

way in which the defendant himself would be prevented from dealing with it, viz., by attachment under section 394 of the C. J. Ordinance. I think a reasonable answer to that contention would be that the injunction does not in any way prevent them from dealing with the property. All that it seems to prevent is the payment over to him of his share of the proceeds, and that could not be prevented by attachment under s. 394. Even if it were conceded that the plaintiff were entitled to the injunction granted I think it could not reasonably be contended that he was entitled to an injunction restraining the receivers from selling the property. That would interfere with Mrs. Barter's rights under the decree in *Barter v. Swann*.

For the reasons I have stated, I am of the opinion that the injunction should be dissolved, and being of that opinion it is unnecessary for me to dispose of the other objections raised by the defendant. Defendant is entitled to the costs of this application.

As the question involved is an important one, plaintiff may desire to appeal from the order dissolving the injunction. Should he do so the parties may not be in the same position when the appeal is disposed of as they are now. If it is eventually found that the defendant is now entitled to receive and dispose of his interest under the decree he should not be deprived of that right until such time as he may lose it; on the other hand if it is found that he is not so entitled his being permitted to receive or dispose of it would be an injury to the plaintiff. It was suggested on the argument that I might by my order provide against both of these contingencies, but upon considering the matter I cannot devise any order which will leave the parties in the same relative position upon the determination of the appeal as they are now.

Richardson, Rouleau, Wetmore, McGuire, JJ.]

[March 4, 5, 1897.]

REGINA v. PAH-CAH-PAH-NE-CAPI, *alias* CHARCOAL.

*Crown case reserved—Admissibility of evidence of admission by accused upon trial for murder.*

*Held*, per WETMORE, J., that the only evidence against the accused was admission made by him to James Wilson, an Indian agent, in words, "I also killed a boy up the river;" that Mr. Wilson stated he was instructed to act as legal adviser to Indians under his jurisdiction, and as a rule told them he was legal adviser to help them, and that he was not prepared to say he did not hold out any threat or inducement to prisoner to make the statement; that Mr. Wilson was a person in authority to carry out the Indian Act, and a J.P., (53 Vict., c. 29, s. 9;) and it was difficult to conceive a case in which more strongly to insist upon the rules as to non-admissibility of confessions to a person in authority without sufficient previous warning than in the case of Indians. It lay on the crown to prove no inducement or threat, and this was not shown satisfactorily by the evidence of James Wilson or his interpreter, though the latter said "I can remember any statement he (prisoner) made was voluntary; since it was not shown the interpreter knew what in law a voluntary statement was, or what in law an "inducement" amounted to, that it was not necessary to con-