

deduction in respect of what he has recovered from the agent under the former head, and it is immaterial whether the principal sues the agent or the third party first;" and see per Lord Esher, M.R., in *Mayor of Salford v. Lever* (1896) 1 Q.B. 168.

The fact that the bargain is disadvantageous to the principal is not material except on the question of damages; even though it be advantageous the principal is nevertheless entitled to recover the bribe paid to his agent: *Cohen v. Kuslike*, 83 L.T. 102, and see *Harrington v. Victoria Graving Dock* (1878) 3 Q.B.D. 549. In holding that the agent was entitled to retain the bribe against his principals in *Webb v. McDermott* we venture to think the Court not only erred, but gave its sanction to a vicious principle subversive of commercial morality. It appears to us that in such cases the Court should be astute to protect the principal rather than the agent. This acting by an agent for parties with conflicting interests, which by the way is all too common, opens the door to all sorts of fraud and falsehood by agents and the Court should set its face against such a practice.

NEGLIGENCE.

LEAVING UNPROTECTED A LOADED GUN ON THE HIGHWAY.

In the recent Irish case of *Sullivan v. Creed*, Ir. Rep. 1904, 2 K.B.D. 317, the Irish Court of Appeal had to consider whether an injury to the plaintiff was due to the negligence of the defendant in laying aside a loaded gun. It appeared that the defendant on a Sunday morning went out to shoot rabbits, and having loaded his gun put it on full cock. He found no rabbits and did not discharge the gun, but left it loaded and cocked standing against a fence on his lands and beside a stile through the fence, which stile led to a private and short passage to his house from the public road. He then visited some potato fields with a friend, and afterwards entered a cottage and remained there reading a newspaper for some short time. After coming out of the cottage he heard the report of the discharge of a gun. The plaintiff, a boy of sixteen years old, was returning home from mass by the public road, and on his way met Daniel Creed, a son of the defendant, aged fifteen or sixteen, and two other boys. Daniel Creed left them at a gap leading to the defendant's house. The plaintiff and the two other