

**COURT OF REVIEW****Jury trial. — Damages. — Personal wrongs. —  
Motion to reject.**

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MONTREAL 27th JUNE 1913.

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TELLIER & DELORIMIER, GREENSHIELDS, J. J.

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JOHN WILSON STEEL vs THE CANADIAN PACIFIC  
RAILWAY CO.

**Held:**—1o. That when the law does not allow a case to be tried by jury, the defendant acquiescence cannot valid the trial; and it is not too late for him to object at the time the jury is empanelled.

2o That when one part of plaintiff's claim is not susceptible of trial by jury, no part of it is. Therefore, an action wherein the plaintiff sues personally, for damages suffered by him on account of the injuries sustained by his minor son, and also as tutor of his said son cannot be tried by a jury.

*Code civil, article 1056.*

*Code of Civil Procedure, article 421.*

The plaintiff sues personally and in his quality of tutor to Clarence Herbert Steel, his minor son, and alleges, that on the 8th of March, 1912, Clarence Herbert Steel was a passenger on a train owned and operated by the company defendant, running between Luyon and the city of Ottawa, when a collision took place between the train upon which the said Clarence Herbert Steel was and another train owned and operated by the company defendant, in which collision the said Clarence Herbert Steel sustained severe and permanent injuries; that the said collision was due to