setting it for the west-bound main line, along which the engine proceeded, overtook the plaintiff, and injured him.

The defendants are, I think, liable, under the statute, for McNaughton's negligence, unless the plaintiff has been guilty of contributory negligence.

For the defence it was urged that the plaintiff by walking between the two tracks would have escaped injury. He had no reason to suppose that the engine would come along the northerly track, which, therefore, was, in his judgment, a place where he might safely be. The only danger that he supposed it necessary to guard against was from the engine, which he expected on the southerly track. Thus, in his opinion, he was safer when walking along the northerly track than along the space between the two tracks. The jury have found him not guilty of contributory negligence; and there is ample evidence, in my opinion, to support this view.

I see no common law liability.

The judgment will, therefore, be entered for the plaintiff for $2,600, with costs of action.

BOYD, C., IN CHAMBERS. DECEMBER 12TH, 1911.

*REX v. MUNROE.

Criminal Law—Vagrancy—Criminal Code, sec. 238(a)—"Visible Means of Maintaining himself"—Money Derived from Begging—Previous Conviction for Begging in Public Places.

Motion by the defendant, on the return of a habeas corpus, for an order for his discharge from custody under a conviction for vagrancy.

M. Lockhart Gordon, for the defendant.
J. R. Cartwright, K.C., for the Crown.

BOYD, C.:—The vagrancy clauses of the Canadian Criminal Code are derived from the English general Vagrancy Act (still in force, 5 Geo. IV. ch. 83, secs. 3 and 4), and in small part from the later Act 1 & 2 Vict. ch. 38, sec. 2: see marginal note to Dominion statute 49 Vict. ch. 157, sec. 8; Rex v. Johnson, [1909] 1 K.B. 439. . . .

*To be reported in the Ontario Law Reports.