

CHAPTER 664
BOUNDARIES, FENCES, WAYS, WATER RIGHTS

Part I. Commissioners of Boundaries

Section

- 664-1 Judges as commissioners
- 664-2 Commissioners to keep record
- 664-3 Certificate of boundaries, fee
- 664-4 Copy sent to department
- 664-5 No patent on award until boundaries settled
- 664-6 Application for certificate
- 664-7 Notice, evidence, decision
- 664-8 Appeal
- 664-9 Record on; new evidence
- 664-10 Powers of commissioner; procedure
- 664-11 Costs

Part II. Fences

- 664-21 Petition
- 664-22 Jurisdiction
- 664-23 Hearing, order, kind of fence and markers, etc.
- 664-24 Pasturage in lieu of fences
- 664-25 Appeal
- 664-26 Government lands

Part III. Private Ways and Water Rights

- 664-31 Definitions
- 664-32 Jurisdiction
- 664-33 Procedure; notice
- 664-34 Same; decision
- 664-35 Costs
- 664-36 Appeal
- 664-37 Repealed

Note

As to procedural statutes superseded by the rules of court, see note preceding Title 32.

"PART I. COMMISSIONERS OF BOUNDARIES

§664-1 Judges as commissioners. The circuit judges of the second, third, and fifth judicial circuits of the State for their respective circuits, and the judge of the land court, for the first judicial circuit, sitting without a jury, shall act as commissioners of boundaries. [L 1894-5, c 14, §1; RL 1925, §552; am L 1932 2d, c 8, §1; RL 1935, §3660; am imp L 1943, c 141; RL 1945, §10201; RL 1955, §234-1; HRS §664-1; am L 1972, c 90, §6(a)]

Note

By §73(c) of the Organic Act laws relating to settlement of boundaries were continued in force until Congress should otherwise provide. Continued in effect on admission of the State by Const. art. XVIII, §9.

Case Notes

Cited: 17 H. 539, 543 (1906); 35 H. 608, 658 (1940).

" **§664-2 Commissioners to keep record.** Each commissioner of boundaries shall keep a record of the commissioner's proceedings in books, to be furnished the commissioner by the department of land and natural resources, which books, when filled, shall be returned to the department. [L 1894-5, c 14, §8; RL 1925, §553; RL 1935, §3661; RL 1945, §10202; RL 1955, §234-2; am L Sp 1959 2d, c 1, §21; am L 1961, c 132, §1; HRS §664-2; gen ch 1985]

" **§664-3 Certificate of boundaries, fee.** The certificates of each commissioner of boundaries shall be made on stamped paper, furnished by the department of land and natural resources, and each commissioner of boundaries shall collect and account to the department for the benefit of the public treasury, \$1 for each stamped certificate issued by the commissioner. [L 1894-5, c 14, §9; RL 1925, §554; RL 1935, §3662; RL 1945, §10203; RL 1955, §234-3; am L Sp 1959 2d, c 1, §21; am L 1961, c 132, §1; HRS §664-3; gen ch 1985]

" **§664-4 Copy sent to department.** Each commissioner of boundaries shall, within thirty days after issuing a certificate

of boundaries, deposit a certified copy thereof in the office of the department of land and natural resources, and shall also deposit a certified copy of the approved or adopted plan thereof with the department. [L 1894-5, c 14, §10; am L 1915, c 79, §1; RL 1925, §555; RL 1935, §3663; RL 1945, §10204; RL 1955, §234-4; am L Sp 1959 2d, c 1, §21; am L 1961, c 132, §1; HRS §664-4]

" **§664-5 No patent on award until boundaries settled.** The department of land and natural resources is forbidden to issue any patent in confirmation of an award by name, made by the commissioners to quiet land titles, without the boundaries being defined in such patent, according to the decision of a commissioner of boundaries, or the intermediate appellate court, or the supreme court on appeal. [L 1894-5, c 14, §7; RL 1925, §556; RL 1935, §3664; RL 1945, §10205; RL 1955, §234-5; am L Sp 1959 2d, c 1, §21; am L 1961, c 132, §1; HRS §664-5; am L 2004, c 202, §73; am L 2006, c 94, §1; am L 2010, c 109, §1]

Cross References

See Appendix to Revised Laws of Hawaii 1925, pp 2120-2152.

Case Notes

Awards by metes and bounds. 30 H. 666 (1928).
Decree. 31 H. 118 (1929).
Cited: 49 H. 456, 486-7, 421 P.2d 550 (1966).

" **§664-6 Application for certificate.** All owners of ahupuaas and portions of ahupuaas, ilis, and portions of ilis and other denominations of lands within the State, whose lands have not been awarded by the land commissioners, patented or conveyed by deed from the king or government, by boundaries decided in such award, patent, or deed, may file with the commissioner of boundaries for the circuit in which the land is situated, an application to have the boundaries of the land decided and certified to by the commissioner or the commissioner's successor in office. The application shall state the name of the land, the names of the adjoining land or lands, and the names of the owners of the same where known, and it shall also contain a general description, by true bearing survey, of the boundaries as claimed connected by coordinates to the government survey triangulation system, and shall have attached thereto and made a part thereof a map or tracing which shall show all natural topographical features, permanent or other marks along the boundary lines, the bearings and distances of each course given in the description of survey, and such

other data from field notes as will make it practicable to reestablish any boundary mark or point that may become lost or destroyed. [L 1894-5, c 14, §2; am L 1915, c 79, §2; RL 1925, §557; RL 1935, §3665; RL 1945, §10206; RL 1955, §234-6; HRS §664-6; gen ch 1985]

Cross References

See Appendix to Revised Laws of Hawaii 1925, pp 2120-2152.

" **§664-7 Notice, evidence, decision.** The commissioner of boundaries, on receipt of the application, shall notify the owner or owners of the land, and also those of the land adjoining, and the attorney general, of the time when the commissioner will be prepared to hear their case. Further, the commissioner shall advertise in such newspaper or newspapers as the commissioner directs, once in each of three successive weeks, a notice sufficient in the commissioner's judgment to identify the locality to be adjudicated and the date and place of hearing. The commissioner shall receive at the hearing all the testimony offered, shall go on the ground when requested by either party, and shall endeavor otherwise to obtain all information possible to enable the commissioner to arrive at a just decision as to the boundaries of the lands. Upon giving a decision, the commissioner shall therein describe the boundaries decided on by survey by natural topographical features, or by permanent boundary marks, or partly by each; and the commissioner shall have the power to order such surveys and marks to be made or erected as the commissioner may consider necessary, at the expense of the parties in interest, but the commissioner shall in no case alter any boundary described by survey in any patent or deed from the king or government, or in any land commission award. [L 1894-5, c 14, §3; RL 1925, §558; am L 1933, c 115, §1; RL 1935, §3666; am L 1943, c 111, §1; RL 1945, §10207; RL 1955, §234-7; HRS §664-7; am L 1972, c 90, §6(b); gen ch 1985]

Cross References

Publication, see §601-13.

Case Notes

No jurisdiction to apportion water rights or other appurtenant rights of land. 3 H. 702 (1876).

Boundary decisions should not be lightly questioned. 4 H. 627 (1883). Boundary certificate covering more than survey attached

to award is void. 3 H. 9 (1866). See also 4 H. 239 (1879); 5 H. 154 (1884); 5 H. 91 (1884); 5 H. 94 (1884); 6 H. 315 (1882); 8 H. 1 (1889); 8 H. 455 (1892); 13 H. 583 (1901); 20 H. 278 (1910).

Proceeding is in rem. 4 H. 627 (1883).

No jurisdiction to proceed with petition when contestant files claim of title to definite portion of land described in petition. Contest must be only as to location of common boundary. 24 H. 546 (1918); 49 H. 456, 487, note 22, 421 P.2d 550 (1966).

Award by metes and bounds. 30 H. 666 (1928).

Evidence. 31 H. 43 (1929).

Ili kupono. 31 H. 376 (1930).

Cited: 20 H. 278, 281 (1910).

" **§664-8 Appeal.** Any party aggrieved by the decision of the commissioner of boundaries may appeal therefrom to the intermediate appellate court, subject to chapter 602, within thirty days from the rendition of the decision, and within the period shall pay all costs accrued and shall pay or deposit costs for appeal as provided in sections 607-5, 607-6, and 607-7; provided that any land owner absent from the State and not represented by an authorized agent within the State shall have the right of appeal for one year from the rendition of the decision. [L 1894-5, c 14, §4; RL 1925, §559; RL 1935, §3667; am L 1939, c 19, §4; RL 1945, §10208; RL 1955, §234-8; HRS §664-8; am L 1974, c 145, §9; am L 1979, c 111, §27(1); gen ch 1985; am L 2004, c 202, §74; am L 2006, c 94, §1; am L 2010, c 109, §1]

Rules of Court

See Hawaii Rules of Appellate Procedure.

Case Notes

By government if aggrieved. 20 H. 278 (1910).

" **§664-9 Record on; new evidence.** Whenever any person appeals, the commissioner of boundaries shall transmit to the clerk of the supreme court a copy of the record and of the commissioner's decision, together with any exhibits filed and the bond for costs as in other cases. The intermediate appellate court or the supreme court may permit the introduction of new evidence that could not with due diligence have been obtained before, and the court's decision shall be final and binding. [L 1894-5, c 14, §5; RL 1925, §560; RL 1935, §3668; RL 1945, §10209; RL 1955, §234-9; HRS §664-9; am L 1972, c 90,

§6(c); gen ch 1985; am L 2004, c 202, §75; am L 2006, c 94, §1; am L 2010, c 109, §1]

Rules of Court

See Hawaii Rules of Appellate Procedure.

Case Notes

Opportunity to cure defects of proof. 20 H. 278 (1910).

" **§664-10 Powers of commissioner; procedure.** Each commissioner of boundaries shall have power to administer oaths, to punish contempts, to grant adjournments, to subpoena and compel the attendance of witnesses and the production of books and papers, to issue execution for costs, and generally to exercise the same authority in regard to the commissioner's special jurisdiction as is by law conferred upon circuit courts. The Hawaii rules of civil procedure shall apply to proceedings under this part, except insofar as and to the extent that the rules are inconsistent with the provisions of this part. [L 1894-5, c 14, §6; RL 1925, §561; am L 1932 2d, c 8, §2; RL 1935, §3669; RL 1945, §10210; RL 1955, §234-10; HRS §664-10; am L 1972, c 90, §6(d); gen ch 1985]

Revision Note

In the first sentence, the comma after "attendance of witnesses" deleted pursuant to §23G-15.

" **§664-11 Costs.** The costs in each case shall be borne by the petitioner or respondent, or shall be apportioned between them, as equity and justice may require, in the judgment of the commissioner of boundaries, subject to appeal as in this part provided. [L 1894-5, c 14, §13; RL 1925, §563; RL 1935, §3670; RL 1945, §10211; RL 1955, §234-11; HRS §664-11]

"PART II. FENCES

Rules of Court

Applicability of Hawaii Rules of Civil Procedure, see HRCPC rule 81(b)(12).

§664-21 Petition. [(a)] Any person owning, leasing, or occupying land under an agreement with the owner or lessee, who desires to fence the land, or who, having fenced the land,

desires to provide for the maintenance of the fence, may file a petition in the circuit court of the circuit in which the land is situated praying for the hearing and determination of the matter.

[(b)] The petition shall designate the land by name or description, the location thereof, and the boundary or boundaries desired to be fenced or the fence desired to be maintained; and shall designate the adjoining land or lands and state the name or names of the owners, lessees, and occupants thereof. Upon the filing of the petition, summons shall issue to the adjoining owners, lessees, and occupants as in other proceedings before circuit courts. [L 1931, c 101, §1; RL 1935, §3671; am L 1935, c 52, §1; am L 1941, c 219, §1; RL 1945, §10212; RL 1955, §234-20; HRS §664-21; am L 1972, c 90, §6(e)]

Cross References

Fences, other provisions, see §142-61.

" **§664-22 Jurisdiction.** The circuit courts shall have jurisdiction within their respective circuits to hear and determine without the intervention of a jury all controversies respecting the fencing of land and the maintenance of fences in accordance with this part. [L 1931, c 101, §2; RL 1935, §3672; RL 1945, §10213; RL 1955, §234-21; HRS §664-22; am L 1972, c 90, §6(f)]

" **§664-23 Hearing, order, kind of fence and markers, etc.**
[(a)] At the time set for the hearing of the petition[,] the court and the parties shall view the line of fence or proposed fence. The court shall decide equitably on the kind of fence to be built or maintained as circumstances or desired purposes may require and the portion or portions to be erected or maintained by either the respective land owners or any of the occupants or lessees of the particular parcels of land affected, insofar as their respective interests are concerned, or the share which each shall contribute to the cost thereof. When the desired fence serves primarily for boundary identification[,] the court may order that pipes set in concrete monuments or other satisfactory boundary markers of a somewhat permanent nature may be installed and maintained at all corners, end points[,] or angle points of each boundary fence and may also order that commonly used fence posts be installed along the boundary under consideration at approximately equal intervals or spans ranging in distance from twenty feet up to five hundred feet, to identify such boundary[,] and in all such boundary

identification cases it may waive the use of wire or the full compliance with the requirements of a lawful fence.

[(b)] When the desired fence is intended for the purpose of confining animals of each adjacent owner, adjacent occupant, or adjacent lessee of land in their respective lands, the court shall decide equitably on the kind of fence to be built or maintained, to the end that trespass shall be prevented and that injury or damage to either party shall be reduced to the very minimum, and the portion or portions to be erected or maintained by either the respective land owners or any of the occupants or lessees of the particular parcels of land affected, insofar as their respective interests are concerned, or the share which each shall contribute to the cost thereof.

[(c)] The court shall specify the time within which the work shall be done and shall decide all disputes which may arise between the parties concerning the same and shall thereupon enter a decree.

[(d)] In case any party neglects or refuses to build or maintain or to pay the party's share of the cost thereof in accordance with the decree, the court, upon application therefor by the party aggrieved, may direct compliance with the decree at the expense of the defaulting party and enter judgment for the amount thereof, or for the defaulting party's part of the cost thereof if the work has been done, and issue execution therefor, or may enforce compliance with the decree by other appropriate proceedings. [L 1931, c 101, §3; RL 1935, §3673; am L 1935, c 52, §2; am L 1941, c 219, §2; RL 1945, §10214; RL 1955, §234-22; HRS §664-23; am L 1972, c 90, §6(g), (h); gen ch 1985]

Rules of Court

Enforcement of judgment for specific acts, see HRCP rule 70.

Case Notes

Notice required of proceeding to assess expense. 5 H. 286 (1885).

Decree must include time within which work shall be done. 7 H. 266 (1888).

" **§664-24 Pasturage in lieu of fences.** In case the court finds it to be inequitable or inexpedient to establish a fence between adjoining lands, either because of the nature or situation of the lands, the shortness of the unexpired term of a lease or agreement, the scarcity of fencing materials, or the conflicting rights of the parties, it may, if the lands are grazing lands, in lieu of fencing, decide how many animals each

owner, lessee, or occupant shall be at liberty to pasture upon the owner's, lessee's, or occupant's land under a penalty to be specified in the decree. [L 1931, c 101, §4; RL 1935, §3674; am L 1935, c 52, §3; RL 1945, §10215; RL 1955, §234-23; HRS §664-24; am L 1972, c 90, §6(i); gen ch 1985]

Revision Note

Semicolon after "the parties" changed to comma pursuant to §23G-15.

Case Notes

Expensiveness of fence contemplated in comparison with value of land or poverty of one landowner does not render erection of fence "inexpedient". 4 H. 255 (1880).

" **§664-25 Appeal.** Any party aggrieved by the decree of the court may appeal therefrom to the intermediate appellate court, subject to chapter 602, in the manner and within the time provided for civil appeals from the circuit courts. [L 1931, c 101, §5; RL 1935, §3675; RL 1945, §10216; RL 1955, §234-24; HRS §664-25; am L 1972, c 90, §6(j); am L 1979, c 111, §27(2); am L 2004, c 202, §76; am L 2006, c 94, §1; am L 2010, c 109, §1]

" **§664-26 Government lands.** This part shall not be so construed as to allow any person owning or otherwise interested in land adjoining government land to compel the government to join in the cost of erecting or maintaining a fence on the boundary line between such lands. However, the government or any lessee or occupant of government land, with the consent of the governor, shall have the same right accorded to others to compel action according to this part by any person owning, leasing, or occupying land adjoining government land, or by any lessee or occupant of adjoining government land, and every lessee or occupant of government land shall be subject to the duties and obligations of other lessees and occupants as provided by this part. [L 1931, c 101, §6; RL 1935, §3676; am L 1935, c 52, §4; RL 1945, §10217; RL 1955, §234-25; HRS §664-26; am L 1972, c 90, §6(k)]

"PART III. PRIVATE WAYS AND WATER RIGHTS

Cross References

State water code, see chapter 174C.

Rules of Court

Applicability of Hawaii Rules of Civil Procedure, see HRCPC rule 81(b)(12).

§664-31 Definitions. Wherever used in this part:

"Controversy" means the matter or question at issue before the court.

"Private individuals or persons" means either individuals, companies, or corporations, or any others except the State. [L 1886, c 69, §1; am L 1888, c 26, §1; am L 1907, c 56, §1; RL 1925, §2936; RL 1935, §3677; RL 1945, §10218; RL 1955, §234-30; HRS §664-31; am L 1972, c 90, §6(1)]

Case Notes

Cited: 9 H. 651, 652 (1895); 20 H. 658, 660 (1911); 21 H. 280, 282 (1912).

" **§664-32 Jurisdiction.** The circuit courts shall have jurisdiction to hear and determine, without the intervention of a jury, all controversies respecting rights of private way and water rights, as in this part provided. [L 1886, c 69, §2; am L 1888, c 26, §2; am L 1907, c 56, §2; RL 1925, §2937; RL 1935, §3678; RL 1945, §10219; RL 1955, §234-31; HRS §664-32; am L 1972, c 90, §6(m)]

Case Notes

Jurisdiction not exclusive as to water rights. 10 H. 476 (1896); 19 H. 106 (1908); 32 H. 404 (1932), aff'd 52 F.2d 356 (1931).

Cited: 19 H. 106, 117 (1908).

" **§664-33 Procedure; notice.** The circuit courts shall hear and determine all controversies respecting rights of private way and water rights, between private individuals, or between private individuals and the State. Any person interested, or the State, may apply for the settlement of any rights involved hereunder by filing a complaint in the circuit court of the circuit in which the property affected is situated. Thereupon the court shall issue a summons to each land owner or occupant having an interest in the controversy. A notice of the pending action may be published in any case in the discretion of the court. [L 1886, c 69, §3; am L 1888, c 26, §3; am L 1907, c 56, §3; RL 1925, §2938; RL 1935, §3679; RL 1945, §10220; RL 1955, §234-32; HRS §664-33; am L 1972, c 90, §6(n)]

Cross References

Publication, see §601-13.

Case Notes

"Within their respective circuits", limiting effect of. 32 H. 404 (1932), aff'd 52 F.2d 356 (1931).

Duties discussed. 5 H. 130 (1884). There must be controversy. 18 H. 30 (1906). Notice of hearing. 3 H. 216 (1870); 7 H. 266 (1888). No jurisdiction to award damages for obstructing right-of-way. 7 H. 270 (1888). Or for wrongful diversion of water. 5 H. 216 (1884). Jurisdiction not exclusive as to water rights. 10 H. 476 (1896); 19 H. 106 (1908); 32 H. 404 (1932), aff'd 52 F.2d 356 (1931). Decision must be in accordance with vested rights. 13 H. 214 (1900); 15 H. 554 (1903). And shall be just and equitable. 5 H. 176 (1884); 5 H. 216 (1884); 6 H. 185 (1876). Must be responsive to prayer. 11 H. 644 (1899) (prior to Hawaii Rules of Civil Procedure).

Rights-of-way. Use of right-of-way by owner to whom land conveyed, described as bounded by the way. 8 H. 75 (1890). Opening of the old right-of-way. 8 H. 91 (1890). Inequitable to award a right-of-way over another's land causing removal of buildings when it can be avoided. 8 H. 267 (1891). Implied grant of way in actual use. 9 H. 191 (1893). Right-of-way by necessity awarded. 9 H. 490 (1894).

Right-of-way cases generally. 1 H. 508 (1856); 2 H. 9 (1857); 2 H. 307 (1860); 2 H. 378 (1861); 4 H. 79 (1878); 4 H. 417 (1881); 4 H. 457 (1882); 5 H. 176 (1884); 5 H. 293 (1885); 5 H. 394 (1885); 8 H. 75 (1890); 8 H. 91 (1890); 8 H. 267 (1891); 9 H. 191 (1893); 9 H. 490 (1894); 13 H. 214 (1900); 18 H. 354 (1907).

Water rights. Well settled law that right to use water for irrigation purposes can be acquired by adverse and continuous use. 8 H. 447 (1892). Person in possession under claim of title of land to which alleged water right is appurtenant is an "interested" party, and obstructing of conduit through which water is entitled to flow is a "controversy respecting water rights". 11 H. 475 (1898).

Diversion of water from natural course, enjoined. 8 H. 310 (1891). Right to natural flow of water from upper land. 8 H. 498 (1892); 8 H. 658 (1867). Reversioner, no right of action where no injury to the inheritance. 9 H. 628 (1895). Method of use of water established by prescription. 9 H. 651 (1895). Water right not lost by omission to exercise it when not needed.

9 H. 651 (1895). No right to enjoin diversion to cane land of water to which uncultivated taro land is entitled. 10 H. 265 (1896).

Property owners have riparian rights. 54 H. 174, 504 P.2d 1330 (1973).

Storm and freshet waters belong to State. 54 H. 174, 504 P.2d 1330 (1973).

Water rights of maheled lands. 54 H. 174, 504 P.2d 1330 (1973).

Water right cases generally: 3 H. 216 (1870); 3 H. 479 (1873); 4 H. 415 (1881); 4 H. 504 (1882); 5 H. 13 (1883); 5 H. 133 (1884); 5 H. 200 (1884); 6 H. 185 (1876); 6 H. 346 (1882); 8 H. 310 (1891); 8 H. 447 (1892); 8 H. 498 (1892); 8 H. 658 (1867); 9 H. 628 (1895); 9 H. 651 (1895); 10 H. 133 (1895); 10 H. 453 (1896); 11 H. 475 (1898); 11 H. 644 (1899); 14 H. 50 (1902); 15 H. 554 (1903); 15 H. 675 (1904); 20 H. 658 (1911); 24 H. 47 (1917); 25 H. 726, 734 (1921); 31 H. 376 (1930); 32 H. 404 (1932), aff'd 52 F.2d 356 (1931).

" **§664-34 Same; decision.** The court shall hear the evidence offered relative to the right in controversy, and may, if deemed desirable to the rendering of a correct decision, visit the locality where the controversy arose. It shall give such decision as may in each particular case appear to be in conformity with vested rights and shall be just and equitable between the parties.

The decision shall state expressly the findings of fact on the evidence, and shall in cases of right of way clearly indicate the location (if possible) and nature of the way; if on a water right, it shall state the proportion of time for use, and any other things necessary to the right. It may also regulate the methods by which water may be obtained, and by which its supply can be controlled. As far as possible, the rights of parties served by publication who have not appeared in the action shall be ascertained. Judgment shall be entered in accordance with the decision. [L 1886, c 69, §4; am L 1888, c 26, §4; am L 1907, c 56, §4; RL 1925, §2939; RL 1935, §3680; RL 1945, §10221; RL 1955, §234-33; HRS §664-34; am L 1972, c 90, §6(o)]

Cross References

Return of service as prima facie evidence, see §634-22.

" **§664-35 Costs.** Costs may, in the discretion of the court, be divided, or taxed to the losing party. [L 1886, c 69, §5; am L 1888, c 26, §5; am L 1907, c 56, §5; RL 1925, §2940; RL 1935,

§3681; RL 1945, §10222; RL 1955, §234-34; HRS §664-35; am L 1972, c 90, §6(p)]

Case Notes

Costs on appeal may be divided. 21 H. 280 (1912).

" **§664-36 Appeal.** Any party aggrieved by the judgment of the court may appeal therefrom to the intermediate appellate court, subject to chapter 602, in the manner and within the time provided for civil appeals from the circuit courts. [L 1886, c 69, §6; am L 1888, c 26, §6; am L 1907, c 56, §6; RL 1925, §2941; RL 1935, §3682; am L 1939, c 19, §4; RL 1945, §10223; RL 1955, §234-35; HRS §664-36; am L 1972, c 90, §6(q); am L 2004, c 202, §77; am L 2006, c 94, §1; am L 2010, c 109, §1]

Case Notes

Findings may not be set aside unless clearly erroneous, HRCF rule 52(a) being applicable. 54 H. 174, 504 P.2d 1330 (1973).

Cases prior to adoption of the Hawaii Rules of Civil Procedure.

Court authorized on appeal to render such judgment as shall be just and equitable. 9 H. 651 (1895); 10 H. 174 (1895).

Evidence insufficient. 10 H. 133 (1895); 10 H. 453 (1896).

Record. 21 H. 173, 174 (1912).

Findings, weight. 23 H. 595, 601 (1917); 24 H. 47, 53 (1917).

" **§664-37 REPEALED.** L 1972, c 90, §6(r).