distinction has lately been considerably diminished. When and how was this effected? (See *In re Poole's estate*, 6 C. D. 739. Wms. Exors, 6th ed. 1557.)

In the absence of special circumstances, when will the plaintiff in an administration suit be entitled to costs as between solicitor and client—

(a) When the plaintiff sues as a creditor;

(b) When the plaintiff sues as a legatee.

(See Henderson v. Dodds, L. R. 2 Eq. 532; Seton on Decrees, 3rd ed., 145.)

What is meant by the maxim, "When equities are equal, the law shall prevail?" Illustrate your answer by an example of its application in the administration of an insolvent estate. (See Snell, 2nd ed. p. 18.)

Distinguish a lien (strictly so called) from a mortgage and a pledge, and distinguish these from one another. (See Wms. P. P., pt. I. c. 2).

A mortgagee in possession has received rents which in each year were considerably in excess of the interest on his debt. In an action for foreclosure, in what manner will the account be directed—

(a) When some interest } was in arrear at
(b) When no interest } the time when he took possession?

(See Seton on Decrees, 3rd ed. 400; Fisher on Mortgages, § 1622 *et seq.*

CORRESPONDENCE.

Stop Orders.—Wilson v. *McCarthy.*

To the Editors Canada Law Journal.

Sirs:—The report of the case of *Wilson* v. *McCarthy* in the last number of Chy. Ch. Reports would seem, to a careful reader, to be rather meagre and unsatisfactory. Overruling, as this case does, a decision which has been followed for many years, I think the grounds upon which the judgment is based are hardly set out with the fulness or accuracy which, in view of the importance of the case, they deserve.

In *Lee* v. *Bell*, an execution creditor, with writs in the sheriff's hands, petitioned for a stop-order. The Secretary dismissed the application, apparently because he was of opinion that a stop-order upon funds in court of a judgment debtor could be granted, if at all, only as ancillary to a charging order to be obtained under the provisions of the Imp. Stat. 1 & 2 Vict. cap. 110, secs. 13 and 14, from a Judge of the Court in which the judgment was entered: the Act not being in force here, no charging order could be granted, hence no stop-order.

In *McCarthy* v. *Wilson*, a case for all purposes identical with *Lee* v. *Bell*, Proudfoot V.-C. granted the order. Now although a stop-order is sometimes allowed to go where the more extended remedy of an order for payment out is refused; yet, as a clear title to the property in court must be shewn by the applicant (*Wood* v. *Vincent*, 4 Beav. 419; *Quarman* v. *Williams*, 5 Beav. 133; *Lambert* v. *Hutchinson*, 13 L. J. N. S. Eq. 336), and as the Court has always been extremely jealous that innocent parties with funds in its charge shall not be unnecessarily subjected to the annoyance and expense a stop-order may occasion; and as, moreover, a stop-order is in nearly every instance followed, as a matter of course, by an order for payment out to the person obtaining it of either the interest or corpus of the fund affected, we may not be going too far if we regard the case as practically establishing that a creditor, with writs of execution in force and unsatisfied, may now, without filing a bill, obtain payment from any sum of money in Court to the credit of his debtor.

There is little doubt that the Secretary was right as to the Statutes 1 & 2 Vict. c. 110 and 3 & 4 Vict. c. 82 not being in force in this country (*Calverly* v. *Smith*, 3 C. L. J. 67; *Re Lash*, 1 Chy. Ch.); and that, consequently, our Courts have no jurisdiction to grant a charging order, the effect of which is simply to place the creditor in the same position as if he had obtained an assignment of the debtor's interest in any stock or