One Hundred Fourth Congress, introduced H.R. 602, the Omnibus Territories Bill of 1995. H.R. 602 provided in title III (the Insular Areas Consolidation Bill of 1995), sections 301-306, that the State of Hawaii should include Palmyra Atoll. This bill never became law and therefore has no effect on the administration of Palmyra.

On Thursday, January 18, 2001, the then Secretary of the Interior, the Honorable Bruce Babbitt, signed Secretary's Order No. 3224, which immediately transferred from the Office of Insular Affairs to the U.S. Fish and Wildlife Service all executive, legislative and judicial authority vested in the Secretary for the civil administration of Palmyra Atoll.

Sections 3-5 of the Secretary's Order excluded nine areas from this transfer. These areas are certain tidal and submerged lands (but not the water above such lands) within the twelve- nautical-mile territorial sea surrounding the atoll or within the atoll's lagoon. The executive, legislative and judicial authority over these excluded areas remains in the Deputy Assistant Secretary of the Interior for Insular Affairs.

Nine Excluded Areas

Number
Approximate Radius (in Feet)
Approximate Area (in Sq Feet)
Location
1
394
487,441
Western sub-lagoon of West Lagoon
2
821
2,116,489
Southeast portion of West Lagoon, off of the western end of former fighter strips.
3
558
997,683
Northeast side of West Lagoon adjacent to the deep draft dock

4

394

487,441

On Quail Island on the northeastern portion of the atoll's islands; part of and adjacent to the Black Lagoon

5

7.77(miles)

189.57(sq miles)

A military explosives dumping ground far offshore

6

329

339,877

A grounded vessel by the entrance channel

7

329

339,877

A grounded vessel by the entrance channel

8

329

339,877

In the inter-tidal area on Aviation Island

9

394

487,441

At the southern portion of West Lagoon

In toto 5,596,126 square feet and 189.57 square miles. There are 27,878,400 square feet in a square mile. So, 5,596,126 square feet are equal to a bit more than one fifth of a square mile. Consequently, the area of the Palmyra Atoll Excluded Areas is approximately 189.77 square miles.

Private Ownership

All but two of Palmyra's islands were once owned by the three brothers, Messrs. Leslie Vincent, Dudley and Ainsley Fullard-Leo, all of Honolulu. The brothers' parents, Mr. and Mrs. Leslie Fullard-Leo, acquired title on August 19, 1922, to their islands from Judge Cooper for the purchase price of fifteen million dollars. *United States v. Fullard-Leo*, 331 U.S. 256, 279 (1947). The brothers' spokesman is Mr. Leslie Vincent Fullard-Leo, whom one may reach in Honolulu at 46090 Pu'ulena Street, Kaneohe, Hawaii 96744.

Judge Cooper died on May 15, 1929. His heirs retain the two islands which the Messrs. Fullard-Leo do not own, that is, two of the five Home Islands.

Having purchased its holdings from the Fullard-Leo family in December 2000, The Nature Conservancy owns nearly all of the land in Palmyra Atoll. Under Secretary's Order No. 3224 (January 18, 2001) the Office of Insular Affairs is the civil administrator of the Palmyra Atoll Excluded Areas; the U.S. Fish and Wildlife Service, of the rest of the atoll. For more information on Palmyra Atoll, The Nature Conservancy may be contacted at this website: <http://www.nature.org/>.

Geography

Palmyra Atoll is situated nine hundred sixty miles south by west of Honolulu and three hundred fifty-two miles north of the Equator. The atoll has an area of about one and one-half square miles and consists of around fifty (50) islands in the shape of a horse shoe surrounding two lagoons (prior to the 1940's, three lagoons).

The islands stand but five to six feet above sea level, but dense vegetation rises to a height of seventy-five to ninety feet. Surrounding the islands and the lagoons is a

platform of coral and hard sand. One can walk upon this platform from one island to another, even at high tide. At low tide parts of the platform are dry. The lagoons are separated by arms of the platform reef. They reach depths of from one hundred twenty to one hundred sixty feet.

The climate is wet and humid, as the dense vegetation evidences. Palmyra lies near the zone where the northeast and southeast trade winds meet. The contact between these bodies of air forces the warmer air to rise, to become cooled and to drop its moisture in the form of tropical rain.

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