as give the claimants all land within the exterior boundaries of their claim, it carefully made fast the proviso in Section 1 of the Ordinance which limited the grantee to one-sixth more than the quantity named in a grant where the "metes and bounds" were undefined, and would have limited the grantee in certain cases to the actual quantity named in the grant, but for repugnance to the Act. But the Quieting Titles Ordinance could not do impossibilities; it could not make that valid which was utterly void in itself; it could not, for instance, by any amount of declaration, create a valid grant out of a document which contained on the very face of it the announcement that the estate conveyed had "No Boundaries" whatsoever.

In referring to Mr. Clarke's grant I should say that it is an instance of two things; on the one hand of there being no *right* in the claimant to the surplus: and on the other of the claimant's payment to the natives being such as would have made it quite *fair* to give him the whole acreage included in his purchases. I have heard it used as an argument, that the surplus ought to be granted in all the cases because excessive quantities were granted in some; as for instance Webster's, where Governor FitzRoy issued grants for 41,374 acres to that speculator and his partners. But though I may consider it a great injustice to the other claimants to have granted 41,000 acres in Webster's claims, I do not see that it follows, either that it would be right to take that land away now, or that we are therefore obliged to make similar grants to other people. There never was any doubt that the Imperial Government considered the Crown was entitled to the surplus land; and Lord Stanley expressly declared in May 1843, in answer to a question by Captain FitzRoy before he assumed the Government, that the excess in a claim over the quantity granted would revert to the Crown. (See Parliamentary Papers, 1844, vol. iv. p. 387, Col. Sec. copy). Lord Stanley, contemplating the extinction of the native title over all the land comprised in the exterior boundaries of a claim, said with respect to the excess—"the hypothesis being that it neither belongs to the aboriginal owners nor to the purchasers, it must be considered as Demesne of the Crown." This must be conclusive against Governor FitzRoy's contrary opinion.

Still, if the Assembly is disposed to be generous, there is no great difficulty in the way. In the northern claims there will be little further enquiry wanted, and no new surveys; the annexed Return shows exactly what has been taken as surplus out of the respective Claims, and if the Legislature resolves to grant the land it can be done without much delay or expense. But in that case I beg leave, on my own account, to make one observation. If the surplus land is to be given, let it be done on the only principle which is fair. Make a new declaration that every man shall be entitled to a grant for what he *bona fide* bought, irrespective of the original restrictions in the Ordinance of 1840. Let it be announced that the old landmarks are removed, and give to those who abandoned their claims when they found they could merely get the maximum award, a fair chance to come in now and prove them. Remove, with the maximum, the schedule that fixed a scale at the rate of 8s. an acre for worthless hills bought from the natives in 1839, while in 1862 you may buy finely grassed land from the Crown for 5s. an acre. Give a chance to Mr. Weller, for instance, who surveyed 63,000 acres in Otago more than 20 years ago and took his survey up to Sydney; let Mr. Green try for his exact quantity of 1,023,000 acres of snowy mountain on the West Coast, and Mr. Jones prove for his principality at Molyneux; risk Akaroa for Mr. Hempelman, and the Pelorus for Mr. Guard, the Aorere gold-field for Mr. Crawford, and the Napier Plains for Mr. Rhodes; and compensate Mr. Graham for not being able to give him his Waipa land handed over to King Matutaera. What right have we (if the question of the maximum be now re-opened) to create a new kind of restriction, and say we will give away the surplus in the North as the claims are small, but refuse it in the South because they are large? No; however glad I should personally be to see the Northern claimants get the whole of their land as residents and old settlers, I cannot see how it is to be done except on the open reversal of limitations consistently maintained for 20 years, and the inevitable consequent re-opening of the largest claims in the country. It is easy to lay down a new and apparently just principle, but people must have waded through all the land claims history to know where its application will reach.

Secondly, with respect to the Pre-emptive Claims:—

I must make one remark at the outset; and that is, that I do not think it ever can be said for certain what the rights of claimants under Governor FitzRoy's proclamations really were. Lord Stanley took one view of the obligation of the Crown, Lord Grey took another; the Supreme Court declared the proclamations were contrary to law; Governor FitzRoy said the waiver of pre-emption meant one thing, Governor Grey said it meant another. This last point is worth illustrating. Governor FitzRoy said, "The applicant's name being at the head of the Pre-emptive Certificate does not specify that the Crown's right is waived in