

WESTERN AUSTRALIA

ANNO QUARTO ET QUINTO

VICTORIÆ REGINÆ

No. 20

An Act to provide for the more effectual and accurate establishment of the Boundaries of Land within the Colony of Western Australia.

*[Assented to 30th September, 1841.]*

**W**HEREAS the want of a sufficient survey-force in this Colony Preamble  
has heretofore rendered it impossible to ascertain with accuracy  
the proper boundaries of several grants of land ; and whereas many

*Boundaries of Country Lands*

Expedient to mark boundaries upon the lands

Surveyor-General to mark proper boundaries, where requisite

Notice to be gazetted of intended survey

Surveyor-General to report districts which have been completed, with plan, description, &c., and to enter same in a record book signed by him and Governor in Executive Council, and gazetted

Boundaries to be entered in a record book to be deemed true boundaries, &c.

Proviso, that the distance on the 'Avon Base Line' shall be taken as the guide for the survey of that line, and of all lines in the said district parallel thereto

Surveyor-General or Officers may enter and take materials, &c.  
Penalty for obstructing

deeds have accordingly been issued, in which the land has been described, either by marks or measurements which on more accurate survey are likely to prove in some degree erroneous, or by measurements to be made of certain distances in certain directions, according to the compass; and whereas it is expedient that all such descriptions should, with as little delay as possible, be corrected or carried into effect, by the erection of visible landmarks upon the several lands under the direction of the Surveyor-General of this Colony: Be it therefore enacted by His Excellency the Governor of Western Australia, by and with the advice and consent of the Legislative Council thereof, that it shall be lawful for the Government, as soon as conveniently may be after the passing of this Act, to direct the Surveyor-General to ascertain and mark by landmarks the proper boundaries of every grant heretofore made or hereafter to be made by Her Majesty, or her predecessors, her heirs or successors, of lands within this Colony, of which the description contained in the deed of grant shall be such as hereinbefore stated.

2. And be it enacted that notice shall be published in three successive 'Gazettes' of the intended survey of each district.

3. And be it enacted that whensoever and so soon as the several boundaries shall have been ascertained and marked within any such district as aforesaid, the Surveyor-General shall report the same, accompanied by a map or plan of the said district, and a description of the several landmarks placed therein, for the approval of the Governor-in-Council; and when so approved shall enter a description of each grant of land so surveyed, according to such landmarks, in a record-book to be kept by him for that purpose; and every such description shall be signed by him and by the Governor-in-Council; and notice of every such entry shall be published in three successive 'Gazettes.'

4. And be it enacted that all boundaries of lands so entered and signed as aforesaid, shall be deemed and taken to be the true boundaries of such lands respectively; all former descriptions thereof, in any title deeds or otherwise, notwithstanding, and whether such lands be in possession of the original owner or owners, or of his, her or their heir or assignee; and such record-book or a certified copy to be made and issued on demand without fee, of any entry in such book signed by the Surveyor-General, shall and may be given in evidence of the boundaries of such lands in any suit or cause affecting the same.

5. Provided always and be it enacted that with respect to the district marked and known in the books of the Surveyor-General's office as the 'Avon District,' the distances formerly marked out upon the line commonly known as the 'Avon Base Line,' shall be deemed and taken in all surveys under this Act of such base line, and of all boundary lines of such lands parallel thereto, to express and contain the distances which the same were originally assumed to express and contain in the survey formerly made of the said 'Avon Base Line.'

6. And be it enacted that it shall be lawful for the Surveyor-General or any person or persons employed by him from time to time to enter upon any lands within this Colony for the purposes of this Act, and to take materials, and erect landmarks upon any part or parts of such lands respectively; and any person who shall wilfully obstruct or

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hinder him or them in the execution of such duty shall forfeit and pay a sum not less than twenty shillings nor exceeding five pounds.

execution of Act not less than £1 nor exceeding £5

7. And be it enacted that any person who shall be convicted before any two Justices of the Peace of this Colony of having wilfully injured or defaced any such landmark as aforesaid shall forfeit and pay a sum not less than ten pounds nor exceeding fifty pounds; and in default of payment of the fine imposed by such Justices, with the costs of proceeding, shall be imprisoned and kept to hard labour for such term not exceeding six calendar months as to the said Justices shall seem fit.

Penalty for injuring landmarks £10 to £50, or imprisonment not exceeding six months

8. And be it enacted that any person who shall be convicted before the Court of Quarter Sessions of this Colony of wilfully and with intent to defraud any other person injuring, defacing or removing any such landmark as aforesaid shall be liable, at the discretion of the Court, to be transported beyond the seas for the term of seven years, or to be imprisoned and kept to hard labour for any term not exceeding two years nor less than six calendar months.

Penalty for maliciously or fraudulently injuring landmarks, transportation or imprisonment

9. And be it enacted that all fines and forfeitures under this Act shall be divided, paid and applied as follows, that is to say: after deducting charges of prosecution from the produce thereof, one moiety shall be paid to the Colonial Treasurer, to be applied toward the Government of this Colony in such manner as the Governor, acting with the advice and consent of the Legislative Council, shall by law appoint, and the other moiety to the party or parties informing.

Appropriation of fines

10. And be it enacted that this Act may be amended or repealed by any Act to be passed during the present session.

Act may be amended

JOHN HUTT,  
GOVERNOR AND COMMANDER-IN-CHIEF.

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