

New Zealand.

ANNO TRICESIMO

VICTORIÆ REGINÆ.

[Local and Personal.]

No. 3.

ANALYSIS.

<p>Title. Preamble.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Interpretation. 3. Power to promoters of undertaking to construct railway. 4. Power to enter upon and take lands required. And to occupy lands temporarily. 5. Compensation to be awarded. "Lands Clauses Consolidation Act 1863" incorporated. 6. Lands belonging to infants. 7. Moneys payable under Act to be paid out of the public revenues of the Province of Otago. 8. Incorporation of "Railway Clauses Consolidation Act 1845." 9. Superintendent may lease railway. 10. Superintendent may sell the undertaking. 11. Promoters of the undertaking may sell or lease surplus lands. 12. Plans &c. to be kept in Superintendent's office. 13. Promoters of the undertaking not responsible for error or omission. 14. Power to deviate. 15. Lands taken for the purposes of this Act vested in the promoters of the undertaking. 	<ol style="list-style-type: none"> 16. All contracts to be entered into in the name of the promoters of the undertaking. 17. Promoters of the undertaking to regulate charges. Exemptions from tolls &c. may be conferred by Superintendent in Council. 18. Promoters of the undertaking to take securities from receivers of tolls. 19. Accounts to be kept. 20. Accounts to be audited. 21. Books to be produced before auditors. 22. Auditors to be paid out of the funds of the railway. 23. Annual abstract to be prepared. Accounts to be open to public inspection on payment of a fee. 24. Railway not exempt from any general Acts relating to railways. 25. All regulations and bye-laws made by promoters of the undertaking to be submitted to the Governor in Council for confirmation. Copies to be laid before Provincial Council. 26. This Act not to affect "Provincial Lawsuits Act Declaratory Act 1865." 27. Act to expire in seven years if not acted on within that period.
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AN ACT to provide for the construction of a Railway between the City of Dunedin in the Province of Otago and the Township of Balclutha in the same Province. Title.

[8th October 1866.]

WHEREAS it is expedient that a railway should be constructed between the City of Dunedin in the Province of Otago and the Township of Balclutha in the same Province Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows—

I. The Short Title of this Act shall be "The Otago Southern Trunk Railway Act 1866." Short Title.

II. The following words and expressions used in this Act and any Act wholly or partially incorporated herewith shall have the meanings hereby assigned to them unless there be something in the context repugnant to such construction that is to say— Interpretation.

The word "person" shall include a corporation aggregate or sole and any persons or body of persons whether incorporated or unincorporated.

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The word "land" shall include messuages lands tenements and hereditaments of any tenure and any estate or interest therein.

The terms "plan" "section" and "book of reference" shall mean the plan section and book of reference respectively of the proposed railway deposited in the Private Bill Office of the General Assembly at Wellington.

The expression "the railway" shall mean the railway and works connected therewith authorized to be constructed by or under the provisions of this Act.

The expression "two Justices" shall mean two or more Justices of the Peace for the Colony of New Zealand met and acting together or a Resident Magistrate of the said Colony or Chairman of Petty Sessions under "The Petty Sessions Act 1865."

The word "Superintendent" shall mean the Superintendent for the time being of the Province of Otago aforesaid.

The expression "the promoters of the undertaking" shall mean the Superintendent for the time being of the Province of Otago unless the Superintendent do under the powers herein contained assign the undertaking to any person and then the expression "the promoters of the undertaking" shall mean the person to whom the Superintendent shall under the powers herein contained assign the undertaking and shall then and thereupon cease to mean the Superintendent of the said Province of Otago.

The expression "the undertaking" shall mean the railway and works hereby authorized to be constructed and executed and the right to construct and maintain the same and where not inconsistent with the context all the powers and privileges belonging and appertaining thereto.

Power to promoters of undertaking to construct railway.

III. It shall be lawful for the promoters of the undertaking to make construct and maintain a railway with proper works approaches and conveniences connected therewith commencing at a point at or near the southern side of Jetty Street in the City of Dunedin and passing from in through or into the following city townships and territorial divisions of the said Province viz.—The City of Dunedin the Townships of Greytown Waihola and Balclutha the Town District the Ocean Beach District the Lower Kaikorai District the Green Island Bush District the Dunedin and East Taieri District the Taieri District the Maungatua District the Waihola District the Tokomairiro District the North Tuakitoto District the South Tuakitoto District the Hillend District and the North Molyneux District and terminating at a point situated in the line of the southern side of Hasborough Place and eastern side of Cromar Street in the Township of Balclutha as the line of the said railway is set forth on the plan and described in the book of reference or within the limits of deviation set forth on the said plan being a distance of one hundred yards on either side of the said line and passing through over or under the several sections streets roads and places enumerated in the Schedule hereto annexed.

Power to enter upon and take lands required.

IV. Subject to the provisions of this Act and the Acts wholly or partially incorporated herewith the promoters of the undertaking may exercise all or any of the powers conferred by this Act or the said incorporated Acts for the construction of the said railway and may

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enter upon or cause to be entered upon all lands within the said Province for the purpose of making such surveys as may be necessary and may take and hold all the lands specified in the said Schedule hereto and required for the said railway along the line so set forth and described as aforesaid or within the limits of deviation and may temporarily occupy and use such lands as may be necessary on either side of the said railway during the construction thereof.

And to occupy lands temporarily.

V. All persons being owners of or having any less estate or interest in any lands so taken under authority of this Act or which may be damaged by the construction of the said railway shall be entitled to receive compensation for such land or damage the amount whereof shall be ascertained in the manner set forth in the Act of the General Assembly of New Zealand called "The Lands Clauses Consolidation Act 1863" which Act for that and other purposes is incorporated with and shall form part of this Act.

Compensation to be awarded.
"Lands Clauses Consolidation Act 1863" incorporated.

VI. In case any infant whose lands are taken or injuriously affected under this Act has no legal guardian resident within the Colony the word guardian when used in "The Lands Clauses Consolidation Act 1863" shall for the purposes of this Act be held to mean the Registrar at Dunedin of the Supreme Court of New Zealand.

Lands belonging to infants.

VII. The Superintendent is hereby authorized and required to cause all sums of money which may be agreed upon or awarded under the provisions of this Act or of the Acts incorporated herewith as compensation for the land taken or for damage done in the construction of the said railway to be paid to the several persons entitled to receive the same out of the public revenues of the Province of Otago Provided always that if the Superintendent shall sell or assign the undertaking under the powers for that purpose herein contained the person to whom the undertaking shall be sold or assigned shall pay all such sums of money and the Superintendent shall not be authorized or required nor shall he be compelled or compellable to pay any such sums of money or to cause the same to be paid.

Moneys payable under Act to be paid out of the public revenues of the Province of Otago.

VIII. The following sections of the Act of the Imperial Parliament cited in England as the "Railway Clauses Consolidation Act 1845" save so far as they shall be expressly varied by or be inconsistent with the provisions of this Act or "The Lands Clauses Consolidation Act 1863" shall be and the same are hereby incorporated with this Act and shall save as aforesaid form part of this Act and be construed together herewith and with the other Act also incorporated herewith as forming one Act that is to say—

Incorporation of "Railway Clauses Consolidation Act 1845."

With respect to the construction of the said Act and of the Acts incorporated therewith Sections numbers 2 3 4 5 6 13 14 15 16 17 18 19 20 21 22 23.

With respect to the temporary occupation of land near the railway during the construction thereof Sections numbers 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45.

With respect to the crossing of roads or other interference therewith Sections numbers 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67.

With respect to works for the accommodation of lands adjoining the railway Sections numbers 68 69 70 71 72 73 74 75 76.

With respect to mines lying under or near the railway Sections numbers 77 78 79 80 81 82 83 84 85.

With respect to the carrying of passengers and goods upon the railway and the tolls to be taken thereon Sections numbers 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106.

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With respect to the regulating of the use of the railway Sections numbers 108 109 110 111.

With respect to the leasing of the railway Sections numbers 112 113.

With respect to the engines and carriages to be brought on the railway Sections numbers 114 115 116 117 118 119 120 121 122 123 124 125.

With respect to the settlement of disputes by arbitration Sections numbers 126 127 128 129 130 131 132 133 134 135 136 137 138 139

With respect to the recovery of damages not specially provided for and of penalties and to the determination of any other matter referred to Justices Sections numbers 140 142 143 144 145 146 147 148 149 151 152 153 154 155 156 157 158.

And also Section number 160.

Provided that wherever in such Act the following words are used they shall mean the words hereinafter severally set opposite to them that is to say the words—

“The Commissioners of Her Majesty’s Treasury” “The Commissioner of Her Majesty’s Woods Forests Land Revenues Works and Buildings” “The Lord High Admiral of the United Kingdom of Great Britain and Ireland” or “The Commissioners for executing the office of Lord High Admiral” as aforesaid shall severally mean the Governor of New Zealand.

The “Secretary of the Admiralty” shall mean the Colonial Secretary of New Zealand.

“Superior Courts” “The Court of Chancery” “The Court of Queen’s Bench” “The Court of Exchequer” “General Quarter Sessions” “Quarter Sessions” shall mean severally the Supreme Court of New Zealand.

“The promoters of the undertaking” “the Company” shall mean the Superintendent or in case the Superintendent shall sell and assign the undertaking shall mean the person to whom the same shall be assigned.

“The United Kingdom” “the kingdom” “the country” shall mean the Province of Otago.

“The Bank” shall mean the bank where the business of the said Province of Otago for the time being shall be transacted at Dunedin.

“The Board of Trade” shall mean the Resident Magistrate at Dunedin.

“Clerk of the Peace” “one of the Masters of the Court of Queen’s Bench” “Accountant-General of the Court of Chancery in England” “Accountant-General of the Court of Exchequer in Ireland” “Taxing Master of the Court of Chancery” “Master in Chancery” shall mean severally the Registrar at Dunedin of the Supreme Court of New Zealand.

“The Lands Clauses Consolidation Act” shall mean the Act of the General Assembly of New Zealand shortly entitled “The Lands Clauses Consolidation Act 1863.”

Provided also that where the words of the said “Railway Clauses Consolidation Act 1845” would from the said Act being framed with reference to England and Ireland be inapplicable to the circumstances of the Colony of New Zealand the said Act shall be read and interpreted so as to make them applicable to the circumstances of the said Colony and so as to ensure that the operation of the said Act shall be secured by this Act for the benefit and control of the said railway.

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IX. If the railway shall be constructed by the Superintendent under the powers herein contained it shall be lawful for the Superintendent to lease to any person the railway from time to time at such rent and subject to such conditions and restrictions as he may be thereunto authorized by any Ordinance of the Superintendent and Provincial Council of Otago and the Superintendent may by any such lease authorize the person or company taking the same subject to any such conditions and restrictions as aforesaid to exercise do and perform during the term of any such lease such of the powers and things which the Superintendent is hereby authorized to exercise do and perform in connection with or relating to the railway or the works connected therewith as to the said Superintendent shall seem fit.

Superintendent may lease railway.

X. It shall be lawful for the Superintendent by any deed or deeds under his hand and the public seal of the said Province of Otago to sell or assign the undertaking to any person and for any price or sum of money and payable at such times and in such manner as the Superintendent with the advice of his Executive Council may think fit or for such other consideration as may be agreed on between the purchaser or assignee and the Superintendent with such advice as aforesaid and the Superintendent may by any such deed or by any subsequent deed assign and transfer to such person any or all of the powers privileges responsibilities and duties by this Act or any Act wholly or partially incorporated herewith conferred on and vested in him except such of the said powers and duties as are conferred expressly on the Superintendent as Superintendent by the seventh ninth tenth and seventeenth sections of this Act.

Superintendent may sell the undertaking.

XI. It shall be lawful for the promoters of the undertaking to lease from time to time at such rent and on such conditions as they may think reasonable all or any of the lands which they have acquired or may hereafter acquire by voluntary agreement for the purposes of the railway or to sell or convey all or any of such lands in such manner and on such conditions as they may deem proper.

Promoters of the undertaking may sell or lease surplus lands.

XII. At all times after the passing of this Act a copy of the Plan and Book of Reference shall be kept in the office of the Superintendent and be at all convenient times open for public inspection and all persons may at all convenient times examine the same at such office without payment of any fee whatsoever.

Plans &c. to be kept in Superintendent's office.

XIII. No advantage shall be taken of or against the promoters of the undertaking or any interruption be given during or after the making of the railway on account of any error or omission in such Plan or Book of Reference in any case in which it shall appear to two Justices to be certified by writing under their hands that such error or omission proceeded from mistake.

Promoters of the undertaking not responsible for error or omission.

XIV. The promoters of the undertaking in constructing the railway may deviate from the line of works laid down in the plan but may not take or use for the purpose of such deviation any land not comprised within the limits of deviation referred to in section three of this Act or in the Schedule hereto annexed without the consent in writing of the owner of such land.

Power to deviate.

XV. All lands acquired by the promoters of the undertaking for the purposes of the railway and all property real or personal of what description soever belonging or appertaining to the said railway shall be and are hereby declared to be vested in and shall be deemed to be the property of the promoters of the undertaking Provided that if the Superintendent shall be the promoter of the undertaking then such lands and property shall be held by him in trust for the public service of the said Province and shall be managed dealt with and

Lands taken for the purposes of this Act vested in the promoters of the undertaking.

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administered by him for the purposes of this Act Provided also that if the Superintendent shall sell or assign the undertaking to any person after he shall have acquired any lands or property under the powers herein contained it shall be lawful for the Superintendent to convey any lands or real property so acquired by or vested in him and to assign or transfer any personal property so acquired by or vested in him to the person to whom the undertaking shall be so sold.

All contracts to be entered into in the name of the promoters of the undertaking.

XVI. All contracts and other agreements to be entered into under authority of this Act or of any Act incorporated wholly or partially herewith shall be entered into in the name of the promoters of the undertaking.

Promoters of the undertaking to regulate charges.

XVII. It shall be lawful for the promoters of the undertaking from time to time to regulate the tolls fares rates and charges for the conveyance of passengers produce animals goods merchandise articles matters and things conveyed on the railway and the tolls fares rates and charges for the time being fixed by them shall be deemed to be the tolls fares rates and charges authorized by this Act Provided that such tolls rates and charges shall be subject to the approval of the Superintendent and the Executive Council Provided also that any such tolls fares rates and charges so fixed as aforesaid shall be tolls rates and charges not exceeding a maximum to be from time to time fixed by the Governor in Council.

Exemptions from tolls &c. may be conferred by Superintendent in Council.

Provided also that it shall be lawful for the Superintendent with the advice of the Executive Council of the said Province by notice published in the Otago Provincial Government *Gazette* to confer exemption from such tolls rates fares or charges to the several classes of individuals hereinafter mentioned that is to say—

To any inspector surveyor or other officer of the General or Provincial Government employed to inspect the said railway or any part thereof or to inquire into any matter or thing belonging to or connected with the said railway or the management thereof while engaged in executing or proceeding to or returning from any place whereat he shall have been so engaged.

To any ordained clergyman or other authorized minister of any recognized religious denomination going to or returning from the performance of any clerical duty.

To members of the police force being on actual duty and in proper dress or undress as such travelling on duty For any officers non-commissioned officers or privates of Her Majesty's forces or of the militia or volunteers of the Colony of New Zealand travelling on duty and that it shall be lawful for the Superintendent with the like advice from time to time by any such notice as before mentioned to vary and extinguish such exemptions.

Promoters of the undertaking to take security from receivers of tolls.

XVIII. Security shall be taken by the promoters of the undertaking in such amount and in such manner as they shall deem necessary from any collector or receiver of any tolls or charges collected under the authority of this Act for the faithful execution of his office.

Accounts to be kept.

XIX. Full and accurate accounts shall be kept of all moneys received and expended under the provisions and for the purposes of this Act and such accounts shall be balanced once in each year at the least.

Accounts to be audited.

XX. Such accounts shall be audited once in each year at the least and for this purpose an auditor or auditors shall be appointed by the Governor.

Books to be produced before auditors.

XXI. For the purpose of auditing such accounts the promoters of

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the undertaking shall cause the accounts together with all the books and vouchers relating to the railway to be produced to the auditor or auditors.

XXII. The remuneration of the auditor or auditors and his or their expenses shall be defrayed out of the funds levied under this Act and if the promoters of the undertaking shall at any time fail to make sufficient provision for such remuneration and expenses it shall be lawful for the Governor to fix the amount thereof and if the promoters of the undertaking shall fail duly to pay and discharge the amount so fixed the same may be paid to the auditor by the Colonial Treasurer for the time being and be recovered by him in his own name from the promoters of the undertaking.

Auditors to be paid out of the funds of the railway.

XXIII. An annual abstract shall be prepared of the total receipts and expenditure of all funds levied under this Act or received for the purposes hereof during the past year under the several distinct heads of receipts and expenditure with a statement of the balance of the said accounts duly audited and certified by the promoters of the undertaking and also by the auditor or auditors thereof and a copy of such annual account shall be lodged in the office of the Superintendent on or before the thirty-first day of January in each year and such accounts shall be open at all reasonable times to the inspection of the public upon payment of a fee of two shillings and sixpence for every such inspection.

Annual abstract to be prepared.

Accounts to be open to public inspection on payment of a fee.

XXIV. Nothing herein contained shall be deemed or construed to exempt the railway by this Act authorized to be made from the provisions of any general Acts relating to railways now in force in the Colony of New Zealand or which may hereafter pass during this or any future session of the Parliament of the said Colony or from any future revision and alteration under the authority of the General Assembly of the maximum rate of fares and charges to be authorized under the provisions of this Act.

Railway not exempt from any general Acts relating to railways.

XXV. True copies of all regulations and bye-laws made by the promoters of the undertaking under and by virtue of this Act or any Act wholly or partially incorporated herewith shall be submitted to the Governor in Council for confirmation and upon being confirmed by him shall have the force of law and copies of all such bye-laws and regulations so confirmed shall be delivered by the promoters of the undertaking to the Clerk of the Provincial Council of the said Province of Otago within twenty-eight days after the same shall have been made and confirmed and the said Clerk shall forthwith lay the same before the Provincial Council if then sitting and if not then at its next subsequent sitting.

All regulations and bye-laws made by promoters of the undertaking to be submitted to the Governor in Council for confirmation.

Copies to be laid before Provincial Council.

XXVI. Nothing herein or in the Acts incorporated herewith contained shall or shall be deemed to affect the provisions of "The Provincial Lawsuits Act 1858" or "The Provincial Lawsuits Act Declaratory Act 1865."

This Act not to affect "Provincial Lawsuits Act Declaratory Act 1865."

XXVII. This Act shall cease to have force and shall expire at the expiration of seven years from the passing hereof unless the railway hereby authorized to be made shall have been *bona fide* commenced within such period of seven-years.

Act to expire in seven years if not acted on within that period.

SCHEDULE.

CITY OF DUNEDIN.

Reclaimed ground and Sections 1 2 3 4 5 6 7 8 9 10 11 12 13 and 14 of same Harbour and South Recreation Ground.

TOWN DISTRICT.

Block VII. Sections 8 9 10 11 12 13 14 and 15. Block VI. Sections 4 5 6 7 8 9 10 11 12 18 19 22 23 24 25 26 27 28 29 30 31 32 33 34 35 and all intervening roads.

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OCEAN BEACH DISTRICT.

Sections 78 79 80 81 and all intervening roads.

LOWER KAIKORAI DISTRICT.

Sections 43 44 54 55 56 57 58 59 60 61 62 63 64 72 73 74 75 76 77 78 79 90 91 92 93 94 95 96 and all intervening roads.

DUNEDIN AND EAST TAIERI DISTRICT.

Block VI. Section 38. Block VII. Sections 60 58 1 9 8 7 and 12. Block XV. and all intervening roads.

TAIERI DISTRICT.

Irregular Block Sections 31 30 29 28 27 26 25 24 23 22 21 20 19 18 17 16 15 14 13 12 11 10 9 and 8. Block I. Sections 2 3 4 5 and 6. Block II. Sections 1 2 3 4 5 and 6. Block III. Sections 1 2 3 4 5 and 6. Block IV. Sections 1 2 3 4 5 and 6. Block XX. Sections 1 2 3 4 5 6 7 8 9 and 10. River Sections 27 26 22 21 20 19 16 15 14 13 12 11 10 9 8 7 6 5 4 3 2 and 1.

TOWNSHIP OF GREY TOWN.

Ramsay Street Grey Street Esplanade Carnarvon Street Stack Street Pregelley Street Cemetery Reserve Block III. Sections 1 2 3 and 4. Block II. Sections 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 and 16. Block I. Sections 1 2 3 4 14 13 12 11 10 9 8 7 6 and 5. Block IV. Sections 21 22 23 and 24.

MAUNGATUA DISTRICT.

Block V. Sections 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 22 23 and 24. Block VI. Sections 78 77 76 75 74 73 53 52 51 50 49 48 35 33 32 31 and 30 and all intervening roads.

WAIHOLA DISTRICT.

Block XXI. Sections 8 7 6 5 4 3 2 and 1. Block XXII. Section 4. Block XX. Sections 6 5 4 3 2 and 1. Block XIX. Sections 8 7 6 5 4 3 2 and 1. Block XVIII. Sections 6 5 4 3 2 and 1. Block VIII. Sections 58 57 56 and 55. Block VII. Sections 51 50 49 48 and 47. Block IV. Sections 24 25 26 27 28 and 29. Block I. Sections 7 8 9 10 11 and 12 and all intervening roads.

TOWNSHIP OF WAIHOLA.

Greenwich Street Sandhead Street Waihola Place Chatham Street Nore Street Margate Street North Foreland Street Block V. Sections 14 13 12 11 10 9 8 7 15 16 17 18 19 20 1 2 3 4 5 and 6. Block IV. Sections 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 and 21. Block III. Sections 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 and 19. Block II. Sections 1 2 3 4 5 6 7 8 9 10 11 12 13 and 14. Block I. Sections 1 2 3 4 5 6 7 8 9 10 11 12 13 and 14.

TOKOMAIRIRO DISTRICT.

Block III. Sections 19 20 21 22 23 24 25 26 27 28 29 and 30. Block VI. Sections 43 44 45 46 47 48 49 50 51 52 53 and 54. Block XII. Sections 102 103 104 105 106 107 108 109 110 111 112 and 113. Block XVI. Section 130. Block XXI. Sections 164 163 162 161 160 169 and 170. Block XXIV. Sections 188 187 185 184 195 196 and 197. Block XXV. Section 198. Block XXXII. Section 8. Block XLI. Sections 7 3 2 and 1. Block XXXIII. Section 1. Block XL. Sections 1 2 12 11 10 9 8 6 5 and 4. Block XLIII. Section 7. Block XLIV. Sections 12 and 11. Block XXXIX. Sections 1 2 3 4 5 6 7 8 9 and 10. Block XXXVIII. Sections 4 5 and 6 and all intervening roads.

NORTH TUAKITOTO DISTRICT.

Block X. Sections 2 3 and 4. Block V. Sections 8 7 6 5 4 3 and 2. Block VI. Sections 5 4 3 2 and 1. Block II. Sections 4 5 and 6 and all intervening roads.

SOUTH TUAKITOTO DISTRICT.

Block VII. Sections 6 7 and 8. Block VIII. Sections 5 4 3 2 and 1. Block IX. Sections 8 7 6 5 4 3 2 and 1. Block X. Sections 8 7 6 5 4 3 2 and 1. Block XI. Sections 8 7 6 5 4 and 3 and all intervening roads.

HILL END DISTRICT.

Block I. Sections 7 9 and 10 and all intervening roads.

NORTH MOLYNEUX DISTRICT.

Block XI. Sections 6 and 5. Block XII. Sections 7 6 and 5. Block XIII. Sections 1 2 3 4 and 5. Block XIV. Sections 1 2 3 4 and 5 and all intervening roads.

TOWNSHIP OF BALCLUTHA.

Hasborough Place Newarp Street Cromer Street Block II. Sections 1 2 3 4 5 6 7 8 9 18 11 13 14 15 16 17 18 20 and 21. Block I. Sections 5 6 7 8 9 10 12 13 and 14.

WELLINGTON, NEW ZEALAND:

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