Plaintiff must make out her own case at the trial if she can, and if defendants have a valid counterclaim, they will not rely upon plaintiff for proof of it. For these reasons, the suggestion of the Master that defendants enter the case for trial, give notice of trial, and proceed to trial, unless plaintiff succeeds for good cause in getting the trial postponed, seems to me appropriate.

Appeal dismissed. Costs of the appeal to be costs in cause to plaintiff.

FALCONBRIDGE, C.J. NOVEMBER 15TH, 1906.

WEEKLY COURT.

RE SHARON AND STUART.

Will—Construction—Devise — Life Estate — Remainder — Estate Tail — Rule in Shelley's Case — Rule in Wild's Case — Ascertainment of Class—Period of Distribution —Intermediate Life Estate — Wife of First Tenant for Life—Second Marriage.

Case submitted to the Court under sec. 4 of the Vendors and Purchasers Act.

A. H. Clarke, K.C., for both vendor and purchaser.

FALCONBRIDGE, C.J.:—Gilbert Sharon, the vendor, father of the infants Frank Ernest Sharon and William A. Sharon, contends that he is entitled to an estate tail in the property in question under the will of his father, Pierre Sharon (or Charron) and able to bar the entail so as to make title.

By clause 2 of the will of Pierre Sharon, who died in December, 1860, the lands in question are devised to Gilbert, "to have and to hold to him, etc., as aforesaid, and not otherwise."

The latter words evidently refer to the words in which other lands are devised to other sons in the earlier part of the same clause. These words, so far as material, are: "To have and to hold to each of them for and during their natural life respectively, and if they should marry after their and such of their decease, to have and to hold to their surviving wife respectively, and on the demise of their or each of their wives, to have and to hold to their children