



City of Cambridge.

CLERK'S OFFICE,

April 9th 1862.

The question of the liability of the City for obstructing Broad Canal, so called, by the Bridge on Canal-Street having been referred to me, I beg leave to state:-

That said Canal-Street was laid out, as appears by the Records of the County Commissioners in Jan'y, 1832, to be constructed by the Town of Cambridge; and the following provision is made with reference to the navigation of said Canal:-

"A Drawbridge is to be constructed over the Canal, suitable and convenient for the passage of such boats and vessels as have accustomed to pass in said Canal."

The only damages allowed were

"To the heirs of Wm. Bent, deceased, \$125.00 for obstructing the passage in the Canal."

This was for the wharf property now occupied by Burage, Shepherd & Co., being the wharf nearest to the Bridge, and most damaged.

I am of opinion that the owners of land abutting on

said Canal, above the Bridge, have such rights in said Canal, by long continued use, (although the same is an artificial construction, and in that respect analogous to a private way, as tide waters in general are to public ways,) that there is a legal liability on the part of the City to build the draw of said Bridge, when there is occasion to pass the same, so as not to obstruct unreasonably the navigation in said Canal.

Justin A. Jacobs. City Clerk.

Isaac Tibbels, Esq.
Chairman of Committee
on Roads & Bridges.

Opinion

23

Draw of Court St. Bridge

~~Sept 9. 1862~~