

where it has not been made to appear to the Judge or Master in Chambers that there has been such an evasion of service as to warrant the making of an order for substitutional service, and where the failure to effect personal service is not due to inactivity or want of diligence on the part of those attempting the service, the time for service may be properly extended. Here, personal service within the prescribed time was impossible, not through any fault or want of diligence of the plaintiff, but by reason of the defendant's serious illness, and owing to the absolute refusal of his medical advisers and others under whose charge he was to permit of his being approached or of any service being made upon him. It may be that the Legislature in conferring the power to extend the time had in mind just such a case as the present one. It requires no straining of the language of sec. 165 so to construe it as to make it applicable to the conditions which we find in this case, and I cannot accept the narrower view contended for by counsel for the appellant, that the section has failed to make provision for an extension of time in the circumstances which here exist.

After careful consideration I have reached the conclusion that the extension of time was properly granted.

The appeal must be dismissed with costs.

LENNOX, J.

MARCH 17TH, 1914.

RE DARCH.

*Settled Estates Act—Interests of Life-tenant and Remainderman—Infant—Authority to Mortgage Land—Application of Mortgage-moneys—Repairs—Taxes—Insurance Premiums—Terms of Order.*

Petition by Thomas Darch under the Settled Estates Act, heard at London Weekly Court.

T. G. Meredith, K.C., for the petitioner.

N. P. Graydon, for James Darch.

M. P. McDonagh, for the Official Guardian.

LENNOX, J.:—There was not any sharp divergence of opinion between counsel in this matter. The need of repairs is ad-