

and in fact a part of the price actually agreed to be paid, but surreptitiously abstracted and given to the agent by way of bribe instead of to his principals, and thus a payment to which the agent has no title except with the express consent of his principal after full disclosure of all the facts.

The Divisional Court appears to have assumed that the plaintiffs in *Webb v. McDermott*, when they learnt that a bribe was being paid to their agent, were shut up to the single remedy of repudiating the contract, and that by affirming the contract they necessarily affirmed the payment made by the purchasers to their agent, and deprived themselves of the right to claim the benefit of it.

We very respectfully venture to doubt the correctness of that position. The affirmance of the contract after knowledge of the intended payment of the bribe to the agent would doubtless debar the principal from recovering the bribe from the purchasers, but we fail to see how it affects the right of the principal to recover it from the agent. Too great weight appears to have been given by the Divisional Court to the fact that the plaintiffs had learned that a commission was to be paid by the opposite party to the agent, and they seemed to have considered that the payment must be secret, and only discovered after the contract is closed, to entitle the plaintiffs to recover the bribe from their agent; but the cases would seem to show that the principal may in law say to the purchaser "I adopt the transaction, I know that you are to pay or have paid my agent some bribe or commission, or whatever you choose to call it, but I also know that I have never agreed to his retaining it for his own use, and I know that the law, rightly expounded, will say that I am entitled to recover it from him."

The law on this aspect of the case is, we believe, correctly stated in *Wright on Principal and Agent*, 2nd ed., p. 392, where it is said "If the principal chooses to affirm the contract where the third party has succeeded by bribing the agent in getting him to enter into a disadvantageous bargain, he has two distinct and cumulative remedies. He may recover from the agent the amount of the bribe which he has received, and he may also recover from the agent and the person who has paid the bribe, jointly or severally, damages for any loss which he has sustained by reason of his having entered into the contract, without allowing any