mode of carrying it into effect; if that mode fails, the Court says the general purpose of charity shall be carried out. There is another class in which the testator shows an intention, not of general charity, but to give to some particular institution; and then if it fails because there is no such institution, the gift does not go to charity generally; that distinction is clearly recognised, and it cannot be said that wherever a gift for any charitable purpose fails, it is nevertheless to go to charity."

REPORTS.

RECENT ENGLISH PRACTICE CASES.

SNELLING v. PULLING.

Costs—Dismissal for want of prosecution—4 & 5 Anne c. 3, 42 and 43 Vict. c. 59.—Ord. 65 r. 1 (Ont. Rule 428).

When an action is dismissed for want of prosecution the defendant is not, as of right, entitled to costs, but they are in the discretion of the judge under Ord. 65, r. 1. (Ont. R. 428.)

[C. A.—29 Chy. D. 85.]

LINDLEY, L.J.—. . . "Subject to some exceptions not now material to be considered the new rule has placed all the costs of proceedings in the Supreme Court, including therefore the costs of dismissal of the action for want of prosecution, in the discretion of the judge. There is therefore no appeal in the present case."

HOUSE PROPERTY & INVESTMENT CO. v. H. P. HORSE NAIL CO.

Amendment—Adding parties—Ord. 16 r. 11, (Ont. R. 103 a.)

In an action by lessees for a long term of eleven houses of which ten were unlet and in their possession when the writ was issued, and by their sub-tenant of the remaining house as a co-plaintiff, for an injunction and damages in respect of an alleged nuisance for noise; the tenant after delivery of the defence refused to go on with the action. In the meantime the other ten houses were sub-let, and the plaintiff company at the trial applied for leave to add, as co-plaintiffs, two of the new tenants who consented to be added.

Application granted under Ord. 16 r. 11 (Ont. R. 103 *a.*), the persons proposed to be added being persons "whose presence before the Court may be necessary in order to enable the Court effectively and completely to adjudicate upon, and settle all the questions involved in the cause or matter."

CHITTY, J.—"This is a matter of discretion in the Court, and the late Master of the Rolls who took great part in settling the practice, discussed the question in *Broder* v. *Saillard*, 2 Ch. D. 692. After some argument, though this is not reported at length, the Master of the Rolls gave leave to amend the Bill by adding the occupier as co-plaintiff; and in his judgment in reference to the objection that the owners of the house, the nuisance being a temporary one, could not be properly plaintiffs, he says, 'thinking as I do, that the objection was a valid one, according to the cases of *Mott* v. *Shoolbred*, L. R. 20 Eq. 22, and *Jones* v. *Chappell*, *Ib.* 539, I gave the plaintiffs leave to amend, by adding as co-plaintiff the tenant of the house which they did.' . . . The only distinction in this case is that the persons proposed to be added as co-plaintiffs were not tenants at the time when the writ issued."

As the parties were proposed to be added in respect of property originally comprised in the action, the learned judge thought the case on that ground distinguishable from *Dalton* v. *Guardians of St. Mary Abbott's*, 47 L. T. N. S. 349, and gave leave to amend on the usual terms of the cause standing over and payment of costs of the day, and defendants to be at liberty to put in an amended statement of defence.

HAWKE v. BREAR.

Costs—Arbitration—Costs of action and reference to abide event—"Event" construed distributively.

An action and all matters in difference were referred to arbitration, the costs of the cause, reference and award to abide the event.

Held, following *Ellis* v. *Desilva*, 6 Q. B. D. 521; 44 L. T. N. S. 209, that the word "event" must be construed distributively, and the plaintiff having succeeded as to the matters in question in the action, and the defendant in respect of a matter in difference not raised in the action the plaintiff was entitled to the costs of the action and the defendant to the costs of the matters in difference not raised by the action.

Gribble v. *Buchanan*, 18 C. B. 691; 26 L. J. C P. 24 not followed.

[14 Q. B. D. 841.

MATTHEW, J.—. . . "I think the term 'event' in the order of reference must be read distributively and that the costs of the action must abide the event of the action, and the costs of the matters in difference must abide the event of the matters in difference."