I assent.

(L.S.)

ANTON BUTTIGIEG
President

25th November, 1980

ACT No. XXXI of 1980

AN ACT further to amend the Code of Organization and Civil Procedure, Cap. 15.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the Code of Organization and Civil Procedure (Amendment) Act, 1980, and shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter referred to as "the principal law".

Amendment of section 151 of the principal law.

2. Section 151 of the principal law shall be amended as follows:

(a) For subsection (1) thereof there shall be substituted the following new subsection (1):

"(1) The Registrar, following the order mentioned in the last preceding section, shall, as soon as may be, publish such causes in the list of causes set down for hearing, indicating that such causes are being set for the trial for the first time, and shall cause the parties to be served with a notice of the day appointed by the Court for the trial of the cause:

Provided that any of the parties may by a note filed in the Registry exempt the Registrar from the duty of service of such notice".

(b) For subsection (2) thereof there shall be substituted the following:

"(2) The said notice shall be by summons. If the plaintiff, appellant or person issuing a libel is not served with the said notice, the Registrar, unless he has been exempted as stated in subsection (1) of this section, shall within six working days inform in writing the advocate of such party that

the notice has not been served, and the advocate shall sign a copy of the receipt of such communication:

Provided that no action shall lie against the advocate for failure to inform any such party".

Amendment of section 158 of the principal law.

3. In the English text of subsection (12) of section 158 of the principal law for the words "serve a copy thereof on the defendant" there shall be substituted the words "serve a copy thereof on the plaintiff".

Amendment of section 396 of the principal law.

4. In section 396 of the principal law the words "instituted by libel" and the words "in his answer to the libel" shall be deleted.

Substitution of section 398 of the principal law.

5. For section 398 of the principal law there shall the following:

"Form of reconvention.

398. (1) The defendant who desires to set up a counter-claim shall set up his claim in the answer to the libel, where the proceedings are instituted by libel, or in the statement of defence, where the proceedings are by writ of summons, or in the written reply to the application where proceedings are by application.

(2) The counter-claim shall be set up after the defence to the original claim made out as required by law; and the defendant shall, with respect to the counter-claim observe, as far as practicable, the rules established by this Code or by any other law for the written pleading by which the proceedings were first instituted.

(3) Where proceedings are instituted by libel, the plaintiff shall in making his reply, proceed in the same manner as if there had been no counter-claim; he shall then reply to the allegations made in the answer of the opposite party in support of the counter-claim, observing the rules established by this Code for the answer to the libel.

(4) Where proceedings are by writ of summons, the setting up of a counter-claim in a statement of defence shall be equivalent to the filing of a writ of summons with respect to that claim, and shall be served on the plaintiff, who shall proceed as if he were the defendant with respect thereto; and in any such case the closing of the preliminary written procedures and the aplications of sections 150 and 151 shall take place with the filing of that statement of defence by the plaintiff or the expiration of the term for its filing.".

Substitution of section 399 of the principal law.

6. For section 399 of the principal law there shall be substituted the following:

"399. Security for costs shall not be required in reconvention".

Deletion of section 402 of the principal law.

7. Section 402 of the principal law shall be deleted.

8. Section 1003 of the principal law shall be deleted and substituted by the following:

"Taxation of judicial costs.

1003. (1) Costs shall be taxed and levied in accordance with the Tariffs in Schedule A annexed to this Code and with regulations made by the Minister responsible for Justice under this section.

(2) Regulations made by the Minister under this section may —

(a) amend, add to, revoke or substitute all or any of the Tariffs in the said Schedule A;

(b) make any provision relating to the payment of costs and in particular but without prejudice to the generality of the foregoing —

(i) to ensure the payment thereof at the time they are due;

(ii) to require the payment or deposit of any such costs or part thereof, as may be prescribed by the regulations; and

(iii) to provide for such consequences, effects and penalties with respect to any failure to pay costs or otherwise to comply with the regulations, as may be prescribed therein.".

Passed by the House of Representatives at Sitting No. 441 of the 24th November, 1980.

C. AGIUS
Speaker

C. MIFSUD
Clerk to the House of Representatives

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