

shall not award to the landowner a larger amount of damages than was awarded by the first inquisition, the court may, in its discretion, order the costs of the said second or other inquisition, to be paid by the owner or owners of said land or materials condemned; and the inquisition shall in all cases describe the property taken, or the bounds of the lands condemned, and the quality or duration of the interest in the same, valued for the company, and such valuation, when paid or tendered to the owner or owners of the property, his, her, or their legal representatives, shall entitle the said company to the estate and interest in the same thus valued, as if it had been legally conveyed by the owner or owners of the same, and the valuation, if not received when tendered, may at any time thereafter be received without costs from said company by the owner or owners, his, her, or their legal representatives; and the sheriff shall keep the said jury together for a reasonable time until they shall agree upon, and sign and seal the said inquisition; and in case it shall so happen that the jury cannot agree, after being kept together as aforesaid, the sheriff may in his discretion, discharge the said jury, and without any further warrant from a justice of the peace, shall within five days thereafter summon another jury of twenty inhabitants as aforesaid, not upon the former jury, and the same proceedings shall be had in all respects as is hereinbefore provided; and in case of a second or other disagreement of the jury, the same proceedings shall be had until a verdict or inquisition shall be made and returned as aforesaid.

Id § 12
Change of loca-
tion or grade of
road

11. Whenever any railroad company, heretofore incorporated, or which may hereafter be incorporated, shall find it necessary for the purpose of avoiding annoyance to public travel, or dangerous or difficult curves or grades, or unsafe or unsubstantial grounds or foundations, or for other reasonable causes, to change the location or grade of any portion of their road, whether heretofore made, or hereafter to be made, such railroad companies shall be, and are hereby authorized to make such changes of grade and location, not departing from the general route prescribed in the certificate of such company; and for the purpose of making any such change in the location and grades of any such road as aforesaid, such company shall have all the rights, powers, and privileges to enter upon and take and appropriate such lands, and make surveys necessary to effect such changes and grades, upon the same terms, and be subject to the same obligations, rules, and regulations, as are prescribed by law, and shall also be liable in damages, when any have been caused by such change to the owner or owners of the lands upon which such road was heretofore constructed, to be ascertained and paid, or deposited as aforesaid; but no damages shall be allowed, unless claimed within thirty days after actual notice of such intended change shall be given to such owner or owners, if residing on the premises, or sixty days' notice by publication in some newspaper in general circulation in the county, if non-resident; *provided*, that when any condem-

Condemnation
proceedings