

REFORM SCHOOL.

CHAPTER 101.

[H. B. No. 178.]

ACT OF FEBRUARY 28, 1893, REPEALED.

AN ACT to Repeal An Act Approved February 28, 1893, Entitled "An Act for An Appropriation for the Erection of the North Dakota Reform School at Mandan, and for Incidental and Contingent Expenses for the Same."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. REPEAL. That Chapter eleven of the laws enacted by the Third Legislative Assembly of the State of North Dakota, being an act entitled "An act for an appropriation for the erection of the North Dakota Reform School at Mandan, and for incidental and contingent expenses for the same," approved February 28, 1893, be and the same is hereby repealed.

§ 2. EMERGENCY.] *Whereas*, An emergency exists in this that it is necessary to stop the further expenditure of money under said act immediately, *Therefore*, This act shall take effect and be in force from and after its passage and approval.

Approved, March 14, 1895.

RUSSIAN CACTUS.

CHAPTER 102.

[S. B. No. 125.]

RUSSIAN CACTUS.

AN ACT to Provide for the Extermination of Russian Thistle and French Weed.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. RUSSIAN THISTLE AND FRENCH WEED DECLARED NUISANCES.] The noxious weed known as Russian thistle and French weed wherever found in the State of North Dakota, is hereby declared to be a public nuisance, and it is made the duty of every person or corporation owning, occupying, leasing or

having any lien or interest in any land, without regard to the use to which such land is put, to destroy the same before it shall go to seed, or if it shall have gone to seed, to completely destroy the same by burning it, before any plant shall have broken off or scattered its seed.

§ 2. DUTY OF OFFICERS TO DESTROY—PENALTY FOR FAILURE.] Any overseer or supervisor of roads, any sheriff or constable or officer of any organized township, or any mayor or police officer of any incorporated city, town or village, who shall know of the existence of any such Russian thistles or French weeds within their respective jurisdictions, who shall fail or neglect to destroy the same, or cause them to be destroyed, or else to make complaint in writing to the commissioner whose duty it becomes under the provisions of this act, to cause the destruction of such thistles and French weed, shall be guilty of malfeasance in office, and upon conviction of such failure or neglect, shall be subject to a fine of not less than \$25 nor more than \$50.

§ 3. COUNTY COMMISSIONERS' DUTY TO ENFORCE PROVISION.] Every county commissioner shall be charged with the duty of personally superintending and enforcing the provisions of this act within his commissioner district.

§ 4. EXECUTIVE RELIEF BOARD—WHO AND HOW APPOINTED.] There is hereby constituted a board of commissioners which shall be designated the executive relief board, which board shall consist of the Governor and two competent persons whom he shall appoint to hold their offices until the Governor shall appoint their successors. Said commissioners shall acquire all necessary and practicable information for the purpose, and shall determine the general methods and seasons for the destruction of Russian thistles and French weed, prior to June 1, 1895. They shall cause their general determinations, with such rules and regulations as they may deem wise to be printed, and at least twenty (20) copies of the same to be sent to the auditor of each county in the State. They shall also cause a copy of such determinations, rules and regulations to be sent to each newspaper in the State. They may determine upon special methods and seasons for such destruction when in their judgment it shall seem best, and such special determinations and the rules and regulations which they may prescribe for their execution shall be printed or not as they may deem wise, and notice of them shall be given only as shall be necessary in each case. They may at any time change or modify such determinations and rules and regulations, and in such case they shall send to the county auditors printed copies of such changed and modified determinations, rules and regulations; and all the determinations, rules and regulations so established by such commissioners, shall have the full force of law. The board of commissioners hereby established shall control and direct any and all operations contemplated in any appropriation which may be made, and of the expenditure of

any money which may come into possession of the State from any such appropriation, from taxes as provided in Section 17 of this act, or from any other source, to be used for the destruction of Russian thistles and French weed. They shall file itemized vouchers for such expenditures with the State Auditor, who shall issue his warrants upon the State Treasurer for the amount of such vouchers. No claim shall be allowed and no money paid out of the State treasury, or out of any county treasury for any expense of destruction of Russian thistles and French weed not done in accordance with the determinations, rules and regulations which such board of commissioners shall prescribe. If the executive relief board shall ascertain that, for twenty days after the times prescribed by the rules and regulations of said board of the destruction of the Russian thistles and French weed the work of such destruction has, in any place not been in good faith begun and vigorously prosecuted, then said board shall direct the county commissioner within whose commissioner district such failure to so begin and so prosecute such work exists, to begin such work at once and to vigorously prosecute and complete the same. Such direction shall specify the particular facts constituting such failure and if for five days after such direction such county commissioner shall still fail or refuse to begin in good faith and to prosecute vigorously such work, then said board may file in the office of the auditor of such county a copy of such direction with proof of service thereof, and may thereupon proceed themselves to cause such work to be done, and shall audit the expense of such work and issue vouchers for such expense to the persons employed to perform such work, which vouchers may be presented to such county auditor, and he shall thereupon issue warrants to the treasurer of such county for the amounts of such vouchers payable to the holders thereof out of the road fund of such county. Such direction of said board shall be in writing, and may be served personally or by registered mail; proof of service in the former case shall be by affidavit attached to a copy of such direction, and in the latter by affidavit of mailing attached to a copy of such direction and accompanied by the postoffice registry receipt. *Provided*, the expense of any such destruction which the executive relief board may cause to be so done on any lands or fire breaks as specified in Section 11 of this act, shall be a charge upon the state, and for the payment of such expenses by him, the treasurer of such county may retain a sufficient amount of money in his next settlement with the state treasurer in the manner as provided in Section 11 of this act.

§ 5. OWNERS OR OCCUPANTS OF LAND TO DESTROY.] Any owner, or occupant of any land in any commissioner district in any county or any citizen of such district may make complaint to the county commissioner in charge of that district, by written notice of the existence of Russian thistles and French weed on any land or lands, describing the same, in the

district of such commissioner, such thistles or French weeds not being on any highway, roadway or trail in use by the public. Thereupon such county commissioner shall at once notify the occupant of such land in writing, if such land be occupied, and in any case such county commissioner shall require the county auditor of such county at once to notify in writing the owner of such land, if his address be filed with such county auditor, or if it can be found, of the existence of such thistles or French weeds upon such land; and such notice served on such owner shall be sent by registered mail, and all postoffice receipts therefor shall be filed and preserved by such county auditor. If no such service of notice on the owner can be had, then notice shall be published one week in some newspaper published in such county; or if none be published then a copy of such notice shall be conspicuously posted ten days on the front door of the court house of such county. It shall then become the duty of such occupant or owner, completely to destroy such thistles and French weed on such land, (but not on any highway, roadway or trail in public use) in the manner and season which shall be determined as provided in Section 4 of this act. If within ten days after completion of service, publication or posting of notices aforesaid, (but not earlier than ten days after the date so fixed as provided in Section 4 of this act, as the beginning of the season for destroying Russian thistle and French weed), the destruction of such Russian thistles and French weed on such land has not been completed, or begun and vigorously prosecuted, such county commissioner shall at once cause such thistles and French weed to be destroyed on such land in a manner so fixed in accordance with Section 4 of this act; and he shall verify the expense thereof by an itemized statement to the county auditor and the county auditor shall, at the meeting of the board of county commissioners, as provided in Section 16 of this act, lay the same before such board, and the amount which in any such case shall be allowed by such board of county commissioners shall be entered upon the tax list as provided in Section 16 of this act, and such county auditor shall then issue his warrant for such amount to be paid out of the road fund of such county.

§ 6. DUTY OF RAILROADS TO DESTROY THISTLES ON RIGHT-OF-WAY.] Any owner or occupant of any land in any commissioner district, or any citizen of such district, may make complaint to the county commissioner in charge of that district, by written notice, of the existence of Russian thistles or French weed on any part of any railroad right-of-way lying in such district, designating as near as may be the locality complained of. Thereupon the county commissioner shall require the county auditor of such county at once to notify the division superintendent having in charge such right-of-way in such district for the railroad company operating the line of railway to which line such

right-of-way appertains, of the existence of such thistles or French weeds on such right-of-way, and such notice served on such superintendent shall be sent to him by registered mail, addressed to the postoffice situated in the city, village or town in which his office may be located, and all postoffice receipts therefor shall be filed and preserved by such auditor. It shall then become the duty of such railroad company completely to destroy such thistles and French weed on such right-of-way in the manner and season which shall be determined as provided in Section 4 of this act. If within ten days after such service of notice the destruction of such thistle or French weeds, complained of the existence of which has been made, has not been completed, or begun and vigorously prosecuted, then it shall be the duty of such county commissioner to cause such thistles or French weed to be destroyed on such right-of-way in the time and manner so fixed in accordance with Section 4 of this act, and such county commissioner shall certify the expenses thereof by an itemized statement to the county auditor in writing, and the county auditor shall, at the meeting of the board of county commissioners as provided in Section 16 of this act, lay the same before such board, and the amount which, in any case, shall be allowed by such board of county commissioners for destruction of Russian thistle or French weed on such right-of-way within such county shall be entered upon the tax list as provided in Section 16 of this act, and such county auditor shall then issue his warrant for such amount to be paid out of the road fund of such county.

§ 7. ROAD WORK USED IN DESTRUCTION—HOW.] Any owners or occupant of any land in any commissioner district in any county, or any citizen of such district may make complaint to the county commissioner in charge of that district, by written notice, of the existence of Russian thistle and French weeds in any highway, road, way or trail in public use, whether such be a public highway or not, designating as near as may be the locality complained of, and it shall then be the duty of such county commissioner to cause such thistles and French weeds to be destroyed in the manner so fixed in accordance with Section 4 of this act; such county commissioner shall first require the overseer or supervisor of highways, or roads within whose highway or road district lies such highway, road, way or trail in public use, to cause so much as may be necessary of the work which, thereafter, in that year may be done in payment of road taxes, in such highway, or road district to be expended in the destruction of such thistle and French weeds; and if such work in such highway or road district, so done by all persons then subject to road poll tax shall not suffice for the complete destruction of such thistle and French weeds then such county commissioner shall employ such further means as may be necessary to cause such thistles and French weeds to be completely destroyed. And such county

commissioner shall certify the expenses thereof by an itemized statement to the county auditor, and the county auditor shall, at the meeting of the board of county commissioners as provided in Section 16 of this act, lay the same before such board, and such county auditor shall issue his warrants for such amount when approved by such board of county commissioners, to be paid out of the road fund of such county.

§ 8. COMPLAINT MADE TO SHERIFF ON FAILURE OF COMMISSIONERS TO ACT.] If after complaint of the existence of Russian thistles and French weeds made according to the provisions of Sections 5 and 6 of this act, any county commissioner shall fail to serve notice for the destruction of such Russian thistles and French weeds as by this act required of him, within five days after such complaint is made, then the party making such complaint may complain of the existence of the Russian thistles and French weeds to the sheriff of such county by written notice, and such notice upon the sheriff shall recite the fact that such notice has been served upon such commissioner but that no action has been taken by him, and it then shall become the duty of such sheriff to proceed in all particulars as required of the county commissioner by this act.

§ 9. PUBLICATION OF NOTICE.] If after the complaint of the existence of Russian thistles and French weeds made according to the provisions of Sections 5 and 6 of this act, the commissioner shall have duly served notice for the destruction of such thistles and French weeds as by this act required of him, and if within fifteen days after completion of notice or publication or posting of notice, as provided by Sections 5 and 6 of this act, (but not earlier than ten days after the date so fixed as provided in Section 4 of this act, as the beginning of the season for destroying said thistles and French weeds) the destruction of the thistles and French weeds on such right-of-way or such land has not been completed, or begun and vigorously prosecuted by the county commissioner as provided in this act, then the party making such complaint may serve written notice on the sheriff of such county, reciting the fact of such failure to destroy or cause to be destroyed such thistles and French weeds, and it shall then become the duty of such sheriff to proceed in all particulars for the destruction of such thistles and French weeds as required of the county commissioner by this act.

§ 10. DUTY OF SHERIFF IN CASES OF NON-COMPLIANCE WITH LAW.] If after the complaint of the existence of Russian thistles and French weeds according to the provisions of Section 7 of this act, any county commissioner shall fail to begin and vigorously prosecute the destruction of such Russian thistle and French weeds as by this act required of him within five days after such complaint has been made, on any highway, road, way or trail in public use, concerning which such said complaint has been made, then the party making such complaint may complain

to the sheriff of such county by written notice, such notice reciting the fact that due notice has been served upon such county commissioner, but that no action has been taken by him, and it then shall become the duty of such sheriff to proceed in all particulars for the destruction of such thistles and French weeds as required of the county commissioner by this act.

§ 11. STATE LANDS—DUTY OF COMMISSIONERS TO EXAMINE.] It shall be the duty of every county commissioner in his commissioner district to examine or cause to be examined all leased lands owned by the State and all school lands and all broken lands the title to which yet remains in the United States, and all fire breaks which have been made without warrant or license on the part of the owner of the land on which such fire breaks exist, and, if Russian thistles and French weeds are found on any such lands or fire breaks, they shall be destroyed under the direction of such county commissioner, and he shall certify the expense thereof by an itemized statement to the county auditor of such county, and such county auditor shall at the meeting of the board of county commissioners as provided in Section 16 of this act, lay the same before such board, and such county auditor shall issue his warrants for such amount when approved by such board of county commissioners, to be paid out of the road fund of such county, and such expense so certified shall be a charge upon the state, and the amount of them shall be withheld by the county treasurer in his next payment to the State, by remitting to the state treasurer the itemized vouchers for such expense in lieu of the money withheld; such itemized vouchers shall be duly certified by the county auditor as approved by the board of county commissioners; *Provided*, That the county commissioner who shall discover or be informed that Russian thistles and French weeds exist on any land in his commissioner's district, the title to which land is in the United States, but which land is occupied, held or cultivated by any person, shall cause notice to be served on such person to destroy such thistles and French weeds in the manner provided for an owner of land in Section 5 of this act. And thereafter such persons shall be subject to the same obligation as provided in Section 5 of this act, the same as if he owned such land, and if he shall refuse or neglect to destroy such thistles and French weeds, and if such thistles and French weeds are destroyed by and under the direction of such county commissioner, then he shall be assessed with a personal tax for the expenses of so destroying such thistles and French weeds as provided in Section 16 of this act. Such person shall also be subject to all the provisions and penalties of Section 13 of this act.

§ 12. U. S. LANDS—WHOSE DUTY TO KEEP CLEAR OF WEEDS.] Every county commissioner shall ascertain by inquiry and investigation of Russian thistles and French weeds exist on any highway, road, way or trail in public use, or on any part of such in his

commissioner district. If he shall ascertain that such thistles and French weeds so exist he shall notify any overseer or supervisor of highways or roads, whose highway or road district lies in whole or in part in any such commissioner district, and within which highway or road district any such thistles and French weeds exist on any such highway, road, way or trail in public use, to notify all persons who are legally required or permitted to work out any road taxes in that year, that such work shall be done, so far as such county commissioner shall determine to be necessary, under the direction of such overseer or supervisor, in the destruction of such Russian thistles and French weeds in time and manner so fixed as provided in Section 4 of this act, and if such persons or any of them shall fail to so work out their poll taxes, then the money which they or any of them shall pay in lieu of such work, shall be paid by the officer into whose possession or keeping such money shall come, to the county treasurer, who shall credit the same to the road fund of such county to be expended for the purposes of this act; and when such county commissioner shall have so notified any such overseer or supervisor of highways or roads as herein provided, no work on any highway or road shall be done in payment of road taxes on any such highway or road district, and no money collected in payment of road poll taxes, in any such highway or road district, so expended until the requirements of such county commissioner are fulfilled. No person shall be relieved hereby from any part of the road poll tax to which he shall be subject by law.

§ 13. FAILURE OR REFUSAL TO DESTROY—PENALTY FOR.] Any owner or occupant of any land who shall receive written notice from the county commissioner or county auditor as provided in this act, to destroy any Russian thistles and French weeds existing on the land owned or occupied by him, who shall fail or refuse to destroy the same within the time required by the notice served on him, in accordance with the provisions of this act, shall be deemed guilty of a violation of the provisions of this act, and when convicted thereof, shall be subject to a fine of not less than five dollars (\$5) nor more than ten (\$10) dollars and costs of prosecution. Upon complaint of any owner or occupant of any land or of any citizen of the commissioner district in which the land owned or occupied by the party so notified lies, it shall be the duty of the state's attorney of such county, if such complaint seems to be reasonable, to prosecute the party complained of, for such failure or refusal, and the penalty imposed, if any, shall be paid to the party making such complaint.

§ 14. LANDS ON WHICH NO THISTLES GROW—OWNERS MAY NOTIFY.] To the end that the propagation and spread of Russian thistles and French weeds may to that extent be prevented and for the purpose of this act, it is hereby enacted that any owner or occupant of any cultivated land which is free from Russian thistles and French weeds, who shall know or be informed of the

existence of any Russian thistles or French weeds on cultivated land within two miles of, and being the nearest cultivated lands on which Russian thistles or French weeds exist to the lands which he owns or occupies, and who shall believe from the existence of such thistles or French weeds that there is danger that the cultivated lands so occupied and owned by him will be seeded from such thistles and French weeds if they should go to seed, may serve a written notice on the owner or occupant of the cultivated land on which such thistles and French weeds exist, or if no such service can be had, then by posting such notice conspicuously on such cultivated land, warning such owner or occupant to destroy such thistles and French weeds before they or any of them shall go to seed, and that otherwise he shall hold him responsible for any damages which in the ensuing season may result to the land which he owns or occupies therefrom. And if in such ensuing season Russian thistles and French weeds be found on the lands owned or occupied by the party who has given such notice, then failure or neglect on the part of the owner or occupant on whom such notice is served, to destroy such thistles and French weeds and all of them, before they or any of them shall have gone to seed, shall be *prima facie* evidence that such thistles and French weeds found on such lands in such ensuing season, have come from seeds produced on the lands owned and occupied by the parties so notified, and he shall be liable for damages accordingly. And inasmuch as damages of this nature must be exceedingly difficult to determine, the minimum of such damages is hereby declared to be twenty-five (25) cents for each square acre of the land occupied by the party who has served such notice, on which any Russian thistles and French weeds may be found in such ensuing season.

§ 15. PENALTY FOR COMMISSIONERS, OR SHERIFFS, FAILURE.] Whenever any county commissioner or any sheriff shall neglect or refuse to comply with the provisions of this act within five (5) days after having received notice as provided in Sections 5, 6, 7, 8, 9 and 10 of this act, he shall be subject to a fine of fifty dollars (\$50); and it is hereby made the duty of the state's attorney of the several counties to enforce the provisions of this act.

§ 16. ASSESSMENTS—WHEN AND HOW MADE.] On the first Wednesday of November in each year the board of county commissioners of every county in which Russian thistles and French weeds have been destroyed, under the provisions of this act, shall hold a session at their usual place of meeting for the purpose of levying an assessment against the lands upon which such thistles and French weeds have been destroyed, and upon any railroad company operating any line of railroad in the State, upon the right-of-way of which line within such county such Russian thistles and French weeds have been destroyed, and a personal tax upon every person who in that year has occupied, held or cultivated any land the title to which is in the United States, upon

which land any such thistles and French weeds have been destroyed in accordance with this act; and it shall be the duty of every person and corporation chargeable with the duty of destroying Russian thistles and French weeds upon any land or right-of-way within such county, to appear before such board at such time and place and show cause if any there be, why any such land or such railroad company should not be assessed. It shall be the duty of the county auditor to present at such time and place a report showing the expenses incurred or made necessary in the destruction of Russian thistles and French weeds upon each tract of land, upon each right-of-way, and upon all highways, roads, ways and trails in public use in such county. And after the board of county commissioners shall have heard and duly considered all objections to the levy of all and any such assessments it shall be their duty to levy an assessment against every tract of land and upon every railroad company and upon every person for the amount which may be justly due on account of such expenses; and such assessments shall thereupon be extended upon the tax roll for such year as a special assessment against such land or railroad company, and the amount of such assessments shall become due at the same time, and be subject to the same penalties and interest and shall be collected in the same manner as other real and personal taxes. And the proceeds of such assessments so levied shall be paid into the credit of the road fund of such county when collected.

§ 17. ONE MILL TAX—HOW LEVIED.] The county auditor of each county shall, at the time of making the annual assessment and the levy of taxes, for the purposes of this act, levy a tax of one mill on the dollar on all taxable property in such county, which tax shall be collected at the same time and in the same manner as other taxes are collected, and the proceeds of such tax shall be paid by the county treasurer of each such county to the State Treasurer, and shall constitute a State fund, which shall be designated as the State Russian thistle and French weed fund. At the same time the county commissioners of each such county shall, in addition to such tax of one mill so levied as aforesaid, levy a tax on all taxable property in each such county, not to exceed three mills on the dollar, on all taxable property in such county, and a road poll tax of \$1.50 on each inhabitant subject to poll tax, the proceeds of such tax shall be credited to the road fund of such county; *Provided*, That if any organized township in such county shall have already levied a road tax on the taxable property in such township, not less than the tax which the county commissioners of such county shall deem and determine proper to levy in accordance with the provisions of this section, no levy by such county commissioners shall be made on any property in such township; but in such case the county treasurer shall retain for the county road fund from the proceeds of such levy made by each such township an amount equal to that which would have

accrued to the county road fund if such a levy had been made on the taxable property of any such township as such county commissioners should have deemed and determined proper as aforesaid, proper allowance being made for any road taxes which shall have been paid by work as provided in Section 12 of this act; and such county treasurer shall pay over any balance of such proceeds to such township, as now provided by law; and, if any such township shall already have levied a road tax less than the tax so deemed and determined proper by the county commissioners, then such county commissioners shall levy on the taxable property in any such township an additional tax sufficient to make the total road tax on such property equal to the tax they may deem and determine to be proper as aforesaid. And in such case the county treasurer shall not pay over any of the proceeds of such road taxes to such township, whether imposed by the township or by the county commissioners. Out of the sums which shall accrue to the county road fund of any county, or which may at any time be to the credit of any such road fund, shall first be paid all sums made necessary by the provisions of this act, and thereafter if there be any of said fund remaining, it may be expended as provided by law for the expenditure of county road funds. The county treasurer of each county shall pay over out of any proceeds of any road tax, which by Section 1167 of the Compiled Laws is provided to be paid to any incorporated city or town in such county, only such amount as shall be in excess of an amount equal to a levy of a tax on all the taxable property of such city or town which the county commissioners shall deem and determine proper to levy on the taxable property of the county for the purposes of this act.

§ 18. STATE THISTLE FUND—WHAT COMPOSED OF.] All moneys which may be appropriated by the State Legislative Assembly or which may come into the possession of the State Treasurer from any appropriation or from any source for the destruction of Russian thistles and French weeds shall form a portion of the State Russian thistle and French weed fund.

§ 19. TRANSFER OF STATE FUNDS BY STATE TREASURER—HOW.] After the 31st day of December, 1895, after reserving a sufficient fund to pay all outstanding warrants drawn on the State Russian thistle and French weed fund under authority of this act, then, out of any money in such fund, may be paid into any other fund as the State Auditor may determine,

First. The amount of all expenses which may have accrued to the State under the provisions of Section 11 of this act.

Second. Any amount which may have been appropriated by the State for the destruction of Russian thistles and French weed and which has been credited to the State thistle fund. And from such Russian thistle and French weed fund shall be paid any further payments or expenditures authorized by this law.

§ 20. STATE TREASURER THE CUSTODIAN OF FUNDS.] All

funds which may accrue to the State Russian thistle and French weed fund shall be kept in the possession or under the control of the State Treasurer until paid out as provided for in Section 4 of this act.

§ 21. WARRANTS DRAW INTEREST—WHEN.] All warrants legally drawn on the road fund of any county in accordance with the provisions of this act, shall be paid, or, in case of non-payment for want of funds, shall be registered and bear interest, and shall be payable in the order of registration the same as other warrants drawn on the road fund of such county, and shall be available in such county for the payment of any road taxes, or of any taxes levied on any lands, or on any railroad company, or of any personal tax, levied under the provisions of Section 16 of this act. All warrants legally drawn on the State Russian thistle and French weed fund, if not paid for want of funds, shall be registered and bear interest at the rate of seven per cent. per annum and shall be available in payment of any taxes due or that may become due to the state, under the provisions of this act.

§ 22. PAYMENTS SECURED FROM UNITED STATES—HOW.] It shall be the duty of the State Auditor to tabulate and report to the Governor on or before the 31st day of December in each year, the several amounts expended by the State under the provisions of this act for the destruction of Russian thistles and French weeds upon lands belonging to the United States; thereafter it shall be the duty of the Governor and of the Attorney General to take such steps as they may deem proper to secure the payment of the same from the United States.

§ 23. JURISDICTION OF JUSTICES OF THE PEACE.] Justices of the peace shall have concurrent jurisdiction with the district court to try and determine all prosecutions for the violation of any of the provisions of this act. Any owner or occupant of any land, or any citizen of any commissioner district in any county may make complaint of any violation of the provisions of this act occurring within such commissioner district, and thereupon it shall be the duty of the state's attorney for such county, if such complaint shall be reasonable, to prosecute the party complained of for such violation and, upon conviction being had, one-half of the amount of any fines imposed shall be paid to the party bringing such complaint, except as provided in Sections 13 and 14 of this act; and the remaining one-half of such fines shall be paid into the road fund of such county.

§ 24. PREFERENCE GIVEN IN EMPLOYMENT—TO WHOM.] Every county commissioner, in discharging the duties required of him by this act, shall, as fully as he is able, protect every person and all property against unnecessary expense and unjust burdens. Whenever it shall be necessary to employ any person for the destruction of Russian thistles and French weeds, preference shall be given, all things being equal and probable expense no greater, to occupants of lands contiguous to the lands on which such

destruction is to be prosecuted. There shall be allowed for men and teams employed in such destruction no greater *per diem* than is now established by law for working out road taxes; persons so employed who fail to carry out their operations to the thorough destruction of the thistles and French weeds where employed, or in exercise of industry as in other employments, shall forfeit all pay, proof of such failure being made before the county commissioners sitting as an auditing board as provided in Section 16 of this act. No pay shall be allowed or credit given any owner or occupant of land for destroying Russian thistles and French weeds on land owned or occupied by him unless by direction of the executive relief board. Any public officer who shall discriminate in favor of or against any person or persons, or who shall willfully incur or permit others acting under him to incur grossly unnecessary expense in the destruction of Russian thistles and French weeds under the provisions of this act, shall be deemed guilty of a public offense and, upon conviction of any such offense, shall be subject to a fine of not less than one hundred dollars nor more than two hundred dollars, and become disqualified for his office; and such office shall be and remain vacant until his successor is elected or appointed thereto as provided by law; and pending an appeal the office shall remain vacant unless filled by appointment.

§ 25. PENALTY FOR PLANTING OR CULTIVATING.] It is hereby made unlawful to plant, cultivate, or purposely grow any Russian thistle and French weeds in the State, whether for any supposed or experimental utility, for ornament, as a curiosity, or for any purpose whatever; and every person so fostering or permitting the growth of any such thistle and French weeds shall be subject to a fine of not less than five dollars nor more than fifty dollars as a violation of the police provisions of this act; *Provided*, That the provisions of this section shall not apply to any act or operation done under the authority of the State, of the board of commissioners provided for in this act, or of the faculty of the agricultural college of North Dakota for purposes of scientific investigation.

§ 26. UNLAWFUL TO PLOW FIRE BREAKS—WHEN.] To the end that the propagation and spread of Russian thistles and French weeds may to that extent be prevented, and for the purposes of this act, it is hereby made unlawful to plow fire breaks in any county that is infested with Russian thistles and French weeds, on any land except with the consent, previously obtained of the owner of such land. And such owner shall then be liable to all the provisions of this act for the destruction of Russian thistle and French weeds on such fire break. Any person plowing any such fire break in any county aforesaid on land other than his own without the consent, previously obtained, of the owner of such land, shall be subject to a fine of not less than ten dollars nor more than fifty dollars, for each half mile or part of half mile in length of such fire break. He shall also be liable to all the

provisions of this act for the destruction of thistles and French weeds on such fire break. He shall also be liable to the owner of such land for trespass and for damages, and may be sued in any court of competent jurisdiction.

§ 27. EXPENSE INCURRED—AMOUNT AND HOW.] The board of commissioners created under Section 4 of this act are authorized to incur such expenses as in their best judgment shall seem necessary to an intelligent and efficient discharge of their duties. They shall file itemized vouchers for such expenses with the State Auditor, who shall issue his warrants for the respective vouchers, which warrants shall be paid by the State Treasurer out of any money to the credit of the State Russian thistle and French weed fund.

§ 28. PAY OF STATE COMMISSIONERS—HOW DRAWN.] Each member of the board of commissioners created by Section 4 of this act, shall be entitled to his actual traveling expenses while in the discharge of his duties in accordance with the provisions of this act, and to three dollars (§3) for each day he may be absent from home for hotel expenses, and to all other legitimate expenses incurred in the discharge of his duties according to the determination of the board, and the provisions of this act. He shall from time to time file itemized vouchers for such expenses with the State Auditor, who shall issue his warrants therefor, which warrants shall be paid by the State Treasurer out of any money to the credit of the State Russian thistle and French weed fund.

§ 29. PAY OF COUNTY COMMISSIONERS AND SHERIFF—AMOUNT OF.] Every county commissioner shall receive for every day actually spent in the performance of his duties under this act, the same compensation to be paid in the same manner, as he is entitled to for the discharge of other duties of his office. And any sheriff, if the duties of this act shall fall upon him, shall receive the same compensation, to be paid in the same manner as provided for the county commissioner.

§ 30. COUNTY AUDITOR FURNISH BLANKS—PENALTY FOR FAILURE.] It shall be the duty of the county auditor in each county to prepare blank forms of notice for use in accordance with the provisions of this act, and such forms shall, without charge, be furnished to parties desiring or whose duty it shall become, to make use of them. And it shall be the duty of the auditor of each county to serve all notices as may be required of him by any county commissioner in such county, in accordance with the provisions of this act, in every case making diligent search to ascertain the correct postoffice address of the parties on whom such service shall so be required to be made; and any county auditor who shall fail or neglect to discharge any duty made incumbent on him by this act, shall be subject to a fine of not less than ten dollars (§10) or more than twenty dollars (§20) to be enforced as provided for other penalties in this act.

§ 31. REPEAL.] All acts or parts of acts not consistent with the provisions of this act are hereby repealed.

§ 32. EMERGENCY.] Inasmuch as it is needful for its purposes that this act shall become operative at once, and consequently that an emergency exists, *Therefore*, This act shall take effect on and after the date of its passage and approval.

Approved, March 21, 1895.

SEVENTH JUDICIAL DISTRICT.

CHAPTER 103.

[H. B. No. 103.]

RELATING TO SEVENTH JUDICIAL DISTRICT.

AN ACT to Create the Seventh Judicial District, of the State of North Dakota, and Defining the Boundaries of the First and Seventh Judicial Districts, and Providing for Terms of Court in the Seventh Judicial District.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SUBDIVISIONS OF DISTRICT.] The State of North Dakota shall be divided into seven judicial districts.

District No. I shall consist of the counties of Grand Forks and Nelson.

Districts Nos. II, III, IV, V and VI shall be and remain as they are at present constituted.

District No. VII shall consist of the counties of Walsh, Pembina and Cavalier.

§ 2. GOVERNOR SHALL APPOINT JUDGE.] There shall be appointed by the Governor a judge of the district court, for the seventh judicial district, who shall hold office until the next general election, and until his successor is duly qualified. At the next general election, there shall be elected in the seventh judicial district, a judge of the district court, whose term of office shall be four years from the first Monday in January succeeding his election, and until his successor is duly qualified.

§ 3. TERMS OF COURT.] Any terms of court heretofore called in the counties of Walsh, Cavalier and Pembina, by the present presiding judge of the first district, shall be duly held at the time they are so called for by the judge of the first district.

§ 4. ACTIONS AND JUDGMENTS IN FULL FORCE.] All actions brought, and now pending in the counties of Pembina, Walsh and