

*IPSISSIMA VERBA.*

An incident which occurred at a sitting of a Judicial Committee of the Privy Council when Sir Robert Finlay was still the leader in that august Court draws attention to the necessity of having on hand the exact words used by Judges when it is desired to cite an authority on an argument. In a Canadian case in which Sir Robert was acting for one of the parties he referred their Lordships of the Judicial Committee to Lord Halsbury's Encyclopaedia of the Laws of England. These references drew from Lord Haldane, who then presided, these observations:

"So far as I am concerned—I have already expressed the opinion, and I express it once again—this work is edited by a very eminent lawyer, and several eminent lawyers have written it, but I protest against it being cited as an authority, and I may say that it is not to be cited here again."

*WHAT IS A "HIGHWAY?"—A DISCUSSION OF ENGLISH DECISIONS.*

In a case lately before the Divisional Court (Mr. Justice Darling) the authorities cited disclosed an interesting series of attempts by our Judges to frame a sufficiently wide definition of the term "highway." Such a task might be deemed comparatively simple, but our readers will form their own conclusions, after a perusal of what is underwritten, as to the success or otherwise of the attempted definitions.

Lord Hale in *Austin's (Katherine) Case*, 1672, 1 Vent. 189, said: "If a way lead to a market or were a way for all travelers and did communicate with a great road, etc., it is a highway." In 1 Hawkins, C. P., ch. 76, sec. 1, it is defined as a way "which is common to all the King's people whether it lead to a market town or only from town to town." Lord Coleridge in 1876: "The common definition of a highway that is given in all the text-books of authority is that it is a way leading from one market town or inhabited place to another inhabited place, which is common to all the Queen's subjects," *Bailey v. Jamieson*, 1876, 1 C. P. D. 329, "A passage which is open to all the King's subjects," says Smith's *Leading Cases*, 11th ed., vol. 2, page 164. And in "Pratt on Highways," 16th ed., at page 1, it is laid down that