that a day should be fixed by the lower Court for hearing the application, and for pointing out discrepancies in evidence, or other points upon which the application is based.

1477. Do you think that when a judgment is given, and when those who are dissatisfied wish to appeal against it, they should be called upon to state their grounds at the time that they make the application?—The only objection to that is that some of the parties might be unavoidably absent at the time. That might be a very good reason for allowing some little time. As a rule they have fair notice, and, in case of illnesss or unavoidable absence, they might be granted some little grace. I am not sure, also, that they ought not to have time in any case to consult among themselves. There are many points in the evidence that would have to be considered first of all. There should be nothing like a hard and fast rule; and that is the objection to bringing them completely in accordance with the European system relating to motions for a new trial.

1478. Do you think that three months' notice would be too long?—Yes, it would be; particularly where the judgment is by consent, or where the order is for simple matters such as the appointment of trustees. I have had such cases in point where there was no opposition whatever, and yet I had to wait three months before the order was sealed.

SAMUEL THOMAS FITZHERBERT further examined.

1479. *Mr. Carroll:* I wish to refer to one point which was mentioned by Mr. Fitzherbert in connection with reference No. 1: it was with regard to half-castes and Natives who are quite as competent as Europeans to act for themselves having to go through the same formalities which are prescribed by the law for the ordinary Native. It was suggested at New Plymouth by Mr. Samuel that there should be issued in the *Gazette* from time to time a list of such persons as were entitled to be exempted from this disability; and that once this Proclamation issued there should be no necessity afterwards for such persons going before a Justice of the Peace or a Resident Magistrate, or the Trust Commissioner, for the execution of these special formalities, as is the case now. Either that should be done, or there should be a certificate from the Judge of the Native Land Court entitling the holder to the same privilege.

1480. *Mr. Marshall:* It is a very good idea. These people would like to manage for themselves, and they should have the rights of pakehas.

1481. *Mr. Fitzherbert:* It seems absurd to go through all these formalities when the person for whose benefit they are provided understands, himself, every word that you say.

1482. *Mr. Carroll:* I have had, myself, to go before the Trust Commissioner. Going back to the question of the alienation of land, you would be in favour of individualising the Native interests as far as possible?—Yes.

1483. You would not force the Natives to individualise where the quality of the land, and its physical features, would not permit of its being individualised to their own benefit?—Certainly not. I would give facilities for individualising rather than compel it to be done. It is better let, if it is held more or less in common; but I was meaning the giving of facilities in a general way. Of course the individualisation of the title would be a very good thing both to the Natives and to the country at large.

1484. But not in the case of some of their waste lands which are lying in their natural or original state, more especially when they consist of rough country, and when there are, as is the rule, many owners—sometimes as many as three or four hundred in one block. In such cases the value of the land would be eaten up in surveys?—I recognise that such land can only be profitably occupied by taking it as one large block. I was speaking more particularly with reference to land situated near European settlements, where Europeans are generally anxious to purchase.

1485. In all such cases, of course, you would allow every individual Native, when his interest was individualised, to deal with it as he likes, subject, of course, to the necessary safeguards that he did not thoroughly denude himself?—Yes. I might call the attention of the Commissioners to the decision of the Supreme Court in respect of the Oamarunui Block, whereby a new construction is given to section 5 of the Native Lands Frauds Prevention Acts Amendment Act of 1889. Section 5 of that Act provides: "The Trust Commissioner shall, as far as possible, inquire into the circumstances attending every alienation. He shall also inquire as to the amount of the consideration paid, and shall satisfy himself that the consideration purporting to be paid or given has been paid or given." It has been, I think, very often thought that that inquiry as to the amount of consideration paid must be for the purpose of the Judge satisfying himself that the consideration was more or less adequate.

1486. No doubt that was the spirit of it?—With reference to the case of the Oamarunui Block, we made objection to the Trust Commissioner's certificate being given, on the ground of inadequate consideration. The matter was referred to the Chief Justice, and his ruling was that the Trust Commissioner must inquire into the consideration, and, if he finds that it is very inadequate consideration, he may take it as an element of fraud in connection with other matters, but he has not to satisfy himself as to adequacy of consideration, as inadequacy of consideration is not sufficient ground of itself for refusing his certificate, and in doing so he would be putting a restriction upon the land—that is to say, if a Native chooses to sell land worth £100 for £10, he may do so.

1487. That provision was put in in consequence of the case at Oamarunui?—No. This provision was made before that case, and this construction was placed upon it in that case. I do not know whether it is very widely known. It was a case as to whether or not adequacy of consideration should be made a necessity of the bargain. I am merely calling attention to what is apparently the present position of the law, or, at least, to the construction put on this particular section of the Native Lands Frauds Prevention Act of 1889.