

agents thereof, who shall have said eggs in its, his or their possession, shall be liable to the same penalty.

Jurisdiction of justices.

SECTION 5. Justices of the peace shall have cognizance and jurisdiction of all offenses under this act, without regard to the aggregate amount of fines imposed in any one case. All prosecutions under this act shall be deemed criminal proceedings, and shall be conducted as provided by law for the prosecution of offenses cognizable before justices of the peace; and in all cases of conviction under this act, one-half of all fines and penalties collected shall be paid over by the justice or person collecting the same, to the person who shall make the complaint in the case.

Not applicable, to certain Indians.

SECTION 6. This act, except the fourth section thereof, shall not affect uncivilized Indians living north of the counties of Pierce, Dunn, Eau Claire, Clark, Wood, Portage, Waupaca, Outagamie, Oconto, Brown and Door.

Repealed.

SECTION 7. All laws heretofore passed relating to the preservation of game, are hereby repealed.

Publication of this act.

SECTION 8. This act shall take effect from its passage and publication, and shall be published during the 1st week of April in each year in some newspaper printed and published at the county seat of each county in the state, the expense of such publication to be paid out of the county treasuries of the respective counties; and it shall be the duty of the county treasurer of each county to cause such publication to be made.

Approved April 3, 1867.

CHAPTER 79.

[Published April 8, 1867.]

AN ACT to provide for a trial by jury in cases of foreclosure of mortgages.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Issue of fact in foreclosure of mortgages to be tried by jury unless waived.

SECTION 1. In all cases now pending in any court of this state, or which may hereafter be commenced, wherein the plaintiff seeks to foreclose a mortgage or mortgages, all issues of fact between the party plaintiff

and defendant, or between the party plaintiff and either of the defendants, shall be tried by a jury, according to the course of the common law, unless the right of trial by jury shall be waived by the parties by written stipulation.

SECTION 2. All jurisdiction and power existing in any court of this state to pronounce judgment of sale on foreclosure without the intervention of a jury, in cases brought to foreclose mortgages where there is an issue of fact between the parties plaintiff or defendant, or either of them, is hereby wholly abrogated and repealed, unless there be an express stipulation on the part of the parties between whom such issue exists, to waive a jury. Judgment of sale without jury, unless jury has been waived abrogated.

SECTION 3. The verdict of a jury in such cases shall be as final and conclusive as is the verdict of a jury in cases of common law origin, or in cases where the right of trial by jury is secured by section five of article one of the constitution of Wisconsin: *provided*, that nothing herein contained shall deprive courts of any power now belonging to them in cases of trial by jury, of setting aside the verdict and directing a new trial by jury. Verdict of jury final. Proviso.

SECTION 4. The court may in their discretion, in such cases, direct the jury that unless they find for the defendants on the whole merits of the case, they shall find the facts by special verdict, and shall state to the jury the form of such finding, and call their attention to the points on which they must pass; and if the verdict of the jury shall be informal, or not pass upon all the points so called to their attention, the court may give them directions for putting their verdict in proper form, or may direct them to retire and correct their verdict. Directions to jury.

SECTION 5. All acts and parts of acts so far as they are inconsistent with this act, are hereby repealed. Repealed.

SECTION 6. This act shall be published forthwith, and shall take effect as soon as published.

Approved April 4, 1867.