

thereof secretary, and also a treasurer of said company, who shall hold their offices for one year, and until their successors are elected by the stockholders of said company, at a meeting specially called for the purpose of electing officers for said company.

SECTION 4. Nothing in this act shall be so construed Construction. as to authorize said corporation to own or hold more than five hundred thousand dollars' worth of real estate at any one time, or to increase the capital stock of said corporation to more than one million of dollars.

SECTION 5. This act shall take effect and be in force from and after its passage.

Approved April 10, 1865.

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## CHAPTER 437.

[Published May 31, 1865.]

AN ACT to incorporate the Iron Ridge and Mayville railroad company.

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

SECTION 1. Byron Kilbourn, James Ludington, Ed- Corporators.  
win H. Goodrich, Charles C. Sholes, Edward H. Foster, B. F. Barney, C. O. Child, John Foster and Alpha C. May, together with the other stockholders in the company hereby incorporated, who shall become such in pursuance of the provisions of this act, are hereby constituted, made and appointed and declared to be a body politic and corporate, by the name and style of Name and pow-  
ers. the "Iron Ridge and Mayville railroad company," and by that name the said corporation shall have perpetual succession, and shall have and enjoy all the privileges, franchises and immunities incident to such corporations; shall be capable in law of purchasing, holding, selling, leasing and conveying estate, either real, personal or mixed, and make [may] take and hold any such estates by gift, grant, purchase, devise or lease. They may make, have and use a common seal, and alter, break and renew the same at pleasure; and by that name they may sue and be sued, plead and be impleaded, answer

and be answered, defend and be defended, contract and be contracted with, and, generally, do and perform all the acts and things which to any railroad corporation it shall lawfully appertain to do or perform.

**First directors.**

SECTION 2. The said Byron Kilbourn, James Ludington, C. O. Child, Edwin H. Goodrich, John Foster, Alpha C. May [and] Charles C. Sholes shall be and are hereby made, constituted, appointed and declared the first directors of said company, and shall hold their offices until other directors are elected by the stockholders, and shall possess all the powers conferred by this act upon the board of directors elected by the stockholders, as hereinafter provided.

**Capital stock, and opening of books of subscription.**

SECTION 3. The capital stock of said company shall not exceed one million of dollars, and shall be divided into shares of one hundred dollars each. The directors named in the second section of this act, shall cause books to be opened at such time and place as they may designate, to receive subscriptions to the capital stock of said company, under the direction of some one or more of them, or under the direction of such person or persons as they may designate, giving at least ten days' notice of such time and place, by publishing the same in some newspaper published and printed in the county of Dodge, and shall require ten dollars on each share of stock subscribed to be paid at the time of subscribing. Said subscription book shall remain open for the reception of subscriptions to the capital stock of said company for twenty days. The said directors shall then close the books of subscription, and receive no more subscriptions until after the election of directors by the stockholders; and they shall immediately give notice for an election by the stockholders of seven directors, at some time and place to be designated by them, which notice shall be published in some newspaper printed in the county of Dodge, at least ten days prior to the time designated for such election, and the directors thus elected shall hold their offices until the next annual meeting of stockholders for the election of directors, and until others are elected.

**Board of directors—how chosen**

SECTION 4. All the affairs of said corporation shall be managed by a board of seven directors, who shall be stockholders, and the board of directors is hereby invested with all the power of corporation. They shall

be chosen by the stockholders annually, by ballot, at the annual meeting of the stockholders, which shall be held at such time and place as the directors shall from time to time prescribe; and the same notice of every such election, shall be given as is herein required to be given of the first election of directors; and the number of directors to be elected shall be specified in the notice of election, and the directors may at any time increase or diminish the number to be elected at any annual election, so that the number shall not be more than fifteen nor less than five. At all meetings of the stockholders, the votes of stockholders may be cast in person or by proxy duly authorized, and each stockholder shall be entitled to one vote for each share of stock held by him; and in all elections for directors, those stockholders equal to the number of directors [to be elected,] having the greatest number of votes, shall be deemed and declared duly elected. The elections shall be conducted in such manner as shall be prescribed by the by-laws or by resolution of the company. If for any cause an election of directors should not be had at the time when by the provisions of this act it should have been had, the same may be held at any other time, on notice being given as aforesaid, and until such election be had, the directors of the preceding year shall continue to act, and the corporation shall not forfeit or lose any of its privileges, franchises or immunities by reason of irregularity or want of any such election.

Elections.

Failure to elect,  
not a loss of  
franchises.

SECTION 5. A majority of the board of directors shall constitute a quorum for the transaction of any business. They shall meet at such times and places and be convened in such manner as they shall prescribe. They may fill any vacancy which may occur in their own board. They shall appoint one of their own number to be president and one vice-president, who shall serve one year, or until a new election of directors. The president when present, shall preside at all meetings of the directors and stockholders, and in case of his absence, the vice-president shall discharge the duties of president, and in case of the absence of the president and vice-president, the directors present may appoint a president *pro tem.*, who shall discharge the duties of president during the absence of the president and vice-president. The board of directors may appoint a sec-

Further powers  
of board.

Vacancies.

Officers, &amp;c.

retary, treasurer, chief engineer, superintendent, attorney, and such other officers and agents as they may find necessary, fix their compensation and prescribe their duties, and demand adequate security for the discharge of their respective duties and trusts. The directors shall have power to reopen the books for subscriptions to the capital stock of the company, or open new books under their own direction or the direction of any one or more of them, or under the direction of such person or persons as they may designate; to determine the amount of the first and all other installments to be paid from time to time on stock subscription, and to forfeit to the use of the company or to sell the share or shares of any person failing to pay any installment, and all previous payments thereon. The directors shall have power to establish and regulate their tolls and charges for transportation of freight and passengers, and the storage of freight, and to collect all such tolls and charges, and to make such covenants, contracts and agreements with any person or persons, co-partnership or corporation whatever, as the construction and management of the road and the convenience and interests of the company may require. The directors shall have power and authority to make and establish such by-laws as they may think proper respecting the property, concerns, officers, business, stock, government and powers of said corporation, and may exercise all the powers which may be prescribed by such by-laws, and may make such other rules and regulations and orders as they may think proper, but no such by-laws, rules, regulations or orders shall be inconsistent with this act or with the constitution or laws of this state, and they shall have power, general, to superintend and direct all the operations, receipts, disbursements and all other affairs of said company.

Reopening of books of subscription.

Tolls.

By-laws, &c.

Stock deemed personal property, &c.

SECTION 6. All shares of stock in said company owned by any person, shall be deemed personal property, and certificates for the same shall be issued, and in such manner and form as shall be prescribed by the by-laws, and the same shall be transferable in the manner and form provided by the by-laws of said company.

Special meetings

SECTION 7. Special meetings of the stockholders may be called by order of the board of directors, or by stockholders holding one fourth of the capital stock, on like notice as that required for annual meetings.

SECTION 8. The said company shall have power to locate and construct, and perpetually to have, use and enjoy a railroad, with one or more railways or tracks, from the iron ridge on the La Crosse and Milwaukee railroad, as the same is now fixed and located, to such point in or near the village of Mayville, in the county of Dodge, as the directors shall determine; and the said company shall have the perpetual right, power and authority to transport, take and carry property and persons upon the said road by the power and force of steam, of animals, or any mechanical or other power, or of any combination of them, and from time to time to receive and store away any of the property in any of the depots, storehouses or warehouses of said company, and to make and construct all such turnouts, side tracks and connecting tracks as they shall think will promote the interests of said company, and to erect, construct and use all such depots, station houses, warehouses, car houses and shops, engine houses and shops, and all other fixtures necessary for the accommodation of said company and its road, and those using it; to manufacture, purchase and own rails, chains, spikes, engines, tenders, cars, and all things necessary or useful for the construction and operation of a railroad; and they shall have power to connect the said railroad with any other railroad in this state coming in contact therewith, and to operate the same in connection with such other railroad, upon such terms as shall be mutually agreed upon by and between the said companies.

May construct  
road, &c.

Transportation.

May connect  
with other roads

SECTION 9. The said company is hereby authorized and fully empowered, in its corporate capacity, to borrow any sum or sums of money from any person or persons, corporation or body politic of any kind, and for any rate of interest not exceeding the legal rate, which may be agreed upon by and between said company and any party of whom such money may be obtained, and to make, execute and deliver in or out of this state, all necessary writings, notes, bonds, mortgages, or other papers and securities, in amount or kind as may be deemed expedient by said corporation, in consideration of any such loan, or in discharge of any liabilities they may incur in the construction, repair, equipment or running of said road, or in any of the operations of said company authorized by this act; and the said company is hereby authorized in its corporate capacity to make,

May borrow  
money.

May issue bonds.

execute, issue and deliver its bonds or obligations in such an amount that all the bonds of said company outstanding at any one time, shall not exceed the capital stock of said company; and the directors of said company are hereby authorized and empowered to prescribe by resolution to be by them adopted, the sum or sums for which each of said bonds shall be issued, the time or times, the place or places, when and where the principal and the interest of the same shall be payable, the person or persons, trustee or corporation to whom they shall be payable, and whether payable to order or bearer, or how otherwise negotiable, the rate of interest, not exceeding the legal rate, which such bonds shall bear, and the manner and form in which they and the interest coupons annexed to them shall be executed.

May give mort-  
gage or deed of  
trust.

And to secure the payment of any or all of said bonds, the said company is hereby authorized and empowered, in its corporate capacity, to make, execute and deliver a deed of trust or mortgage upon the whole or any part of its railroads, constructed or authorized to be constructed, and of any or all of its estate, real, personal or mixed, in possession or expectancy; and the said company is also hereby authorized and empowered in and by such mortgage or deed of trust, to confer upon the trustee or mortgagee full and ample powers to enter into and upon and to take possession of, have, use and employ, or to sell and dispose of the whole or any part of said railroad or estate, real, personal or mixed, together with the functions appertaining to said railroad, and all corporate and other franchises, rights and privileges of said railroad company; and the directors of said company are hereby authorized and empowered to prescribe by resolution to be by them adopted, all matters relating to the form and terms of any such mortgage or deed of trust, and of its execution and delivery; and they are authorized and empowered to provide for the periodical payment to such trustee or receiver as they shall appoint, a certain sum to create a sinking fund with which to pay off and discharge at or before maturity, any or all the bonds by them authorized to be issued, and also to provide the manner in which such trustee or receiver shall pay out or dispose of said sinking fund, and to authorize him to designate by lot or in any other suitable manner, the bond or bonds to the payment of which said sinking fund or any

Sinking fund.

part of it shall be applied; and the said railroad company is hereby fully authorized and empowered, by its agents or brokers or otherwise, either in or out of this state, to sell, loan, pledge, hypothecate or otherwise dispose of any or all of the aforesaid bonds hereby authorized to be issued, at par, or at any price less than par, and for such sum or sums, and on such terms as [to] the said company or its agents or brokers shall appear most for the interest of said company; and the said company and its directors, officers and agents are hereby authorized and empowered to have, exercise and enjoy all the rights, privileges and powers conferred upon them, respectively, by this section.

SECTION 10. The said company shall have the right and authority to construct their said railroad upon and along, across, over or under any public or private highway, road, street, plankroad or railroad, if the same shall be necessary, but the said company shall restore such highway, road, street, plankroad or railroad to its former state, so as not to impair the usefulness of the same to the owner or to the public; and the said company shall have the right and authority to erect and maintain all the necessary bridges for the use of their said railroad, over any stream of water or water-course, at such points of crossing the same as they may locate the said road, with all necessary abutments, piers or other foundations.

May construct road over highways, &c.

SECTION 11. It shall be lawful for said company, their officers, engineers and agents to enter upon any land for the purpose of exploring, surveying, locating and determining the route of said railroad; and when the route of said railroad shall be determined by said company, by resolution adopted by the board of directors, it shall be lawful for them, their agents, officers, engineers, contractors, employees and servants at any time to enter upon, take, possess, occupy and use any lands along and including the lines of said route, not exceeding one hundred feet in width; and it shall also be lawful for said company, at any time, to enter upon, take, possess, occupy and use any other lands beyond said limits of one hundred feet, which may be necessary for the use of said company, for the purposes of erecting depot buildings, station houses, freight houses, warehouses, engine houses, machine shops, or for buildings or fixtures of any kind, or grounds about the same,

May enter upon and take lands, &c.

for the convenient operation of the business of the road, or for making drains or giving a proper direction to water-courses, or diverting or changing the channels of water-courses, or for removing such substances and things as may endanger, obstruct or interfere with the free use of said road, or for the purpose of making deep cuts or excavations, or for the purpose of depositing earth, gravel or stone, or for the purpose of obtaining earth, gravel or stone or other materials for embankments, structure or superstructure necessary to the construction, repair or removal of said road: *provided*, that said company shall be liable for all damages done to property by reason of such surveys, explorations or work as above specified. The said company shall, however, at such time and in such manner as is provided by this act, be liable to pay the full value of all land taken, possessed, occupied and used, which value shall be ascertained in the manner hereinafter provided; and whenever the same shall have been paid, tendered or deposited, as provided in this act, the title in any and all such lands shall be and become vested in said company for the purposes of said railroad, and whenever the company shall deem the same, or any part thereof, shall no longer be necessary for the purposes for which the same were taken, the said company is authorized to lease or sell the same, or any part thereof:

To pay full value of lands taken.

When to pay for lands.

When owner is minor, &c.

When parties cannot agree, commissioners to be appointed.

SECTION 12. The said company may, after the route of the said railroad shall be located and determined, offer by its agent to pay the owner or owners of any lands which by the provisions of this act the said company is authorized to enter upon, take, possess, occupy or use, or to any person claiming any interest in such lands, and if any such owner or owners claiming any interest in such lands (*and if any such owner or owners claiming interest in such lands*) shall be a minor, *non compos mentis* or insane, or under any legal disability, then to the guardian of such minor, *non compos mentis* or insane person, such sum for said lands as the company shall consider to be the full value of the same; and if such owner or claimant or guardian shall not accept of such offer, or if for any reason the said company shall fail to agree with the owner or owners claiming any interest in such land, then and in all such cases in which the said company



shall enter upon, possess, occupy or use any lands as aforesaid for any of the purposes aforesaid, the value of the said lands shall be ascertained and determined as follows, to wit: The company may apply to the judge of the county court for the county in which such lands are situated, for the appointment of three (3) commissioners to make an appraisalment and award of the value of the lands to be paid to the owner or person claiming an interest in each of the several pieces and parcels on the whole or any part of the line of said railroad so entered upon, taken, possessed, occupied or used as aforesaid, for any of the purposes aforesaid. The said company shall give notice of their application for the appointment of such commissioners, by publishing the same at least ten days before the time for hearing the said application, in a newspaper printed in the county in which such lands are situated, and upon proof of the publication of the notice, the judge to whom the application shall be made, shall appoint three commissioners, who shall proceed to examine the premises, having first given such notice as they may deem reasonable to such owner, guardian or claimant; and whenever it shall appear to the said company or its officers that the title to any such lands is in dispute, or that several parties claim interest therein, by tax sales, tax titles, incumbrances, lien or equitable claims, the said commissioners shall, upon request of said company or its officers, give notice to all persons claiming any interest in such land, whether as owners, incumbrancers or otherwise; and when the person to be notified has no known residence in this state, the notice may be by publication in a newspaper, for such length of time, not less than three weeks, as the commissioners shall deem reasonable; and having first determined that it was necessary to take such land, shall make an appraisalment and award of the value of the land so entered upon, taken, possessed, occupied or used by said company for any of the purposes aforesaid, and shall deliver one copy of their award to said company, and shall file another in the office of the clerk of the circuit court of the county in which such lands shall be, with the costs of the award taxed upon each of said copies; and if neither party shall appeal from the said award in the manner hereinafter provided, the said circuit court, on motion of the party in

Notice of application for appointment of commissioners.

Commissioners' notice.

Award.

Judgment.

Appeal.

Jury.

Court to assess in certain cases.

whose favor any award shall be made for such value as aforesaid, shall, unless such award has been previously paid, enter up judgment in conformity with such award; and the said company, or any party so receiving notice from the said commissioners as aforesaid, may, within thirty days after such award shall have been filed with the clerk as aforesaid, appeal from the same to the circuit court for the county in which such land shall lie, by filing with [the] clerk of said court a written notice of said appeal; and upon receiving such notice, the said clerk shall enter the appeal as a case upon the docket of said court, setting down the owner or owners and person or persons claiming any interest in such lands, embracing all persons so having received such notice from the said commissioners, as plaintiffs, and the said company as defendant; and the said court shall proceed to hear and determine said case in the same manner as other cases shall be heard and determined in said court; and all issues of fact arising therein, shall be tried by a jury, unless a jury be expressly waived by both parties; but the appellant shall not be entitled to have the said case tried at any term of said court, unless he shall have given notice to the appellee, or his attorney, at least ten days before the first day of the term, that he will demand a trial at such term; but in case the appellee has no known residence or attorney in the state, no such notice need be given; but in all cases the appellee may waive such notice, in which case the same rules of trial shall be applicable to it as to other cases in said court. After the hearing of said case, the jury, or if a jury be waived, the court shall assess the value of the land so entered upon, taken, possessed, occupied and used by said company at the time the same was so entered upon and taken; and after such assessment, the court shall proceed to render judgment against said company for the amount of such assessment, in favor of the plaintiff or plaintiffs in such case; and if the amount so assessed in favor of such plaintiff or plaintiffs shall exceed the amount awarded by said commissioners, then judgment shall be rendered against said company for costs; and if it shall not exceed the amount so found by said commissioners, when the appeal has been taken by the claimant, then judgment shall be rendered against the said plaintiff or plaintiffs for costs, and in favor of

said company, and execution may issue accordingly. Either party in any such case, after notice of appeal shall have been filed as aforesaid, shall on motion to the court to which the appeal shall have been taken in term time, or to the judge thereof in vacation, ten days' notice of such motion having been given to the adverse party or his attorney, be entitled to a change of venue in such case to some other county in the state, on affidavit filed, stating the belief of the affiant that a fair trial cannot be had otherwise. The change of venue shall be to the nearest county where a fair trial can be had, but a change of venue in any such case, shall not be awarded more than once. The judgment of the circuit court in any such case may be reviewed on appeal, as other cases at law. Whenever the commissioners shall make an award as aforesaid, and no appeal shall be taken from the same, and whenever in case of an appeal a final judgment shall be rendered, it shall be the duty of the said company, and not before, to pay to the party entitled to the same, the amount of such award or judgment; and in any case where there shall be any lien, incumbrance, tax sale, tax title or equitable claim to or upon the land, or any part thereof, which is the subject matter of such award or judgment, or any part of it, or where the person entitled to receive the same shall not have any known residence within this state, said company may deposit the amount of such award, where there has been no appeal, with the clerk of the circuit court with whom the award in the case shall have been filed; and in case of appeal and judgment thereon, the company may deposit the amount of such judgment with the clerk of the circuit court for the county in which such judgment shall have been rendered; and the money so deposited, in either case, shall be paid over by order of the court to the proper person or persons who shall be adjudged by said court to be entitled to the same; and whenever the amount of such award or judgment shall have been paid or tendered, or deposited as aforesaid, the title in such lands shall be and become vested in the said company for the purposes of said railroad, as against all persons so receiving notice from the said commissioners as aforesaid, and all such persons so having received such notice shall be forever concluded from questioning such title so acquired by said company; and the said com-

Change of  
venue.

Final judgment  
—payment of  
award.

When title shall  
vest in company.

Company not to  
be disturbed in  
possession of  
lands.

pany shall have full power and authority, after entering upon and taking any such land, to have, hold, possess, occupy, use and enjoy the same for any of the lawful purposes of the said company, from the time of such entry and taking until the proceedings contemplated by this act shall have been fully determined; and until said company shall, on demand, refuse to pay the value of said land so to be ascertained as aforesaid, they shall not during such time, nor until such refusal, be disturbed in such possession, occupancy, use and enjoyment by any proceedings either at law or in equity.

When charges may be demanded for transportation.

SECTION 13. On the completion of the said railroad or any part of it, not less than two miles in length, it shall and may be lawful for the company to demand and receive such sum or sums of money for the transportation of persons or property, and the storage of property, as they shall from time to time think reasonable.

Penalty for injury to road.

SECTION 14. If any person shall willfully and knowingly injure or destroy the railroad so to be constructed by said company, or any part of it, or any buildings or fixtures appurtenant to said railroad and belonging to said company, or shall willfully and maliciously place any obstruction or thing upon the track of said railroad, such person or persons so offending shall each of them for each offense forfeit and pay to said company the sum of fifty dollars, and in case any damage shall ensue, an additional sum equal to three times the amount of damages caused by such offense, which may be recovered in the name of said company, by action in any court having competent jurisdiction, in the county where the offense shall have been committed, and shall also be deemed guilty of a misdemeanor, and be subject to indictment, and upon conviction of any such offense shall be punished by fine and imprisonment, or either or both, at the discretion of the court.

Construction.

SECTION 15. This act is hereby declared to be a public act, and shall be favorably construed to effect the purposes hereby intended, and copies thereof printed by authority of the state, shall be received as evidence in all cases, and it shall take effect and be in force from and after its passage and publication.

When this act shall become void.

SECTION 16. If the said company hereby created shall not commence the construction of the said rail-

road within two years, and shall not complete the same within five years from the passage of this act, then the rights, privileges and franchises hereby granted to said company shall be null and void, and of no effect.

Approved April 10, 1865.

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## CHAPTER 438.

[Published May 9, 1865.]

AN ACT to incorporate the Union petroleum and mining company, of Appleton.

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

SECTION 1. That S. H. Whittlesey, G. J. Brewster, Corporators. Samuel Boyd, W. H. Cline, C. L. Fay, Jno. S. Lester, Wait Cross, J. A. Brewster, James W. Hutchinson and E. C. Goff, and such other persons as may hereafter be associated with them in the manner provided by this act, are hereby made, constituted, appointed and declared to be a body politic and corporate, by the name of the Union petroleum and mining company, of Appleton, and by that name shall have perpetual succession, shall be able to contract and be contracted with, to sue and be sued, plead and be impleaded, in any court of law and equity, to make, have and use a common seal, and the same to alter and renew at pleasure; and the said corporation shall have full power and authority to purchase, hold, lease and convey personal or real estate, as may be necessary and convenient for the purposes of said corporation, either within the United States or Canada, and also to prospect, work, manage and develop lands generally known as "oil or mineral territory," and, further, to open and work any mines on any lands which may be acquired by them. Name and powers.

SECTION 2. The capital stock of said company shall consist of five thousand shares, of fifty dollars each, but it shall be lawful for such company to organize and commence their operations when and as soon as three thousand dollars of said stock shall be subscribed. Capital stock, and when company may organize.