cipated something like fixed tradition. But it seems we have learned nothing from experience, and I can myself testify that even in this matter fashion prevails. Within my recollection an orange, or more than one, was alone, as a rule, resorted to by members of Parliament requiring aid. Now it is never used. When I have had very lengthened statements to make, I have used what is called egg-flip—a glass of sherry beaten up with an egg. I think it excellent, but I have much more faith in the egg than in the alcohol. I never think of employing it unless on the rare occasions when I have expected to go much beyond an hour. One strong reason for using something of the kind is the great exhaustion consequent on protracted expectation and attention before speaking."

REPORTS AND NOTES OF CASES.

COURT OF QUEEN'S BENCH.

Montreal, Sept. 21, 1878.

Present:—DORION, C. J., MONK, RAMSAY, TESSIER and CROSS, JJ.

THE LONDON AND LANCASHIRE LIFE ASSURANCE Co., (defendants in the Court below), appellants; and LAPIERRE, (plaintiff below), respondent.

Insurance—Sum insured in Excess of Insurable Interest—Recovery of Premiums.

A creditor obtained an insurance on the life of his debtor, for an amount greatly in excess of his real interest. Both the creditor and the agent of the insurance company were ignorant that such extra insurance was invalid. *Held*, that the insured was entitled to recover the excess of premium paid on the larger sum, and that in the absence of proof to the contrary, the Court would assume that the premium for the smaller sum was proportional to that paid for the larger sum.

The Respondent Lapierre, being a creditor of one Cadotte, applied for an insurance on his life. Lapierre's interest was only $700, but he was induced by the Company's agent to insure for $10,000. After paying some premiums at this rate, he learned that he could not recover more than his real interest, and thereupon he claimed the excess of premium which he had paid over and above the premium for an insurance of $700. The company declining to repay the premium, the present action was instituted. The Superior Court, Torrance, J., considered that the plaintiff would have been entitled to a return of the excess of premium, if he had proved the precise amount of such excess; but dismissed the action, "seing that plaintiff hath made no proof of the premiums which the defendants would be entitled to for an insurance on the life of his debtor for $700, the amount of his debt, and seeing that the court hath not before it any evidence of the precise amount unduly and erroneously paid by plaintiff to defendants."

In Review, this judgment was reversed, Mackay, J., dissenting. The Court held that the company having charged $781.92 premium on $10,000, it was a mere question of calculation what the premium should be on the real interest $700, and that the plaintiff was entitled to recover the difference.

From this decision the company appealed.

The Court of Appeal confirmed the judgment, holding that the insurance for $10,000 was the result of ignorance of the law on the part both of the insured and the company's agent, and that if the premium on the $700 was not a proportionate part of the premium on $10,000, it was incumbent on the company to have established it by evidence.

Judgment confirmed.

J. C. Hatton, for appellant.

Archambault & David, for respondent.

THE TRUSTEES OF THE MONTREAL TURNPIKE ROAD (defendants in the Court below), appellants; and DAOUST (plaintiff in the Court below), respondent.

Turnpike Road—Damages—Liability of Trustees.

The plaintiff sustained damage through the bad state of a temporary road used during the obstruction of the turnpike road by works over which the trustees of the road had no control. *Held*, that the trustees having collected toll from the plaintiff were directly liable to him.

The plaintiff, a carter, complained that while passing along the Lower Lachine road in October, 1876, with a vehicle drawn by a valuable mare, the road in one place was in such bad order that the carriage sank on one side up to the axle tree, and the horse was seriously injured by falling on a rock. He claimed $111 damages, and the court below, finding the plain-