



Benefices Act 1898

1898 CHAPTER 48

9 Power to inhibit on report of negligence in discharge of duties

- (1) Where a commission appointed in pursuance of section seventy-seven of the Pluralities Act, 1838, as amended by the Pluralities Acts Amendment Act, 1885, and by this Act, reports that the ecclesiastical duties of a benefice are inadequately performed, and that this is due to the negligence of the incumbent of the benefice in the performance of those duties (which report the Commission is hereby empowered to make), the bishop, if he thinks the appointment of a curate desirable, shall himself appoint a curate or curates, as in the said section mentioned, without requiring the incumbent to do so, and may also, if in his opinion the adoption of such a course is expedient in the interests of the benefice, inhibit the incumbent from performing all or any of those duties.
- (2) The power conferred by the said section amended as aforesaid, and by this section, of appointing and requiring the appointment of a curate, may be exercised from time to time in case of any vacancy in the curacy.
- (3) Where a curate has, before the commencement of this Act, been appointed under the said section, or the said section as amended by the Pluralities Acts Amendment Act, 1885, the bishop may, if he sees reason to believe that the incumbent is negligent in the performance of the ecclesiastical duties of the benefice, issue a commission under the said section as so amended and by this Act to inquire into the facts of the case, and if that commission reports that the incumbent is so negligent, the bishop may inhibit him from performing all or any of the said duties.
- (4) When an incumbent is inhibited under this Act, he shall not interfere with or control any curate in the performance of the ecclesiastical duties of the benefice, and any right of patronage vested in him by virtue of his incumbency shall, while he is inhibited, vest in the patron of his incumbency, or, if the incumbent be the patron, then in the archbishop of the province.
- (5) An incumbent so inhibited shall not be liable to any penalty or forfeiture for non-residence, but section ninety-three of the Pluralities Act, 1838, shall apply as if the incumbent were not resident as therein mentioned, and thereupon section ninety-four of the same Act shall apply as in the case where the curate's stipend is not less than the

Status: This is the original version (as it was originally enacted).

whole value of the benefice. The incumbent shall remain liable for repairs, but shall be entitled to retain out of the curate's stipend such amount in respect of repairs during the curate's occupation, and shall be entitled to such facilities for executing repairs, as the bishop may, in case of difference, decide to be reasonable.

- (6) The incumbent may appeal against the appointment of a curate by the bishop under this section and against any such inhibition to the court constituted under this Act within one month after such appointment or the issue of such inhibition. On any such appeal the judge shall determine whether the incumbent has been negligent as aforesaid, and the archbishop shall thereupon—
- (i) if the judge finds that the incumbent has not been negligent as aforesaid, rescind the appointment and inhibition, if any; or
 - (ii) if the judge finds that the incumbent has been negligent as aforesaid, decide whether by reason thereof the said appointment should have been made, and also whether the incumbent should be inhibited from performing any and what ecclesiastical duties of his benefice ;

and shall give judgment accordingly, and that judgment shall be final. Subject as aforesaid the provisions of section three of this Act with respect to procedure shall apply to proceedings under this sub-section.