

Counsel for the First Parties—Cooper.
Agents—Henry & Scott, W.S.

Counsel for the Second, Third, and Fourth
Parties—Macfarlane—Fleming. Agents—
Morton, Smart, & Macdonald, W.S.

Saturday, March 19.

FIRST DIVISION.

[Sheriff of Inverness, Elgin,
and Nairn.

MACDONALD v. FORSYTH.

*Process—Appeal from Sheriff Court—
Amendment of Record.*

In an appeal for jury trial from the
Sheriff Court, a pursuer *allowed* to
amend his record upon payment of
one guinea of expenses.

This was an action of damages raised by
Robert Macdonald against Charles Forsyth
for injuries sustained by the pursuer while
driving from Elgin to Lossiemouth in a
dog-cart hired by him from the defender.

The Sheriff-Substitute (RAMPINI) having
allowed a proof, the pursuer appealed for
jury trial to the Court of Session, and on
10th March 1898 obtained an order for
issues.

The pursuer lodged an issue, and at the
same time put in a minute setting forth
certain amendments which he desired to
make on the record, and he craved the
Court to open up the record and allow the
same to be amended in terms of the minute,
and thereafter of new to close the record.

The nature of the proposed amendments
will be seen from the following extracts
from the record, where the amendments
are indicated by brackets:—“(Cond. 4)
When about two miles from Elgin, at
a point on the road leading to Lossiemouth,
nearly opposite Myreside Farm, the left-
hand wheels of the dog-cart, which was at
the time being driven by the defender’s
servant, left the road and went up a bank
on the left-hand side of the road, with the
result that the dog-cart tilted over on its
right side, and the occupants were thrown,
or fell, violently to the ground. [The said
dog-cart had, owing to the fault of the
defender as after mentioned, not been pro-
vided with lights, and it was therefore the
duty of the said Robert Cameron to exer-
cise particular care and caution in driving
the said dog-cart. This he failed to do, and
drove the horse in such a careless and
negligent manner that the dog-cart was
partially drawn off the road and was upset
in manner set forth.]” “(Cond. 7) The said
accident was caused by the defender’s
failure in duty, or negligence in not provid-
ing proper lights for the said dog-cart, or
in not providing a careful, competent
driver [or by the fault of the defender’s
servant the said Robert Cameron, or by one
or more of these causes.]”

The defender submitted that, as a condi-
tion of the amendment being allowed, the

pursuer should be found liable in expenses
since the closing of the record.

LORD PRESIDENT—The Court will not be
averse to a careful scrutiny of the record
being made at this stage of the case. So in
giving a guinea of expenses we do so rather
as an indication that no harm is done by a
close look being given to the record, and
that in such circumstances we will only
give such a sum as will enable the opposing
party to consider the amendment.

LORD ADAM concurred.

LORD M'LAREN—I am of your Lord-
ship’s opinion. We have frequently had
occasion to notice that the discussion of
Sheriff Court cases is very much embar-
rassed by want of consideration of the
record before the debate. I was glad,
therefore, to see that care had been taken
in this case to put the record in proper
form before it was brought up for discus-
sion.

LORD KINNEAR was absent.

The Court opened up the record, allowed
the pursuer to amend the same in terms of
his minute on condition of his making pay-
ment to the defender of the sum of £1, 1s.,
and the said amendments having been
made and the defender having answered
the amendments at the bar, of new closed
the record and approved of the issue pro-
posed by the pursuer as adjusted.

Counsel for the Pursuer—Jameson, Q.C.
—C. D. Murray. Agent—Alex. Mustard,
S.S.C.

Counsel for the Defender—Salvesen.
Agents—Morton, Smart, & Macdonald,
W.S.

Tuesday, November 2, 1897.

OUTER HOUSE.

[Lord Kincairney.

HODGE v. SCHOOL BOARD OF BALLINGRY.

*Election Law—Reduction of Election—
Elections (Scotland) (Corrupt and Illegal
Practices) Act 1890 (53 and 54 Vict. c. 55),
sec. 30.*

Section 30 of the Elections (Scotland)
(Corrupt and Illegal Practices) Act
1890, after declaring that an election
may be questioned by an election peti-
tion on certain specified grounds, pro-
vides (sub-section 2)—“An election shall
not be questioned on any of these
grounds by way of reduction or suspen-
sion, or by any form of proceeding
except by an election petition.” *Held*
(per Lord Kincairney) that the
grounds specified did not include all
possible sources of challenge, and
that it was competent to question an
election to a school board by an action
of reduction in the Court of Session on
grounds other than those specified in
section 30.