



CHAPTER 99

An Act to amend the Code of Civil Procedure respecting examination on discovery

[Assented to, the 18th of May, 1935]

HIS MAJESTY, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

1. Article 286a of the Code of Civil Procedure, as C. C. P., art. enacted by the act 16 George V, chapter 65, section 1, is 286a, am. amended:

a. By replacing the word: "plaintiff", in the fifth line of the first paragraph thereof, by the words: "party claiming or for whom claim is made, subject to the provisions of article 314 of the Code of Civil Procedure,";

b. By adding thereto, after the word: "Court.", in the eleventh line of the said first paragraph thereof, the words: "By exception, the defendant sued by a third party on a bill of exchange or promissory note may, before foreclosure, likewise apply for the examination of the plaintiff, and, if the latter is an agent (*prête-nom*), of the party for whom he is claiming.";

c. By adding thereto, after the said first paragraph thereof, the following paragraph:

"If the party claiming or for whom claim is made cannot be summoned by *subpoena*, the judge only can order his examination and must, before allowing it, require that he be shown upon what the examination will bear, and why the case is so delayed; and he must, in all cases, set a delay for such examination and fix such other conditions as he may deem equitable."

Application for examination.

Ordering of examination by judge.

- C. C. P., art. 288, am. **2.** Article 288 of the said Code, as replaced by the act 62 Victoria, chapter 52, section 3, is amended by replacing the second paragraph thereof by the following paragraphs:
- Prior depositions. "The depositions taken before the trial shall, in every case, form part of the record, and the cost thereof shall enter into taxation.
- Exception. Exception to this rule exists when the party examined before the filing of the defence is a disqualified person;
- Costs. the costs of the summons and of the deposition shall then be borne exclusively by the examining party."
- Coming into force. **3.** This act shall come into force on the day of its sanction.