

and to do the work, which he at once proceeded to do. His specification, which might also be called a tender was dated the 2nd August, 1907. The work itself was commenced early in August, and was apparently completed before the end of the year; for on the 16th December, 1907, the council passed a resolution directing the clerk to request Mr. Baird to examine the work and see if it was satisfactorily completed. On the 5th January, 1908, Mr. Baird reported, stating: "I have made an examination of the work of repair and improvement lately constructed in the remodelling of No. 2 pumping station of said works, its machinery and plant, and beg to submit in connection therewith the following report." He then, in the report, proceeded to review the work, in general favourably, but otherwise as to some of the details, not necessary now to speak of, which he recommended should receive further attention. But the work which he inspected, and in part approved of, was not done under any report previously made by him, or by any other engineer, but was work done entirely upon the recommendation of Mr. Flook, for the doing of which there does not appear to have been even a previous by-law of the council.

The appellant does not now complain that the work was not useful work, or even that it was insufficient to meet the then requirements in the way of repair of the system; nor that it was not well done, or not completed. His whole complaint upon these heads is, that, under the circumstances, it had not been preceded by a report from the engineer and a by-law authorising the work, as the statute requires. And to that objection I am quite unable to see a satisfactory answer. The procedure from beginning to end is statutory; and the directions of the statute must, of course, be substantially observed. Where the proceedings for the original construction of a drain are instituted, they begin by a petition, followed by a report from the engineer. Both are in the nature of conditions precedent, required to found jurisdiction in the council to charge and assess the lands in the drainage area for the expense of the work. If subsequent repairs are required, and do not exceed \$800, they may be undertaken without previously obtaining an engineer's report (sec. 76); but, if they exceed that sum, they fall within sec. 77, which, while dispensing with the petition required by sec. 3, expressly requires a report; and, only when the council has received and formally adopted such a report, may it undertake the work "specified in the report," for the doing of which the engineer is given all the powers to assess, to the same extent, and by the same proceedings and subject to the same rights of appeal, as are provided in respect of an original work.