

a motion that the taxable costs be paid out of the fund was denied, on the ground that such an order would compel the payment of costs by the prevailing party.

*Decree accordingly.*

PARSONS, J., did not sit.

*Sargent & Hollis*, for the plaintiffs.

*Stephen S. Jewett*, for the defendants and Laconia.

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Carroll, }  
Dec., 1895. }

LORD v. WENTWORTH.

TRESPASS, *quare clausum*. March 11, 1875, Nathaniel Willey owned a large rectangular lot of land bounded westerly by the "old road" and southerly by the "new road." In the corner formed by the junction of the two roads was a nearly square tract of about four acres called the Webster homestead, bounded westerly twenty-five rods on the "old road" and southerly twenty-six rods on the "new road." On that day he conveyed to Mary Webster a tract of land bounded and described as follows: "Commencing at the junction of the two roads, thence running northerly on the old road about eighteen rods to a large stone opposite to my barn; thence easterly, parallel with the fence between my pasture and the Webster homestead, to a point far enough east to contain eight acres between said fence and the new road; thence southerly to the new road; and thence westerly on the new road to the bound begun at; meaning to convey the former homestead of the late Horace Webster." The plaintiff excepted to the ruling that the deed conveyed to Mary the eight-acre tract and not merely the Webster homestead, and the exception was overruled.

CHASE, J., did not sit.

*Josiah H. Hobbs*, for the plaintiff.

*John B. Nash*, for the defendant.