take those rights away from them "forthwith" behind their backs. Such a proceeding would so clearly be a violation of natural justice that we have felt compelled to read the word "forthwith" as meaning "forthwith" after due notice to all interested persons. To read the word "forthwith" without this addition would practically enable the European purchaser to select whatever part of the land he chose behind the backs of the owners. The injustice of such a proceeding is aggravated by the fact that being also authorised to vary any former partition, we may take from any Native the piece of land already given to him by a former Court, and without his knowledge hand it over "forthwith" to the European.

JUDGMENT No. IV.

22nd May, 1893.

Most of the legal principles involved in Mr. Tiffen's five applications have been settled in our three judgments in the No. 1 Block. It will, therefore, not be necessary to dwell at any length upon the legal points involved in the disputed cases in the Blocks 3, 4, 5, and 7, the subject of this judgment.

Mr. Day's objections to the deeds of conveyance in these blocks are similar to his objections in the No. 1 Block, and the Court will therefore overrule them. The only important law-points remaining undecided are points respecting Maoris under disability. We have in the No. 1 Block decided that the contract of a Maori infant whose estate is at the time of sale vested in a trustee transfers no estate to the purchaser. It yet remains for us to declare whether an infant whose estate has not been transferred to a trustee, but remains vested in himself, can provisionally pass that estate to a purchaser; in other words, we have to decide whether his conveyance is void or only voidable, and therefore capable of confirmation. This point is of such importance that I have taken long to consider it, and have consulted all the legal authorities—English, American, and Colonial—accessible to me. I have had on the one side to weigh the evident policy of the New Zealand Native code, a policy of protection of even adult Natives against the wiles of Europeans, and on the other the English and American authorities declaring the common law affecting minors in those countries; but these authorities must be read coupled with the significant fact that in England the National Council has now by statute overruled the common-law decisions of their Judges, and has declared such contracts thenceforth absolutely void. There is no New Zealand direct decision upon this subject, so far as it affects Natives, but there are *dicta* in cases where the point was not so much involved as to make the *dictum* a decision upon it. These *dicta* are therefore not of such a character as to afford guidance to this Court now called upon to decide the very point itself, and I have therefore ventured to think out my own conclusions. I have not allowed myself to be too strongly influenced by the principles laid down by English Judges, as applicable to the social state of a highly civilised people: for when considering what ought to be the common law regulating transactions between Europeans and a race only just emerged from barbarism a Judge ought to keep in view many considerations that are absent in the English cases.

I shall hold that the conveyance by an infant Maori, whose estate is not vested at the time in a trustee, is a contract that transfers to the purchaser a voidable estate which the Maori infant can avoid after he comes of age, and, in so far, I am following the English and American judicial decisions; but I shall also hold that mere quiescence on his part for a lengthened period after he comes of age ought not necessarily to amount to a confirmation of his sale. One reason why mere quiescence ought not necessarily to amount to confirmation is that if the Maori on his arrival at majority should apply to us to eject his purchaser, we could not entertain his case, because the Legislature has not empowered the Native Land Court to deal with this class of Maori rights. Maoris come to our Court as their proper Court for relief; and when we inform them we have no jurisdiction they go away under the belief that as we have no jurisdiction no remedy is open to them in any Court. Hence, they are apt to remain quiescent so far as Court action is concerned. I do not by this statement mean to convey the impression that Maoris never bring cases before the Supreme Court, but generally, if not always hitherto, the real suitor has been the European, prompting their proceedings for his own benefit. This Court, therefore, when considering the question of Maori quiescence, must take into account the fact that the Supreme Court has not in the past been regarded by Natives as having been open to them in the same sense as it is open to a European. There is another element to be considered when declaring the common law that should govern such contracts, and that is the extreme unreliability of Maori evidence. Maoris enter the Land Court resolved to succeed by stratagem or treachery, just as they would in war. For instance, in this very case of Tiffen's, several adult Maoris, finding that it was decided in the No. 1 Block that Mini Kerekere, born at the date of the battle of Waerenga-a-hika, could not sell and convey the land vested in his father as trustee, falsely pretended that they too were born just at the date of that battle, and therefore were minors when they signed, thus endeavouring to deceive the Court into giving them back the land they had fairly sold. Even where there may be no direct disproof of an alleged minority, the circumstances may show a conspiracy to defraud the purchaser. In such cases the Court ought to be able to protect the purchaser by treating a long quiescence of the vendor after his admitted date of legal majority as a confirmation of the contract made during his doubtful minority, even though it has not been properly disproved.

With these remarks I will now proceed to give the judgment of the Court upon the individual cases objected to in the Blocks 3, 4, 5, and 7.

BLOCK III.

I.—*Iopa te Hau's Case.*

This owner admits that he sold, and signed the deed. But he says that the consideration (£6) put in the deed is not the amount for which he agreed—it was £20. He signed a declaration before a solicitor, in which he declared that £6 was the amount; but he says that although he signed that