The plaintiff, a policeman, while vaulting over a wooden horse in the gymnasium, this being part of a manual exercise prescribed by a police inspector, received an injury whereby he claimed he was permanently incapacitated from further service in the force, and so entitled to such pension, and brought an action therefor.

Held, that the injury was one sustained by the policeman in the execution of duty, but that this matter was one for the consideration of the Police Commissioners, and that the action was not maintainable.

R. McKay, for plaintiff, appellant. *Aylesworth*, K.C., and *D. T. Symons*, for defendant.

Boyd, C., Meredith, J., Magee, J.] [Nov. 28, 1905.

KASTOR & SONS ADVERTISING CO. *v.* COLEMAN.

Principal and agent—Contract—Authority of agent, scope of—Ratification — Conflicting evidence — Reversing finding of trial judge.

The defendant, the owner of a summer resort hotel, engaged a person to manage and conduct it for a season, agreeing that the latter should have the entire control and management of the hotel. Out of the gross receipts 15 per cent. was to be paid to the defendant for rent, and all profits were to be equally divided.

Held, 1. A contract for advertising the hotel was within the scope of the manager's authority as agent for the defendant, and that the defendant was bound by it.

2. Upon conflicting evidence, reversing the finding of the trial judge, that the contract was in fact authorized or ratified by the defendant.

Per BOYD, C.:—Where two witnesses of apparently equal credibility contradict each other as to particular statements or conversations, acceptance should be given rather to one who remembers what happened than to one who denies, probably because he does not remember. Another rule for dealing with such conflicts of evidence is to consider what facts are beyond dispute and to examine which of the two accounts in conflict best accords with those facts according to the ordinary course of human affairs and the usual habits of life or business.

Judgment of STREET, J., reversed.

H. Carscallen, K.C., for plaintiffs. *S. F. Washington*, K.C., for defendant.