the opinion that this was sufficient, and that a by-law was not necessary, and that the case is not governed by secs. 325 and 326 of the Municipal Act. Defendants were not exercising powers under that Act. The matter was one dependent upon the contract of the parties, and where a by-law is required as under clause 14, it is so expressed. The action of the council upon the engineer's report in other matters intrusted to his determination is elsewhere variously expressed as "approval," "confirmation," or "indorsation." The thing which becomes operative is the engineer's determination, and the approval of the council may, I think, be manifested by a resolution adopting it. The decision of this Court in Port Arthur High School Board v. Town of Fort William, 25 A. R. 522, warrants us in so holding. And see Lewis v. Alexander, 24 S. C. R. 551, 558. The case is not within the decision of the Supreme Court of Canada in Liverpool and Milton R. W. Co. v. Town of Liverpool, 33 S. C. R. 180. . . .

5. Lastly, I am of opinion that plaintiffs are entitled to an order restraining defendants from running the cars upon their railway except in accordance with the determination of the engineer as to the stopping places. They have covenanted to do so, and there is, in the circumstances of the case, no greater difficulty in enjoining them from committing a breach of their covenant than there was in City of Hamilton v. Hamilton Street R. W. Co., 10 O. L. R. 594, 6 O. W. R. 207, recently before us. I refer to the cases there cited at p. 599 and to . . . Wolverhampton v. Emmons, [1901] 1 Q. B. 515, 522-3.

Appeal dismissed with costs.