

correction of Milwaukee county, and who shall break such prison and escape, shall be punished by imprisonment in the state prison, or in the house of correction of Milwaukee county, one year in addition to the unexpired term for which he was originally sentenced.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved March 15, 1880.

[No. 63, S.]

[Published March 23, 1880.]

### CHAPTER 231.

AN ACT relating to writs of mandamus and prohibition, and amendatory of section three thousand four hundred and fifty-two of the revised statutes of 1878.

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

SECTION 1. Section three thousand four hundred and fifty-two of chapter one hundred and forty-eight of the revised statutes of 1878, entitled "of writs of mandamus and prohibition," is hereby amended as follows, viz: by adding to said section at the end thereof, the following words, to wit: In any proceeding of mandamus the board of state, district or county canvassers, in the supreme court, to compel the execution and delivery of a certificate of election to any person claiming to have been elected to the office of member of the legislature of this state, or of member of the house of representatives of the congress of the United States, or of presidential elector, by the qualified electors of this state, at any general or special election for the same provided for by law, the court may, if it is deemed necessary to promote the ends of justice, inquire into the facts of such election, irrespective of the election returns, and determine who was in fact entitled to the certificate of election to such office by the greater number of legal votes cast for the same, and the certificate issued in pursuance of such determination shall be taken as the true and only lawful certificate of election to such office, and any other certificate of election to the same office issued by the board of canvassers shall be null and void, and such issue of fact may be tried as hereinbefore provided, or according to such rules and regulations as the court may prescribe, so that said section shall read as follows: Section 3452. Issues of fact in any such proceeding instituted in the supreme court shall be tried in the circuit court in the county within which the material facts contained in the rela-

Amended.

Supreme court may go behind returns.

tion for the mandamus shall be alleged to have taken place; or in such other county as the supreme court, for cause shown, shall in its discretion order, and the circuit court before which such issue of fact is ordered to be tried, may try the same at a special as well as a general term, and shall have power to summon a jury for that purpose, when necessary, and prescribe the manner of summoning the same. And when such writ of mandamus shall be issued by any circuit court, any issue of fact therein may in like manner be tried, at a special or general term, and the court may summon a jury in like manner for the trial thereof. In any proceedings of mandamus against the board of state, district or county canvassers in the supreme court, to compel the execution and delivery of a certificate of election to any person claiming to have been elected to the office of member of the legislature of this state, or of member of the house of representatives of the congress of the United States, or of presidential elector, by the qualified electors of this state, at any general or special election for the same provided for by law, the court may, if it is deemed necessary to promote the ends of justice, inquire into the facts of such election, irrespective of the election returns, and determine who was in fact entitled to the certificate of election to such office by the greater number of legal votes cast for the same, and the certificate issued in pursuance of such determination, shall be taken as the true and only lawful certificate of election to such office, and any other certificate of election to the same office issued by the board of canvassers, shall be null and void, and such issue of fact may be tried as hereinbefore provided, or according to such rules and regulations as the court may prescribe.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved March 15, 1880.

[No. 363, A.]

[Published March 18, 1880.]

### CHAPTER 232.

AN ACT to repeal section one thousand eight hundred and sixteen of chapter eighty-seven of the revised statutes of 1878, entitled "of railroads."

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

SECTION 1. Section one thousand eight hundred and sixteen of chapter eighty-seven of the revised stat-

Existing causes  
and rights of  
action not af-  
fected.