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**CHAPTER 293.**

(S. B. No. 224—Levang.)

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**STATE BONDS, WHERE PAYABLE.**

**An Act Relating to the Place of Payment of All State Bonds of the State of North Dakota.**

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

Sec. 1. All state bonds hereafter issued shall be made payable at the State Treasurer's office, Bismarck, North Dakota, or at some bank or trust company in the City of New York, State of New York. The parties who are charged with the duty of preparing such bonds may make them payable at either of the above places as they deem most expedient.

Approved February 24th, 1923.

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**STATE INDUSTRIES**

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**CHAPTER 294.**

(S. B. No. 277—Lynch.)

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**LIQUIDATING THE HOME BUILDING ASSOCIATION.**

**An Act Transferring to the Industrial Commission the Custody, Control and Management of the Property and Assets of the Home Building Association of North Dakota for the Purpose of Liquidating and Winding up the Business and Affairs of said Home Building Association of North Dakota, Defining the Powers and Authority of the Industrial Commission with Reference thereto, Defining the Rights and Liabilities of Applicants for Homes and Purchasers, and Repealing Chapter 150 of the Session Laws of North Dakota for the year 1919, and Chapter 39 of the Special Session Laws of North Dakota for the year 1919.**

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

Sec. 1. There is hereby transferred to the Industrial Commission, and said Industrial Commission is hereby authorized and empowered to receive, accept and take over, the custody, control and management of all the property and assets, of whatsoever name, nature and description, heretofore owned, held, controlled, or possessed by the Home Building Association of North Dakota, for the purpose of liquidating and winding up the business affairs of said Home Building Association of North Dakota. To that end the Industrial Commission is hereby vested with full power and authority to

do any and all acts and things necessary, convenient or incident to effect such liquidation and winding up of the business and affairs of said Home Building Association of North Dakota, hereinafter referred to as the Association.

Sec. 2. As a part of the power and authority so vested in the Industrial Commission, but not as a limitation or restriction upon its powers and authority, the Industrial Commission shall have the power to bring and defend actions or proceedings relating to the business and affairs of said Association, or relating to the liquidating or winding up of its business and affairs; to take and keep possession of the property and assets of said Association; to receive the rents and payments of the purchase price of homes built, or homes and property sold by said Association; to collect the debts of said Association; to compromise claims or accounts; to rent homes and property owned by said Association; to sell for cash or upon deferred payments, at the best price and terms obtainable, the property of said Association, including homes already built; to take, satisfy, discharge or assign mortgages, notes and contracts, and to make conveyances; provided, that in all sales of homes hereafter made, the purchaser shall be required to pay all taxes and assessments levied or assessed against the premises, before the same shall become delinquent, and also to keep the buildings thereon insured against loss or destruction by fire, windstorm or tornado, at the expense of the purchaser, with a provision in the contract or mortgage that the loss, if any, shall be payable to the Industrial Commission, as its interest may appear.

Sec. 3. Written instruments, assignments, contracts and conveyances shall be executed in the name of "The State of North Dakota, as Successor in Interest of the Home Building Association of North Dakota, Dissolved," signed by any two members of the Industrial Commission, of whom the Governor shall be one. Any such written instrument shall contain a recital that it is made pursuant to this Act, and citing the same by its Bill number and title, with the date of the approval thereof, or by its proper chapter number of the Session Laws of 1923.

Sec. 4. All valid contracts entered into by said Association, as provided for in Chapter 150 of the Session Laws of North Dakota for the year 1919, and Acts amendatory thereof, are hereby expressly recognized, and any rights or liabilities accrued in favor of, or against, said Association, as provided for in said Chapter and Acts amendatory thereof, shall be deemed existing in favor of and binding upon the Industrial Commission.

Sec. 5. The Industrial Commission shall have the power and authority to sell, assign, transfer and deliver to the Bank of North Dakota, or to any other purchaser or assignee, any and

all mortgages, notes and contracts heretofore or hereafter held or owned by said Association, or by the Industrial Commission under this Act. Funds coming into the hands of the Industrial Commission in connection with the liquidating and winding up of the business and affairs of said Association, and any funds that have heretofore accrued, or that may hereafter accrue, to the said Association by law or from any source, shall be used by the Industrial Commission to pay and discharge the debts, liabilities and obligations of said Association, and of the Industrial Commission in affecting such liquidation and winding up of said business and affairs, after the payment of salaries, expenses and other expenditures necessary or incident to such liquidation and winding up of said business and affairs.

Sec. 6. In any case where said Association has heretofore built a home for an applicant, and there is a dispute between the Industrial Commission and the applicant as to the amount of the sale price of such home, all other terms and conditions of such sale being agreed to in writing, and the applicant desires to purchase said home at the market price thereof at the time such applicant entered into possession of such home, the applicant may, by an application therefor, in writing, made to the Industrial Commission, demand that the question as to the market value of said home at the time such applicant entered into possession thereof shall be submitted to arbitration in the following manner: The applicant shall name one arbitrator, the Industrial Commission shall name one arbitrator, and the Supreme Court, upon application made to it, in writing, by said two arbitrators, shall name the third arbitrator. Before entering upon their duties, the arbitrators shall take and subscribe an oath faithfully and fairly to hear and examine the allegations and evidence of the parties in relation to the matters in controversy, and to make a just award as to such market price, according to their understanding. Each arbitrator shall have the power to administer oaths to witnesses. Said three arbitrators, constituting a board of arbitration, shall, at such times and places appointed by them, hold one or more hearings, hear testimony, examine witnesses and documentary evidence relative to the market value of said home, as of the time when the applicant entered into possession thereof, and shall make such other inspection and investigation as they may deem proper. The arbitrators shall make their finding, determining the market value of said home at the aforesaid time. The finding must be in writing, signed by the arbitrators, or a majority of them, and shall be filed with the Industrial Commission, and a duplicate thereof shall be given to the applicant. The market value, as determined by the arbitrators, shall be the selling price of such home, as between such applicant and the Industrial Commission, and each party shall be bound thereby. Witnesses testifying

before such arbitrators shall be entitled to the same fees as witnesses in the district court, which shall be paid by the party calling the witness. Each arbitrator shall receive the sum of five dollars per day for each day's attendance at such hearing, to be paid by the Industrial Commission.

Sec. 7. Civil actions may be brought against the State of North Dakota on account of causes of action claimed to have arisen heretofore out of transactions connected with the operation of said Association, upon condition that the provisions of this section are complied with. In such actions the State shall be designated as "The State of North Dakota, as Successor in Interest of the Home Building Association of North Dakota, Dissolved," and the service of process therein shall be made upon the Governor or the Attorney General. Provided, that any action involving any contract or transaction heretofore had with said Association must be brought against the State, using the aforesaid designation, before the first day of July, 1924, and thereafter all such actions shall be barred. Such actions may be brought in the same manner and shall be subject to the same provisions of law as other civil actions brought pursuant to the provisions of the Code of Civil Procedure. Such actions shall be brought, however, in Burleigh County except as provided in Sections 7415, 7416 and 7418, Compiled Laws of North Dakota, 1913. The provisions of Sections 375 and 657 of the Compiled Laws of 1913 shall not apply to claims against the State, affected by the provisions of this section.

Sec. 8. The Industrial Commission is hereby authorized and empowered to employ such agents, attorneys, clerks, stenographers, and accountants as the Commission may deem necessary in order to carry out the provisions of this Act, and shall define their duties and fix the compensation and bonds of all such persons so employed.

Sec. 9. That Chapter 150 of the Session Laws of North Dakota for the year 1919, and Chapter 39 of the Special Session Laws of North Dakota for the year 1919, are hereby repealed.

Approved March 2nd, 1923.

## CHAPTER 295.

(S. B. No. 261—Storstad.)

## NORTH DAKOTA MILL AND ELEVATOR ASSOCIATION.

An Act Re-establishing the North Dakota Mill and Elevator Association, Defining its Powers and Duties, and Providing for the Control, Management, and operation of State Owned Grain Warehouses, Elevators and Flour Mills and the Conduct of all Business relating thereto, especially as Relates to the State Owned Mill and Elevator at Grand Forks and Providing for the appointment of a Board of Managers thereof and Repealing Chapter 152 Laws of North Dakota of 1919, entitled "An Act Declaring the Purpose of the State of North Dakota to Engage in the Business of Manufacturing and Marketing of Farm Products, and for establishing a Warehouse, Elevator and Flour Mill System under the Name of North Dakota Mill and Elevator Association operated by the State, and defining the scope and manner of its Operation, and the Powers and duties of the persons charged with its Management; and Making an Appropriation therefor."

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

Sec. 1. ESTABLISHING NORTH DAKOTA MILL AND ELEVATOR ASSOCIATION.) For the purpose of encouraging and promoting agriculture, the State of North Dakota shall engage in the handling of grain and in the manufacture and sale of flour and its by-products, and for that purpose shall operate and conduct the system of state owned elevators and flour mills now established and heretofore created by law under the name of "North Dakota Mill and Elevator Association," hereinafter for convenience called the Association.

Sec. 2. CONTRACTS RECOGNIZED.) All valid contracts entered into by the North Dakota Mill and Elevator Association, as provided for in Chapter 152 of the Session Laws of North Dakota for the year 1919, known as the North Dakota Mill and Elevator Association Act, are hereby expressly recognized, and any rights or liabilities accrued in favor of or against said North Dakota Mill and Elevator Association as Provided for in Chapter 152 of the Laws of 1919 aforesaid, shall be deemed existing in favor of and binding upon the North Dakota Mill and Elevator Association created by this Act. All valid sales and conveyances of property made by the North Dakota Mill and Elevator Association, as provided for in Chapter 152 of the laws of 1919, aforesaid, shall be deemed the acts of the North Dakota Mill and Elevator Association, as created by this act, and the title to all property acquired in the name of the State of North Dakota, doing business as the North Dakota Mill and Elevator Association, as provided for in Chapter 152 of the Laws of 1919, aforesaid, shall remain vested in the State of North Dakota, doing business as the North Dakota Mill and Elevator Association under this act.

**Sec. 3. BOARD OF MANAGERS CREATED. APPOINTMENT. TERMS. COMPENSATION.)** There is hereby created a board to be known as the Board of Managers for the North Dakota Mill and Elevator Association, hereinafter referred to as "The Board."

The Board shall be composed of five members. The members shall be appointed within thirty days after the taking effect of this act and for the following terms: Two members whose terms shall expire March 1st, 1925; Two whose terms shall expire March 1st, 1927, and one whose term shall expire March 1st, 1929. Thereafter all members shall be appointed on the first Monday in February in odd numbered years and for terms of six years, such terms to commence March 1st following.

Such Board shall consist of at least one person who has had personal experience as a farmer on the farm and at least two who are experienced in the milling industry and the grain handling business.

If any member of the Board or the Auditor or any other executive officer in the Mill and Elevator Association becomes a candidate for any public office a vacancy shall automatically exist in such position and the vacancy shall be filled immediately by the party whose duty it was to appoint or employ the person whose position has become vacant under this provision.

Board members shall be entitled to a per diem of ten dollars and necessary expenses incurred while in attendance at meetings of the Board.

**Sec. 4. AUDITOR, AND SECRETARY OF BOARD.)** There shall be appointed by the Industrial Commission an Auditor who shall also act as Secretary of the Board, but who shall at all times, be ready to give to the Governor, the Legislature, the Board of Managers, and the Public, any data pertaining to the operations of the Mill and Elevator Association that he can reasonably be expected to furnish. As Secretary of the Board he shall keep a detailed record of all business transacted by it. He shall have his office at the Mill and shall devote his entire time to the duties of his office and shall receive an annual compensation of \$3,000.00 payable monthly. He shall be appointed for a term of three years.

**Sec. 5. VACANCIES.)** Vacancies on the Board or in the office of Auditor, shall be filled by the Industrial Commission for the unexpired term.

**Sec. 6. INDUSTRIAL COMMISSION MAY REMOVE. PROCEEDING NO APPEAL.)** The Industrial Commission may at any time remove the Auditor or any appointive Board Member for inefficiency, neglect of duty, misconduct or malfeasance in office. Before such removal the Industrial Commission shall give such appointive Board Member a copy of the charges against him and

fix the time when he shall be heard in his own defense, which shall not be less than ten days thereafter, and such hearing shall be open to the public. If such appointive Board Member or Auditor shall be removed, the Industrial Commission shall file in the office of the Secretary of State a complete copy of all charges made against such appointive Board Member or Auditor and his findings thereon, with a record of the proceedings. Such power of removal shall be absolute and there shall be no right of review in any court whatsoever.

Sec. 7. BOARD ORGANIZATION. PLACE OF BUSINESS. FREQUENCY OF MEETING.) The members of the Board of Managers shall meet in the city of Grand Forks at ten o'clock A. M. on any day within forty days after the taking effect of this act, for the purpose of organization, and shall elect one of the members as chairman to serve for a term of two years, and shall adopt a seal and rules for the conduct of their business. A majority of the Board shall constitute a quorum for the transaction of all business.

The Board shall keep its office at the State-Owned Mill and Elevator at Grand Forks and shall provide itself with suitable rooms and necessary furniture and fixtures. The Board may, however, hold sessions at any other place within the state when the occasion requires.

The Board shall hold regular meetings not oftener than once every month, and not less frequently than every sixty days, but in emergencies may hold special meetings at such times as may be agreed upon call of the Chairman or upon demand of three members of the Board.

Sec. 8. POWER AND DUTIES OF THE BOARD.) Except as otherwise provided by law, the Board of Managers shall have the power to make contracts, to sue and be sued, to purchase, sell and convey real and personal property as may be necessary to carry out the purpose of this act, to locate and maintain the places of business of the Association, and to make and enforce orders, rules regulations and by-laws, for the transaction of its business. The business of the Association, in addition to other matters herein specified, may include anything that any private individual or corporation may lawfully do in conducting a similar business except as herein restricted.

The Board may by purchase, lease or the exercise of the right of eminent domain, as provided by Chapter 36 of the Code of Civil Procedure, Compiled Laws of 1913, acquire all necessary property and property rights, and may purchase, least or repair all necessary buildings or other structures, and may purchase, lease, construct or otherwise acquire offices, machinery, equipment, and all things necessary, convenient or incidental to the manufacture of flour and its by-products, and for the storage,

sale and disposal of grain, flour and its by-products, and may dispose of the same; Provided, That until otherwise provided by law the Board shall not lease, sell or convey to any person or persons the Mill and Elevator now located near the City of Grand Forks; and Provided, further, That unless expressly authorized by law, the Board shall not purchase any lands, mills, elevators or other buildings or structures, or any other real property.

The Board shall have power to purchase grain and to resell such part thereof as may not be needed in the operation of the mill; Provided that the Board shall purchase grain from outside the state only when such grain can be purchased, milled and marketed at a cost less than grain of like quality available within the state may be purchased, milled and marketed; And Provided, further, That no mill owned or operated by the state shall import from any foreign country any grain in bond for milling purposes, or mill any grain so imported in bond, or any grain from any foreign country for the purpose of milling and exporting the products thereof under the drawback provision of the United States Tariff Act except when necessary to insure the efficient operation of such mill.

All purchases by the Association of grain and produce of every kind, on which there is a future market in which the products may be adequately hedged shall be immediately hedged by the sale in such future market of an equal quantity of the same product or the equivalent thereof. All sales of flour, feed, millstuffs or other mill products, on which there is a futures market in which the products may be adequately hedged shall be immediately hedged by the purchase in such futures market of an equal amount of the same product or the equivalent thereof. The equivalent of any specific quantity of flour shall be the quantity of wheat required to produce it.

In so far as consistent with the recognized practices of the milling industry, sales shall be made for cash on or before delivery.

All grain, flour, feed, millstuffs and produce belonging to the Association or for which the Association is responsible to the owners, and all buildings and machinery belonging to the Association shall be fully insured against loss by fire in Fire Insurance companies authorized to do business in the State or the Fire and Tornado fund of the State of North Dakota.

Except as hereinafter provided the business of the North Dakota Mill and Elevator Association shall be limited to the operation and management of the Mill and Elevator now owned by said Association and located at the City of Grand Forks, but the Board shall have power to establish and maintain purchasing and selling agencies in this and other states, and in Canada and in foreign countries and shall fix the purchase price of all things bought and the selling price of all things

sold; such prices shall be fair and reasonable, and in fixing them provision shall be made for all necessary costs and a reasonable allowance for depreciation, overhead expense, a reasonable surplus, a sinking fund, and for the repayment with interest of all sums advanced by the state, including Mill and Elevator Bonds. No discrimination in prices other than the difference in freight rates, shall be made as between persons or localities within or without the state in the purchase of grain or sale of flour and other products except as required to meet competition, but this shall not be held to prevent the Board from quoting a lower price on carload lots or sales in larger quantities.

Sec. 9. SALE OF DRAKE MILL AND OTHER PROPERTY.) It shall be the duty of said Board to take steps upon taking office to obtain bids in response to ninety days public notice of intention to sell the Drake Mill and Elevator. Such property shall be sold as soon thereafter as is consistent with proper prices and terms. No sale of any such property shall be made without the written approval of the Governor. Power is hereby expressly granted to the Board to execute and deliver any conveyances necessary to carry out the purposes of this section. Such conveyances shall be made in the name of the North Dakota Mill and Elevator Association by the chairman and Secretary of the Board and must bear the signature of the Governor signifying his approval. All funds derived from such sales shall be paid forthwith to the State Treasurer to be credited by him to the Sinking Fund for the payment of interest upon and the retirement of outstanding bonds of North Dakota Mill and Elevator series or shall be retained for use as working capital as may be determined by the Board. Until said Mill and Elevator located at Drake is disposed of, the Board shall have the same power to operate and the same responsibility for the operation of the Drake Mill as it has with reference to the Grand Forks project.

Sec. 10. MANNER OF CONDUCTING BUSINESS.) All business of the Association shall be conducted under the name of the North Dakota Mill and Elevator Association. Title to property pertaining to the operation of the Association shall be obtained and conveyed in the name of the State of North Dakota, doing business as the North Dakota Mill and Elevator Association. Deeds and other instruments conveying or affecting real property shall be executed under the authority of the Board and shall be signed by the Chairman of the Board and attested by its secretary, and the seal of the Association shall be affixed thereto. All contracts and other instruments requiring a seal shall be executed in the same manner. The Board may delegate to the general manager, Treasurer or Secretary hereinbefore provided for, the execution of papers and instruments the manner of the execution of which is not herein specifically prescribed.

Sec. 11. EMPLOYEES, DUTIES, COMPENSATION, BONDS.) The Board shall obtain such assistance as in its judgment may be necessary for the establishment, maintenance and operation of the Association. To that end it shall appoint a general manager, and may constitute such manager its general agent, subject to the supervision, limitation and control of the Board. It may appoint and employ such subordinate officers, architects, builders, contractors, experts, accountants, assistants, clerks, agents and other employees as may be required and shall designate their titles, duties and compensation. Such compensation, together with the expenditures for operation and maintenance shall remain within the earnings lawfully available in each year for such purpose. The Board may remove any such appointee or employee with or without cause. All officers and employees of the Association charged with its financial functions shall, before entering upon their duties, respectively furnish a sufficient bond to the state in such amount and upon such conditions as the Board may require and approve; but the bond of the manager and of the Secretary and Treasurer shall not be less than fifty thousand (\$50,000.00) dollars each. The members of the Board shall give good and sufficient surety bonds to the State of North Dakota to guarantee honesty in the performance of their duties. The bonds of the Members of the Board shall be in the sum of Ten Thousand (\$10,000.00) dollars each. Such bonds shall be filed with the Secretary of State. The form of all bonds shall be approved by the Attorney General. The bonds shall be approved by the Governor and deposited with the Secretary of State.

Sec. 12. BOOKS, RECORDS, STATEMENTS.) The Board shall cause to be kept a complete record of all transactions of said association, such record shall show at all times all liabilities of such Association, the current value of the plant and property owned, all purchases made for plant account, all money received from sales of plant equipment and property, all disbursements for expense and for the purchase of supplies of every kind and all receipts from sales. An inventory showing current cost values shall be taken during June and December in each year and on the first days of July and January of each year a statement shall be prepared and presented to the Governor showing in a detailed and itemized manner the condition of the business and the results of operation during the preceding six months' period. A record shall be kept of all meetings of the Board and all decisions of the Board shall be determined by a record vote. All such books, records, and statements shall be public documents. The Board shall make a detailed report of the operations of the Association with inventories as of date December 31st of each year, and shall file the same with the Governor not later than the 1st day of the following February which report shall be printed

and copies thereof delivered to the State Board of Audit and all members of the Legislature.

Sec. 13. ACTIONS MAY BE BROUGHT.) Civil actions may be brought against the State of North Dakota on account of any cause of action claimed to have arisen out of transactions connected with the operation of the Association, upon condition that the provisions of this section are complied with. In such actions the state shall be designated as the State of North Dakota, doing business as North Dakota Mill and Elevator Association, and the service of process therein shall be made upon the general manager of the Association. Such actions may be brought in the same manner and shall be subject to the same provisions of law as other Civil actions brought pursuant to the Code of Civil Procedure. Such actions shall be brought, however, in the county where the Association shall have its principal place of business, except as provided in Sections 7405, 7416, 7418, Compiled Laws of North Dakota of 1913. The provisions of Sections 375 and 657 of the Compiled Laws of 1913 shall not apply to claims against the state affected by the provisions of this act.

Sec. 14. DEPOSIT OF FUNDS.) All funds of the Association shall be deposited in the Bank of North Dakota.

Sec. 15. EXAMINATION BY STATE EXAMINER.) The State Examiner shall personally or through a deputy examiner visit the Association at least twice annually, and shall inspect and verify the various assets in its possession and under its control, and shall ascertain its liabilities with sufficient thoroughness of investigation to ascertain whether such assets and liabilities be correctly carried on its books. He shall investigate its method of operation and accounting. He shall report the result of such examination and investigation to the Board within thirty days thereafter, and shall in such report make recommendations as to changes in such method of accounting, and shall file a copy of such report with the Governor, the State Auditor, the Manager of the Bank of North Dakota, the Auditor of the Association and each member of the Board of Managers, and the General Manager of the Mill.

Sec. 16. REPEAL.) Chapter 152 of the Session Laws of the State of North Dakota for the year 1919, known as "An Act Declaring the purpose of the State of North Dakota to engage in the business of manufacturing and marketing of farm products, and for establishing a warehouse elevator and flour mill system under the name of North Dakota Mill and Elevator Association operated by the State, and defining the scope and manner of its operation, and the powers and duties of the persons charged with its management; and making an appropriation therefor," and

all other acts or parts of acts in conflict herewith are hereby repealed.

Approved March 6th, 1923.

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## STATES ATTORNEY

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### CHAPTER 296.

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(S. B. No. 381—Busch.)

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#### ASSISTANTS.

An Act Providing for Assistant States Attorneys in Counties with a Population Exceeding Thirty-five Thousand.

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

Sec. 1. ASSISTANT STATES ATTORNEYS.) In counties having a population exceeding thirty-five thousand, the States Attorney may be entitled to appoint two Assistant States Attorneys with the approval of the Board of County Commissioners; one to receive a salary of Fifteen hundred (\$1500.00) dollars, and one to receive One thousand (\$1,000.00) dollars.

Sec. 2. EMERGENCY.) An emergency is hereby declared to exist, therefore this Act shall take effect from and after its passage and approval.

Approved March 2nd 1923,

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## SUNDAY

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### CHAPTER 297.

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(H. B. No. 156—Trubshaw.)

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#### SUNDAY DANCES.

An Act to Prohibit the keeping open, running, or permitting the running of any place for public dancing on the First Day of the Week, commonly called the Sabbath, and providing a penalty therefor.

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

Sec. 1. It shall be unlawful to keep open, or to run or to permit the running of any place for public dancing on the first day