

§ 3. PENALTY.] That any grain dealer or grain dealers, partnership, company, or corporation or association of grain dealers, or any other person or persons, partnership, company, corporation or association subject to the provisions of this act, or any director, officer, or any receiver, trustee, clerk, or lessee or agent, or persons acting for or employed by them, or either of them, who alone or with any other partnership, company, corporation, association, person or party, shall willfully do or cause to be done, or shall willfully suffer or permit to be done any act, matter or thing in this act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter or thing in this act required to be done, or shall cause or willfully suffer or permit any act, matter or thing so directed or required by this act to be done, not to be so done, or shall aid or abet such omission or failure, or shall be guilty of any infraction of this act, or shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be fined in any sum not exceeding \$1,000, or imprisonment in the jail of the county not exceeding six months, or both, in the discretion of the court; and shall moreover be liable to the suit of the party injured or damaged.

Approved February 12, 1890.

## CHAPTER 174.

[S. F. 77.]

### PROHIBITING POOLS, TRUSTS AND CONSPIRACIES.

AN ACT for the Punishment of Pools, Trusts and Conspiracies, and as to Evidence in such Cases.

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

§ 1. POOLS, COMBINATIONS, TRUSTS, ETC., WHEN DEEMED TO BE CONSPIRACIES TO DEFRAUD.] That any corporation organized under the laws of this or any other state or country, for transacting or conducting any kind of business in this State, or any partnership or individual or other association of persons whatsoever, which shall create, enter into, become a member of or party to any pool, trust, agreement, combination, confederation or understanding with any other corporation, partnership, individual, or any other person or association of persons, to regulate or fix the price of any article of merchandise or commodity, or shall enter into, become a member of or party to any pool, agreement, contract, combination or confederation to fix or limit the amount or quantity of any article, commodity or merchandise to be manufactured, mined, produced

or sold in this State, shall be deemed and adjudged guilty of a conspiracy to defraud, and be subject to indictment and punishment as provided by this act.

§ 2 TRUST CERTIFICATES UNLAWFUL.] It shall not be lawful for any corporation to issue or to own trust certificates, or for any corporation, agent, officer or employe, or the directors or stockholders of any corporation, to enter into any combination, contract or agreement with any person or persons, corporation or corporations, or with any stockholder or director thereof, the purpose and effect of which combination, contract or agreement shall be to place the management or control of such combination or combinations, or the manufactured products thereof, in the hands of any trustee or trustees, with the intent to limit or fix the price or lessen the production and sale of any article of commerce, use or consumption, or to prevent, restrict or diminish the manufacture or output of any such article.

§ 3. PENALTY FOR VIOLATION OF THIS ACT.] If a corporation or a company, firm or association shall be found guilty of a violation of this act, it shall be punished by a fine of not less than 1 per cent. of the capital stock of such corporation or amount invested in such company, firm or association, and not to exceed 20 per cent. of such capital stock or amount invested. Any president, manager, director or other officer or agent or receiver of any corporation, company, firm or association, or any member of any company, firm or association, or any individual found guilty of a violation of the first section of this act shall be punished by a fine of not less than five hundred (500) dollars, nor to exceed \$5,000, and in addition thereto may be imprisoned in the county jail not to exceed one year.

§ 4. CONTRACTS IN VIOLATION OF THIS ACT VOID.] Any contract or agreement in violation of any provision of the preceding sections of this act shall be absolutely void.

§ 5. WHEN PURCHASER NOT HELD FOR PURCHASE PRICE OF ANY COMMODITY.] Any purchaser of any article or commodity from any individual, company or corporation transacting business contrary to any provision of the preceding sections of this act, shall not be liable for the price or payment of such article or commodity, and may plead this act as a defense to any suit for such price or payment.

§ 6. CORPORATE RIGHTS FORFEITED FOR VIOLATION OF THIS ACT—SECRETARY OF STATE TO MAKE ENQUIRY.] Any corporation created or organized by or under the laws of this State, which shall violate any provision of the preceding sections of this act, shall thereby forfeit its corporate rights and franchises, and its corporate existence shall thereupon cease and determine; and it shall be the duty of the Secretary of State, after the passage of this act, to address to the president, secretary or treasurer of each incorporated company doing business in this State, a letter of inquiry as to whether said corporation has merged all or any part of

its business or interest in or with any trust, combination or association of persons or stockholders as named in the preceding sections of this act, and to require an answer, under oath, of the president, secretary, treasurer, or any director of said company; a form of affidavit prescribed by the Secretary of State shall be enclosed in said letter of inquiry; and on refusal to make oath in answer to said inquiry, the Secretary of State shall immediately revoke the charter of said company and make publication of such revocation in four newspapers of general circulation in the four largest cities of the State.

§ 7. WHEN SECRETARY MAY REVOKE CHARTER.] It shall be the duty of the Secretary of State, upon satisfactory evidence that any company or association of persons duly incorporated and operating under the laws of this State have entered into any trust, combination or association as provided in the preceding provisions of this act, to give notice to such corporation, that unless they withdraw from and sever all business connections with said trust, combination or association, their charter will be revoked at the expiration of thirty days from date of such notice.

§ 8. WHO SHALL ENFORCE THIS ACT.] It shall be the duty of the state attorneys in their respective jurisdictions, and the Attorney General, to enforce the foregoing provisions of this act.

§ 9. All acts or parts of acts inconsistent with any of the provisions of this act are hereby repealed.

Approved March 3, 1890.