

Province of Manitoba.

COURT OF APPEAL.

Full Court.]

SLATER v. RYAN.

[Oct. 1.

Trade name—Imitation—Defendant using his own name—Injunction.

Appeal from judgment of Mathers, J., noted ante, p. 293.

The Court, while expressing the opinion that the advertisement, in the form in which it had appeared, would, if persisted in, have meant an infringement of the plaintiffs' trade name, held, that the appeal should be dismissed on the ground that the action had been commenced before any complaint was made and sixteen days after the defendant had, of his own accord, withdrawn the advertisement, and that it had not been inserted by the defendant himself, but by his advertising agent, and that the defendant had withdrawn it as soon as it came to his knowledge. Under such circumstances the discretion the trial judge had exercised in refusing an injunction should not be disturbed.

No costs of the appeal to either party.

Hoskin, for plaintiffs. *Aikins*, K.C., for defendant.

Full Court.]

THE KING v. EDWARDS.

[Oct. 8.

Criminal law—Criminal Code s. 386—Summary trial by police magistrate under s. 777—Punishment—Previous conviction as ground for increasing term of imprisonment.

The prisoner elected to be tried summarily before the police magistrate of the City of Winnipeg and pleaded guilty of theft of a sum exceeding two hundred dollars. The magistrate then asked him if he had been previously convicted of theft and he admitted that he had, whereupon the magistrate sentenced him to ten years' imprisonment in the penitentiary. There was no reference to such former conviction in the information upon