

HOUSE No. 988

Bill accompanying the petition of Frank K. Linseott relative to the dismissal of frivolous appeals from final decrees in equity proceedings. Legal Affairs. January 19.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Fifteen.

AN ACT

Relative to the Dismissal of Frivolous Appeals from Final Decrees in Equity or Probate and for Proceedings Thereafter.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section one hundred and fifteen of chapter one hun-
2 dred and seventy-three of the Revised Laws is amended
3 by adding thereto the following:—

4 Whenever after the entry in the supreme judicial
5 court or in the superior court of a decree after rescript
6 from the full bench of the supreme judicial court in a
7 suit in equity or in probate proceedings, an appeal is
8 claimed from said decree, the justice by whom or by
9 whose order such decree was entered may inquire into
10 any reasons which may be assigned for such appeal, and

11 if in his opinion such decree conforms to the terms of
12 the rescript and said appeal is claimed merely for the
13 purpose of delay, he may order such appeal dismissed,
14 and such proceedings may forthwith be had and such
15 processes may forthwith issue as are necessary to carry
16 out the provisions of said decree.

17 And if a further appeal is claimed from an order so
18 dismissing an appeal it shall not operate to suspend or
19 supersede the carrying into effect of the terms of such
20 decree, and the full bench of the supreme judicial court
21 may order such dismissal of appeal affirmed and may
22 order the imposition of reasonable terms and double
23 costs to the appellee, — so that said section shall read as
24 follows: —

25 *Section 115.* If an appellant or an excepting party
26 or the plaintiff in a case reported, at law, in equity or
27 in probate proceedings, neglects to enter the appeal,
28 exceptions or report in the supreme judicial court or to
29 take the necessary measures by ordering proper copies
30 to be prepared or otherwise for the hearing of the case,
31 or if an excepting party neglects to provide a transcript
32 of the evidence or of the instructions to the jury within
33 the time ordered by the justice under the provisions of
34 section one hundred and eleven, the court in which the
35 appeal was taken or by which the exceptions were
36 allowed or the case reported may, upon the applica-
37 tion of the adverse party and after notice to all parties
38 interested, order that the appeal be dismissed, the excep-
39 tions overruled or the report discharged, and that the
40 judgment, opinion, ruling, order or decree appealed
41 from, or excepted to, be affirmed.

42 Whenever after the entry in the supreme judicial
43 court or in the superior court of a decree after rescript
44 from the full bench of the supreme judicial court in a

45 suit in equity or in probate proceedings, an appeal is
46 claimed from said decree, the justice by whom or by
47 whose order such decree was entered may inquire into
48 any reasons which may be assigned for such appeal, and
49 if in his opinion such decree conforms to the terms of
50 the rescript and said appeal is claimed merely for the
51 purpose of delay, he may order such appeal dismissed,
52 and such proceedings may forthwith be had and such
53 processes may forthwith issue as are necessary to carry
54 out the provisions of said decree.

55 And if a further appeal is claimed from an order so
56 dismissing an appeal it shall not operate to suspend or
57 supersede the carrying into effect of the terms of such
58 decree, and the full bench of the supreme judicial court
59 may order such dismissal of appeal affirmed and may
60 order the imposition of reasonable terms and double
61 costs to the appellee.

