

# 45

9/13/68

First Supplement to Memorandum 68-78

Subject: Study 45 - Mutuality of Remedies

The tentative recommendation relating to mutuality of remedies in suits for specific performance was not distributed to a substantial number of persons for comment. A few persons requested copies of the tentative recommendation as a result of a notice that it was available that was published in legal newspapers. Several members of law faculties indicated that they had not had time to study the tentative recommendation.

The comments we received were favorable and suggested no revisions. For example, Professor James L. Blawie (who some time ago suggested this as an area that should be studied) wrote:

I have reviewed the study and the draft of the proposed statute. I agree entirely with the analysis and comment. The statute appears well-drafted, and will, of course, receive the proper construction by modern judges.

The other letter commenting on the tentative recommendation is attached as Exhibit I.

We suggest that the recommendation be approved for printing. This recommendation would be printed in a separate pamphlet, together with the research study that was prepared by the Hastings Law Journal at our request.

Respectfully submitted,

John H. DeMouilly  
Executive Secretary

1st Supp. Memo 68-78

Exhibit I

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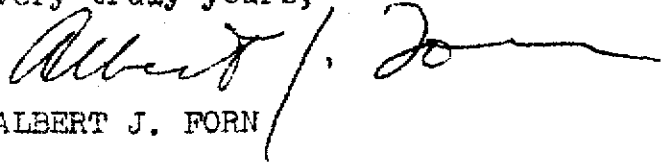
August 21, 1968

California Law Revision Commission  
School of Law  
Stanford University  
Stanford, California 94305

Gentlemen:

Thank you for sending me the recommendations relating to Mutuality Of Remedies In Suits For Specific Performance. From the limited experience that I have had with the litigation of the specific performance issue, I believe that your proposed amendment to Civil Code Section 3386 is a great improvement in the present state of the law. As you undoubtedly realize, many harsh results go unremedied at the trial court level and in the pre-litigation stage because of the misleading effect of some of the so-called authorities in the face of which most injured parties will not chance the expense of additional court proceedings.

Very truly yours,

  
ALBERT J. FORN

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