

agent or as a bailee. The arrangement between them was one of agency if it was for Stroth to endeavor to sell a car for Fellows, and one of bailment if Stroth's undertaking to sell was only his own, and not Fellows', affair. There being evidence of Stroth's negligence, the order is

Exception sustained.

Snow, J., did not sit.

Belknap, }
Dec. 3, 1925. }

CHARLES L. PULSIFER & a., *Trustees, v. LACONIA.*

PETITION, for advice, filed by the trustees under the will of Napoleon B. Gale.

The will provided for the purchase and fitting up of a public park in Laconia and also for building a public library in that city. In carrying out these provisions, the library was located in the park.

The trustees hold the residue of the estate under the provision, among others, that "one fourth of the yearly income shall be appropriated to the enlargement and beautifying the Public Park."

Advice is asked as to whether the trustees shall expend the income directly, or pay it over to the city, and whether it can be used for any other parks, or other similar purposes.

Transferred without ruling by *Sawyer, J.*

Thomas P. Cheney, for the plaintiffs.

Stanton Owen, for the defendant.

PEASLEE, C. J. The trustees are advised that the income of the fund should be paid to the city, to be used for "the enlargement and beautifying the Public Park" in which the library is located.

Case discharged.

All concurred.