

In 1868 the way being out of repair the question of its improvement was brought before the Board as follows.

"Mr Cheever having made a statement that the City of Cambridge contemplated the improvement of the grade of Coolidge Avenue it was

"Voted, - that Messrs. Cheever and Norcrop be a Committee to arrange with the City of Cambridge for the payment of \$250. - by this Corporation when said grading shall have been completed to the satisfaction of the Committee."

In 1869 the grading was completed which has caused the injuries complained [of]

The grade of the sidewalk at the Entrance to Mr Muzzey's Estate, (then owned by Mr Lawrence), was reduced about three feet, and no support being provided for the wall on the line of the Estate it has since fallen, and besides rebuilding the wall, a considerable expense has been incurred in reducing the grade of his road-way to the new grade of the Avenue. A similar but less reduction in grade was made in front of Mr Coolidge's Estate - He claims that a bank wall is necessary in front of his land, and that access to his premises has been rendered more difficult.

Both parties base their claim against this Corporation upon the allegation that the City of Cambridge, in making the changes of grade, acted as the licensee or agent of the Corporation as owner of the fee.

If this were the fact, the Committee are not prepared to admit that any claim for damages could be maintained. The repairs upon the Avenue have improved its condition.

Mount Auburn Cemetery.

16 PEMBERTON SQUARE.

Boston, 18

(Copy.)

The Special Committee to whom were referred the applications of H. W. Muzzey and J. G. Coolidge for payment of damages caused to their Estates by grading Coolidge Avenue by the City of Cambridge in 1869, Submit the following
Report.

In the year 1862 a claim made that this Corporation was bound to grade and repair the Avenue was referred to Messrs. C. P. Curtis and E. L. Rand, and from their full Examination and report we find that the fee of the Avenue is in this Corporation, that it was laid out as a private way in 1830, and has since been open to public travel. It is not a public way, except by dedication. Since 1846 no way can be made public unless laid out by the public authorities. As the Corporation as lately as 1848 exercised its power of granting rights in the way, it seems clear that it has never become a public way by dedication.

The original agreement between Brimmer and Josiah Coolidge provided that this way should be kept open and unobstructed, and that said Coolidge, his heirs and assigns, should at all times have free ingress and egress to and from his adjoining land into said way. H. W. Muzzey, J. G. Coolidge the petitioners, and the City of Cambridge all claim rights in the way as assigns of J. Coolidge.

for travel, and have so far been advantageous to the abuttors. They must sooner or later have been made. But the Committee are clearly of opinion that the Corporation did not make the City of Cambridge its agent, and is not responsible for its acts. The vote was simply an agreement to contribute to the expense, in case the work was done satisfactorily to its Committee.

Before the work was completed complaints were made by Mr Coolidge, and it appears from the correspondence on file that the Mayor of Cambridge was distinctly informed by Mr Norrop that this Corporation would not undertake to arrange with Mr Coolidge, would do nothing about the proposed changes, but that the City must take the whole responsibility.

On November 9th 1889, after Mr Coolidge's claim had been presented to the Board, it was

"Voted, - that the Treasurer be authorized to pay \$250. -
"to the City of Cambridge for the improvement made upon Coolidge
"Avenue, upon receiving from said City a sufficient bond
"of indemnity against any claim for damages by the abuttors,
"or a satisfactory release from said abuttors."

Several demands have since been made for the payment of this money, but the terms of the vote not having been complied with nothing has been paid. The terms of the vote seem to imply that the Committee were satisfied with the work done.

While we are clearly of opinion that no claim can be maintained against the Corporation for the alleged damages,

deeming it important to preserve harmonious relations with our neighbors and the City of Cambridge, the Committee recommend that the facts of the case may be presented to the City authorities of Cambridge, in the hope that a settlement just and equitable to all parties may thus be reached.

(Signed) C. F. Choate
for Committee.

A true copy.

Attest: Saml. Batchelder Jr., Secretary.

Communication
from Trustees of
Sec. and Councilors
April 26, 1871 -
Noted -
No action necessary

In Board of Aldermen, April 26, 1871.

Referred to the Committee on Roads and
Bridges. Sent - clerk for concurrence.

Attest: Justin A. Jacobs. City Clerk.

In Common Council May 2, 1871

Concurred -

Attest -

J. W. Cotton Clerk

May 3, 1871. - Approved

H. R. Harding, Mayor

City of Cambridge.

In Board of Aldermen, May 10th 1871

The Committee on Roads and Bridges to which was referred the communication from the Trustees of Mt Auburn Cemetery have considered the same, and would respectfully Report: That in the opinion of your Committee no action is necessary and recommend that the same be placed on file

For the Committee
James H. Wall.

Accepted. Sent down for concurrence.

Attest: Justin A. Jacobs. City Clerk.

In Common Council May 23, 1871

Recommitted to Committee with instructions to confer with said Trustees. Sent up for concurrence.
Attest J. W. Cotton Clerk

In Board of Aldermen, Decy 24. 1871-

Concurred.

May 26, 1871
Attest, Justin A. Jacobs. City Clerk.
Approved. - H. R. Harding, Mayor

The Common Council
Oct. 24. 1871
This Board recedes from its previous
action, and concurs in the refer-
ence to Com. on Finance
Attest. J. W. Cotton
Clerk

Oct 25 1871.

Approved
H. R. Harding
Mayor

In Board of Aldermen -
Oct. 18. 1871 -

This Board insists
upon the reference,
attest,
Justin A. Jacobs
City Clerk.

135
Report -
on Communication con-
cerning "Coolidge Avenue" -
Decy 10. 1871 -

In Board of Aldermen: Dec., 10. 1871.

The Committee reports unfavorably, and a finding is made:-
after which the whole matter is referred to the Committee
on Finance.

Second session for concurrence.

Attest, Justin A. Jacobs. City Clerk.

Reference non-concurred in -
In Common Council Oct. 17, 1871
Attest - J. W. Cotton - Clerk