

[Act No. 1596, February 25, 1907]

AN ACT AMENDING ACT NUMBERED ONE HUNDRED AND NINETY, ENTITLED "AN ACT PROVIDING A CODE OF PROCEDURE IN CIVIL ACTIONS AND SPECIAL PROCEEDINGS IN THE PHILIPPINE ISLANDS," BY PROVIDING THAT WHERE A MOTION FOR A NEW TRIAL IS MADE ON THE GROUND THAT THE EVIDENCE IS INSUFFICIENT TO JUSTIFY THE DECISION AN EXCEPTION MAY BE TAKEN TO THE ORDER OF THE TRIAL COURT OVERRULING SUCH MOTION, AND PROVIDING THAT IN THE HEARING OF A BILL OF EXCEPTIONS BASED THEREON THE SUPREME COURT MAY REVIEW THE EVIDENCE ADDUCED AT THE TRIAL AND AFFIRM, REVERSE, OR MODIFY BY A PREPONDERANCE OF THE EVIDENCE THE JUDGMENT OF THE COURT BELOW.

By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. Section four hundred and ninety-seven of Act Numbered One hundred and ninety, entitled "An Act providing a Code of Procedure in Civil Actions and Special Proceedings in the Philippine Islands," is hereby amended so as to read as follows:

"SEC. 497. *Hearings confined to matters of law, with certain exceptions.*—In hearings upon bills of exception in civil actions and special proceedings, the Supreme Court shall not review the evidence taken in the court below, nor retry the questions of fact, except as in this section hereinafter provided; but shall determine only questions of law raised by the bill of exceptions. But the Supreme Review Court may review the evidence taken in the court below and, after giving due weight to the fact that the judge who tried the case saw the witnesses when they testified, affirm or reverse by a preponderance of the evidence, or modify by such preponderance, the judgment there rendered, as justice may require, in the following cases:

"(1) If before the final determination of an action pending in the Supreme Court on bill of exceptions, new and material evidence be discovered by either party, which could not have been discovered before the trial in the court below, by the exercise of due diligence, and which is of such a character as probably to change the result, the Supreme Court may receive and consider such a new evidence, together with that adduced on the trial below, and may grant or refuse a new trial, or render such other judgment as ought, in view of the whole case, to be rendered, upon such terms as it may deem just. The party seeking a new trial, or a reversal of the judgment on the ground of newly discovered evidence, may petition the Supreme Court for such new trial, and shall attach to the petition affidavits showing the facts entitling him to a new trial and the newly discovered evidence. Upon the filing of such petition in the Supreme Court, the court shall, on notice to both parties, make such order as to taking further testimony by each party, upon the petition, either orally in court, or by depositions, upon notice, as it may deem just. The petition, with the evidence, shall be heard at the same time as the bill of exceptions;