

**THE HISTORY AND LAW  
OF CHURCH SEATS, OR  
PEWS; BOOK II.- LAW**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649603411

The History and Law of Church Seats, Or Pews; Book II.- Law by Alfred Heales

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.  
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

[www.triestepublishing.com](http://www.triestepublishing.com)

**ALFRED HEALES**

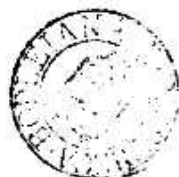
**THE HISTORY AND LAW  
OF CHURCH SEATS, OR  
PEWS; BOOK II.- LAW**



THE  
History and Law  
OF  
CHURCH SEATS,  
OR  
PEWS.

BY  
ALFRED HEALES, F.S.A.,  
PROCTOR IN DOCTORS' COMMONS.

BOOK II.—LAW.



LONDON:  
BUTTERWORTHS, 7, FLEET STREET,  
Printers to the Queen's most excellent Majesty.  
1872.

LONDON:  
PRINTED BY C. ROWORTH AND SONS,  
NEWTON STREET, W.C.

## INTRODUCTION TO BOOK II.

---

ORIGINALLY Churches and Chapels in England were altogether unprovided with seats for the Congregation. In the Chancel there were seats for the Clergy and others taking part in the performance of Divine Service; and especially in the Churches of Conventual and Collegiate bodies (for whom extremely long, as well as frequent Services were appointed), stalls were provided as a matter of necessity.

To Monarchs and Persons of high position, and Patrons of Churches, seats were permitted by authority, and from an early period such seats were in the Chancel.

Gradually seats for the Congregation at large, were introduced into the body of the Church; and it has been our endeavour to trace their Early History in BOOK I. of the present Work.

There is no Ecclesiastical or Civil Law under which such seats were introduced, nor is there any by which their use is regulated, except such as in course of time has grown up; and since it is found that different considerations affect different classes of buildings, this part of our Work has been divided accordingly.

Cathedrals stand alone. Scarcely any claims to, or legal questions respecting the seats in them have ever been raised. This branch of the subject forms PART A.

The bulk of the Work is necessarily occupied by the considerations respecting the seats in Parish Churches, amounting in number to many thousands, scattered throughout the length and breadth of the land; their dependant Chapels of Ease are ruled by nearly like considerations. This portion of the subject forms PART B., and comprises three DIVISIONS; **a.** Ordinary Seats, **b.** the Parson's Seat, and **c.** Private Seats.

Of these DIVISIONS, **a.** Ordinary Seats, is separated into two Chapters: Chapter I. treats of the Structure, and comprises the consideration of the introduction, building, repair, and removal of such seats: and Chapter II. of their Use and Occupation, whether in common or by a personal allotment by the authority of the Ordinary, either directly or indirectly; and the rights acquired thereby. Since the period in which the Law affecting this part of the subject gradually grew up, there has, especially of late, been a very great change in the circumstances; so that what might at one time have been proper, may be now inconvenient or objectionable, and some modification or reform will, no doubt, sooner or later be found desirable. The Act for the Abolition of Compulsory Church Rates will produce an effect tending in that direction. It is not within the scope of the present Work to consider the advantages and disadvantages of the present system. The Parson's Seat being subject to different considerations forms DIVISION **b.**

DIVISION **c.** is separated into two Chapters, of which Chapter I. treats of Seats held, or claimed to be held, under *Faculties* granted by the Ordinary to individuals and their



families or successors. The nature of Faculties, and their legal force, and the considerations which should guide the discretion of the Ordinary in making such grants, are comprised herein. The increasing inconveniences arising from such grants have been repeatedly noticed judicially, and no doubt, sooner or later, will lead to the abandonment of the system. Chapter II. treats of rights by *Prescription*; they arise from two separate sources, which have, however, not always in Law been kept so distinct as might have been desirable. The one is where a founder of a church, or other person, retained to himself, or built a specific part of the church, for his own use and that of his family and successors: and as such fact is not very frequently capable of absolute proof, it may (subject to certain requirements) be legally presumed to have been the case. The other is where, in default of any better title than use, it is presumed that such use commenced and continues under the authority of a Faculty, granted by the Ordinary, but no longer in existence. Under the head of *Prescription* are comprised the facts necessary to make a valid claim, what proof is requisite, where such questions are triable, and the ownership of the materials of the structure.

Next for consideration is PART C., which treats of—  
**a.** Seats in Private Chapels and unconsecrated Buildings used for Divine Service; but respecting them very few legal points have been decided:—and **b.** Proprietary Chapels, a modern class of Building in which the use and control of the Seats differ little from that of places of Public Entertainment.

The remainder of the work, **PART D.**, relates to the seats in Churches built under the authority of Acts of Parliament passed, at a modern date, with the object of relieving Spiritual Destitution, which in the course of time had risen to an alarming height. Special necessities require special treatment; but it often happens that what is introduced as a temporary measure, permanently remains. **DIVISION a.** relates to General Church-Building Acts, and **b.** to Churches built under Private Acts.

# LIST OF AUTHORITIES

REFERRED TO IN BOOK II.

## ACTS OF PARLIAMENT.

21 Edward III. .. .. part	7	3 & 4 Victoria .. .. cap.	86
4 & 5 William & Mary .. cap.	12	6 & 7 .. .. "	37
51 George III. .. .. "	151	7 & 8 .. .. "	56
58 .. .. "	45	7 & 8 .. .. "	94
58 .. .. "	54	8 & 9 .. .. "	70
59 .. .. "	134	9 & 10 .. .. "	68
3 George IV. .. .. "	72	9 & 10 .. .. "	88
5 .. .. "	86	11 & 12 .. .. "	87
5 .. .. "	108	14 & 15 .. .. "	97
7 & 8 .. .. "	72	18 & 19 .. .. "	127
1 & 2 William IV. .. .. "	38	19 & 20 .. .. "	55
2 & 3 .. .. "	61	19 & 20 .. .. "	104
2 & 3 .. .. "	71	23 & 24 .. .. "	142
1 & 2 Victoria .. .. "	107	31 & 32 .. .. "	102
2 & 3 .. .. "	49	31 & 32 .. .. "	109
3 & 4 .. .. "	60	32 & 33 .. .. "	94

ADDAMS, Eccles. Rep.

ADOLPHUS & ELLIS, K. B. Rep.

AYLIFF, Parergon.

BACON, Abridgement.

BARNEWALL & ADOLPHUS, King's Bench Rep.

BARNEWALL & ALDERSON, King's Bench Rep.

BARNEWALL & CRESSWELL, King's Bench Rep.

BINGHAM, Common Pleas Rep.

BLACKSTONE, Commentaries.

BOSWORTH, Anglo-Saxon Dic.

BROOKE, Abridgement.

BROWNLOW & GOLDSBOROUGH, Common Pleas Rep.

BULSTRODE, King's Bench Rep.

BUNBURY, Exchequer Rep.

BURN, Ecclesiastical Law.

BURROWS, King's Bench Rep.

BURTON, Real Property.

CAMPBELL, Nisi Prius Rep.

CARRINGTON & PAYNE, N. P. Rep.

COKE, Institutes.

COKE, King's Bench Rep.