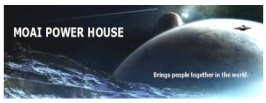
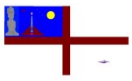










King Ernest Augustus V Follows King William III Dutch Protestant Admiralty Authority Jurisdiction 1689 British Constitution Ruler

ATTORNEY-GENERAL, APPELLANT AND PRINCE ERNEST AUGUSTUS OF HANOVER, RESPONDENT

*See authoritative, annotated versions at [1957] 1 A.C. 436, [1957] 1 All E.R. 49**

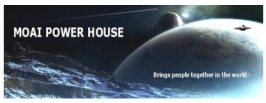
COUNSEL: Sir Reginald Manningham-Buller Q.C., A.-G. and Bryan Clauson for the appellant.
R. O. Wilberforce Q.C. and John Knox for the respondent.
SOLICITORS: Treasury Solicitor; Farrer & Co.
JUDGES: Viscount Simonds, Lord Normand, Lord Morton Of Henryton, Lord Tucker and Lord Somervell of Harrow.
DATES: 1956 Oct. 22, 23, 24, 25, 29, 30 Dec. 5

> ***Alien – British nationality – Lineal descendant of Electress Sophia*** *– 4 Anne c 4 or 4 & 5 Anne c 16 – British Nationality Act, 1948 (11 & 12 Geo 6 c 56), s 12. Statute – Construction – Preamble – Acts in pari materia – Ex post facto inconvenience or absurdity – Whether clear enacting words restricted – 4 Anne c 4 or 4 & 5 Anne c 16.*
> *Decision of the Court of Appeal [1956] Ch. 188; sub nom.* ***H.R.H. Prince Ernest Augustus of Hanover v. Attorney-General [1955]*** *3 All E.R. 647 affirmed.*
> *APPEAL from the Court of Appeal (Evershed M.R., Birkett and Romer L.JJ.).*

This was an appeal from an order dated November 16, 1955, of the Court of Appeal, whereby the court discharged a judgment dated March 1, 1955, of Vaisey J. and declared that the respondent, H.R.H. Prince Ernest Augustus of Hanover, was, immediately before the coming into force of the British Nationality Act, 1948, a British subject and that he was, by virtue of that Act, a British subject.

The question at issue in this appeal was whether or not the respondent was by virtue of a statute of Queen Anne's reign of 1705 a British subject immediately before the coming into force of the Act of 1948. The Act of 1948 repealed the statute of Queen Anne's reign (which was referred to in Part II of Schedule IV to the Act of 1948 as "the Act of 4 & 5 Anne, c. 16," but was called "4 Anne, c. 4" in the Statutes at Large), **but it was conceded by the appellant, the Attorney-General, that, if at the date of the commencement of the Act of 1948 the respondent was a British subject, he remained such by virtue of section 12 (4) of the Act of 1948.**

The statute of 1705 was as follows:
"An Act for the Naturalization of the Most Excellent Princess Sophia, Electress and Duchess Dowager of Hanover, and the Issue of Her Body.

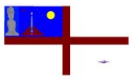








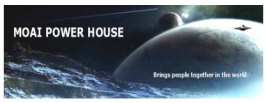


> "WHEREAS the Imperial Crown and Dignity of the Realms of England, France, and Ireland, and the Dominions thereto belonging, after the Demise and Death of Your Majesty, Our Most Gracious Sovereign, without Issue of Your Body, is limited by Act of Parliament, to the **Most Excellent Princess Sophia, Electress and Duchess Dowager of Hanover, Granddaughter of the late King James the First, and the Heirs of Her Body, being Protestants:** And whereas Your Majesty, by Your Royal Care and Concern for the Happiness of these Kingdoms, reigns in the Hearts and Affections of all Your People, to their great Comfort and Satisfaction, and will be a glorious Example of Your Royal Successors in future Ages: And to the End the said [*438] Princess Sophia, Electress and Duchess Dowager of Hanover, and the Issue of Her Body, and all Persons lineally descending from Her, may be encouraged to become acquainted with the Laws and Constitutions of this Realm, it is just and highly reasonable, that they, in Your Majesty's Life Time (whom God long preserve) should be naturalized, and be deemed, taken and esteemed natural born Subjects of England: We Your Majesty's most dutiful and loyal Subjects, the Lords Spiritual and Temporal, and Commons, in Parliament assembled, do most humbly beseech Your Majesty that it may be enacted; and therefore be it enacted by the Queen's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the Authority of the same, That the said Princess Sophia, Electress and Duchess Dowager of Hanover, and the Issue of Her Body, and all Persons lineally descending from Her, born or hereafter to be born, be and shall be, to all Intents and Purposes whatsoever, deemed, taken and esteemed natural-born Subjects of this Kingdom, as if the said Princess, and the Issue of Her Body, and all Persons lineally descending from Her, born or hereafter to be born, had been born within this Realm of England; any Law, Statute, Matter, or Thing whatsoever to the contrary notwithstanding. Provided always, and be it further enacted and declared by the Authority aforesaid, That every Person and Persons, who shall be naturalized by virtue of this Act of Parliament, and shall become a Papist, or profess the Popish Religion, shall not enjoy any Benefit or Advantage of a natural born Subject of England; but every such Person shall be adjudged and taken as an Alien, born out of the Allegiance of the Queen of England, to all Intents and Purposes whatsoever; any Thing herein contained to the contrary notwithstanding."

The respondent was a lineal descendant of the Princess Sophia and was not a Papist and did not profess the Popish religion.

The other relevant enactments are fully stated in the opinion of Viscount Simonds. Sir Reginald Manningham-Buller Q.C., A.-G. and Bryan Clauson for the appellant. The descendants of the Electress Sophia include, or have included, the late Kaiser, the German, Dutch, Danish, Norwegian, Swedish, Greek, Rumanian, Yugoslav and Russian royal families. The effect of the Act of 1705 is and was only to naturalize those lineal descendants of the Electress [439] Sophia who were born in her lifetime. At the passing

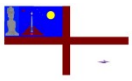










of the Act she had three sons alive, George (who became George I), Maximilian William and **Ernest Augustus.** She had two grandsons alive at that time, George (who became George II) and Frederick William (later King of Prussia), and one granddaughter, Sophia Dorothea (who later married her cousin Frederick William). At the death of Queen Anne in 1714 the living descendants of the Electress also included two great grandsons, Frederick Lewis (afterwards Prince of Wales, son of George II) and Frederick (afterwards King of Prussia, called "the Great"), three great granddaughters, Anne, Amelia Sophia Eleanor and Caroline Elizabeth (sisters of Frederick Lewis), another great granddaughter, Frederica Sophia Wilhelmina (sister of Frederick). Thus there were six lineal descendants born when the Act was passed and six more born before Queen Anne died. It is to be noted that Phillipine Charlotte, who was born in 1716 and died in 1801, a sister of Frederick, married Carl, Duke of Brunswick-Wolfenbuttel, and had a son, Charles William Ferdinand, Prince of Brunswick Lunenburg, who was naturalized by Act of Parliament in 1763-4.

The Act 7 Jac. 1, c. 2 of 1609, provided that all persons over the age of 18 years who were to be naturalized must first receive the Sacrament of the Lord's Supper and take the Oath of Allegiance and the Oath of Supremacy in the manner therein prescribed. When the question arose of naturalizing the Electress Sophia and her descendants, some amendment had to be made to this Act. This was done by a preliminary Act, 4 Anne, c. 1 (also known as 4 & 5 Anne, c. 14), which enacted that whereas the Electress "and the issue of her body are to be naturalized and by reason of their being beyond the seas they cannot qualify themselves thereunto" according to the formalities of the Act of James I, a Bill for their naturalization should be exhibited, "any law … to the contrary notwithstanding." This Act shows clearly the reason for the statute 4 Anne, c. 4, and the intention to provide for the naturalization of the issue of the Electress who were then alive and then beyond the seas. It operates in relation to persons within the scope of the Act of 1609.

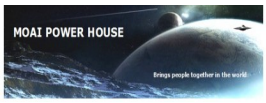
In the Act 4 Anne, c. 4, the words "in Your Majesty's Life Time" cover both parts of the sentence in which they occur, and that sentence shows the intention to naturalize those descendants of the Electress born in Queen Anne's lifetime, and no more. The intention is wider than that of 4 Anne, c. 1, which was that those overseas should be naturalized. Those who were [*440] born after 1705 and before 1714 would be naturalized at birth and so the Act of James I would not apply to them at all.

This question does not just affect the respondent and some 400 other persons. It has wider repercussions, for it might be argued that a family all members of which were, in the Court of Appeal's view, British by the Act of 1705, could not be foreign for the purposes of the Royal Marriages Act, 1772. That would throw doubt on some interests taken under marriage settlements and on the right to some titles.

In the Act 4 Anne, c. 4, the words "born or hereafter to be born" were intended to make it perfectly clear that the Act was to cover some born after its passage.

As to the rules for the construction of this Act, see Maxwell on Interpretation of Statutes, 10th ed., pp. 1-2, 17, 19. They cover both the preamble and the enacting part of the Act.

In 1705 the position as to the succession to the Crown was settled by the Bill of Rights, 1688 (1 Will. & Mar., sess. 2, c. 2). The Act of 1705 shows that it was then thought desirable that the Electress and those of her descendants who were then living should

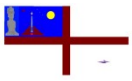










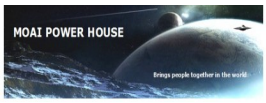
become acquainted with the laws and constitutions of England. It can hardly have been an object of this Act that all her descendants throughout the centuries should become so acquainted. The important point is that without the Act 4 Anne, c. 4, the successor of Queen Anne would not have been English at the time of accession. There was no need to legislate for the nationality of the children born to Queen Anne's successor after accession, because they would be British anyhow under the Act 25 Edw. 3, stat. 1. In 1705 it was evident that the Electress or one of her descendants born in Queen Anne's lifetime must be Queen Anne's successor or the Act of Settlement would fail. With the Jacobite troubles, there was a very real object in securing that her successor should be British or English before the moment of succession. Parliament should not be assumed to have intended what the respondent contends, especially as it is contrary to the intention expressed in the preamble, which only applies to those born in Queen Anne's lifetime. The enacting words do not make it necessary to give the Act a wider effect than the expressed intention.

The following propositions are submitted: (1) The fundamental rule of interpretation, to which all others are subordinated, is that the statute is to be expounded according to the intent of them that made it. (2) To discover that intention it is proper to read, not only the enacting words, but also the preamble, and to have [*441] regard to the surrounding circumstances. (3) If the enacting words are specific, they must have effect given to them, whatever the preamble may contain. (4) If, on the other hand, the enacting words are general (as opposed to specific) or ambiguous, or if there is a doubt as to the meaning to be given to them, then the preamble may explain them, limit them or widen them, and the court may consider the fact that, by not giving a limited meaning to general words, absurdity or inconvenience may arise. It is not submitted that one can construe an Act in the light of what happened later. (5) It is not necessary for the enacting words to be ambiguous before the preamble can be used, so long as they are phrased in general terms.

Here there is a conflict between the intent of the Act as shown in the preamble and the general words of the enacting part, which may be interpreted as going further than Parliament intended. The Act should be construed very strictly.

If the respondent were right, the Act 4 Anne, c. 4, would indicate a very great extension of the intent of the Act 4 Anne, c. 1. There was no need of the latter Act in relation to unborn members of the family of the Electress and its only purpose was to make it possible to bring in a Bill to naturalize those then living and over 18 years of age, despite the Act of James I. The Act 4 Anne, c. 4, went further and included those living born in the lifetime of Queen Anne. That was the expressed intention of the preamble. The practice was not to naturalize people who were not alive.

In 1705 there must have been a desire that the taunt should not be used by the Jacobites that the successor to the English throne was a foreigner. Naturalization could have been limited to the next in succession, but Parliament may have thought it safer to go further. In 1705 the Electress was 75 years old; she was next in succession. It would be one thing to naturalize ex abundanti cautela her descendants living then and born during the lifetime of Queen Anne and another to naturalize all her descendants throughout the centuries.

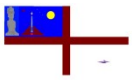










The statute 25 Edw. 3, stat. 1, is the basis of the law as to the nationality of children born abroad. The matter was considered in *Rex v. Albany Street Police Station Superintendent*. 1

As to the question of giving effect to the intention of Parliament, both *Powell v. Kempton Park Racecourse Co. Ltd.* 2 and

1 [1915] 3 K.B. 716, 717-718, 719, 720, 722; 31 T.L.R. 634.

2 [1897] 2 Q.B. 242; 13 T.L.R. 443; [1899] A.C. 143; 15 T.L.R. 266.

[*442] the Sussex Peerage Case 3 ignored the long line of decisions that it is permissible to restrict the generality of words so as to accord with the intention of Parliament. In those two cases those decisions were not cited or considered. That line of decisions starts with *Stradling v. Morgan* 4 and *Eyston v. Studd*. 5 *Eastman Photographic Materials Co. Ltd. v. Comptroller-General of Patents, Designs and Trade Marks* 6 approves the former case. See also *Stowel v. Zouch* 7; *Copeman v. Gallant* 8; *Ryall v. Rolle* 9; *Crespigny v. Wittenoom* 10; *Brett v. Brett* 11; *Halton v. Cove* 12; *Salkeld v. Johnson* 13; *Reg. v. Bateman* 14; *Hughes v. Chester and Holyhead Railway Co.* 15; *Caledonian Railway Co. v. North British Railway Co.* 16; *West Ham Churchwardens and Overseers v. Iles* 17; *Yates v. The Queen* 18; *Reg. v. Clarence* 19; *Cox v. Hakes*, 20 and *Watney, Combe, Reid & Co. Ltd. v. Berners*. 21

As to The Sussex Peerage Case, 22 no argument was there presented to the House on the construction of statutes, and there ere no doubts arising from the preamble of the Act there in question. The words of the statute were in themselves precise and unambiguous. What Tindal C.J. said 23 on the construction of statutes was only a general observation. All he was saying was that if a statute is specific in its terms one cannot go beyond it, but that if a doubt arises one is entitled to look at the preamble and the surrounding circumstances. The ambiguity may be latent, only appearing when one looks at the surrounding circumstances.

As to *Powell v. Kempton Park Racecourse Co. Ltd.*, 24 it is hard to say what it really decided on the point of looking at the

3 (1844) 11 Cl. & Fin. 85.

4 (1560) 1 Plowd. 199, 203, 204, 205.

5 (1574) 2 Plowd. 463, 464.

6 [1898] A.C. 571, 575-576; 14 T.L.R. 527.

7 (1569) 1 Plowd. 353, 356, 369.

8 (1716) 1 P.Wms. 314, 317, 318, 320.

9 (1749) 1 Atk. 165, 169, 174, 175, 178-179, 182.

10 (1792) 4 Term Rep. 790, 792, 793.

11 (1826) 3 Add. 210, 214-220.

12 (1830) 1 B. & Ad. 538, 556-557, 558.

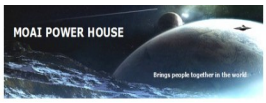
13 (1848) 2 Exch. 256, 273, 278-279, 282-283; (1849) 1 Mac. & G. 242.

14 (1857) 27 L.J.M.C. 95.

15 (1861) 1 Dr. & Sm. 524, 526-527, 534, 535-537, 540-541, 542, 544; (C.A.) 3 De G.F. & J. 352.

16 (1881) 6 App.Cas. 114, 121, 122, 124, 126-127, 131-133, 136-137, 137-138.

17 (1883) 8 App.Cas. 386, 388-389.

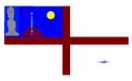










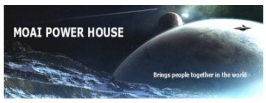
18 (1885) 14 Q.B.D. 648, 653-654, 655-657, 657-658, 659, 659-660, 664-665; sub nom. *Reg. v. Yates*, 1 T.L.R. 193.
19 (1888) 22 Q.B.D. 23, 65; 5 T.L.R. 61.
20 (1890) 15 App.Cas. 506, 517, 518, 519, 525, 526, 529; 6 T.L.R. 465.
21 [1915] A.C. 885, 891; 31 T.L.R. 449.
22 11 Cl. & Fin. 85, 141-142, 143-144, 147.
23 Ibid. 143.
24 [1897] 2 Q.B. 242, 249-250, 251, 255-256, 256-257, 260, 261, 265-266; [1899] A.C. 143, 157, 158, 165, 167, 177, 182-183, 183-185, 192-193.

[*443] preamble. The decision was on the construction of the enacting words, irrespective of the preamble. None of the cases before 1899 was there brought to the attention of the House.

The language of the preamble to the statute 4 Anne, c. 4, is clear. That preamble may be looked at on the principle that if the enacting words are general, as opposed to specific, or if they are ambiguous, or if there is a real doubt as to the meaning to be given to them, the preamble may have the effect of giving a limited meaning to the general words or resolving the ambiguity. There may be ambiguity in the language used or, without such an ambiguity, there may be a serious doubt as to the meaning, arising from the surrounding circumstances, so that though the words may appear clear and unambiguous, in the light of the surrounding circumstances it is certain that Parliament cannot have intended their apparent meaning. In construing a statute one is entitled to consider the mischief aimed at, but the fundamental rule is to seek to give effect to the intent of the legislature. The old cases from the time of Elizabeth I show many instances where the enacting words have been cut down to give effect to the intention of Parliament, as gleaned from the preamble or the surrounding circumstances. In reading a statute one is entitled to look at the whole of it, including the preamble. If, after one has done so, it appears that the meaning of a particular section is clear beyond a doubt, one must give effect to it. But where any doubt arises, either from the preamble or the surrounding circumstances, the preamble becomes the key to the statute. See also the recent authority, *Pratt v. Cook, Son & Co. (St. Paul's) Ltd.* 25

As to the suggestion that the effect of the Act of Union of the two Kingdoms of England and Scotland in 1706 (6 Anne, c. 11) was to prevent the naturalization of descendants of the Electress Sophia subsequently born in the lifetime of Queen Anne, and that it impliedly repealed the Act 4 Anne, c. 4, that is not a ground relied on by the appellant. That would be a surprising result. There is nothing in the Act of Union from which that can be implied and nothing in the Act 4 Anne, c. 4, inconsistent with it. The Act of Union does not in terms provide that after the Union all subjects of England and all subjects of Scotland are to be subjects of the United Kingdom, but by article IV of the Treaty set out in the Act that is assumed. By the Act 4 Anne, c. 4, the Electress Sophia and her descendants

25 [1940] A.C. 437, 443-446, 447-448; 56 T.L.R. 363; [1940] 1 All E.R. 410.

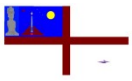










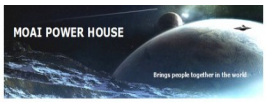
[*444] were in 1705 to be deemed for all purposes natural born English subjects and the effect of the Act of Union was to make what may be called the Royal Family British. The Act of Union must not be treated as repealing all the statutory provisions in England and Scotland providing for either English or Scottish nationality. In view of the expressed objects of the Act 4 Anne, c. 4, it would be remarkable if it were defeated by an Act passed in 1706. Unless pre-Union English nationality law applied after the Union, so as to govern British nationality, there was no law of British nationality at all in existence when the Act of Union took effect; but the Acts of Edward III and James I (already referred to) were regarded as still in force after the Union. Those who under the terms of the Act 4 Anne, c. 4, became English, whether before or after the Union, automatically became citizens of the United Kingdom by virtue of the Act of Union.

As to *Macao v. Officers of State for Scotland*, 26 that decision did not go so far as to hold that the Act of Union repealed earlier statutes of naturalization in Scotland.
In Queen Anne's time there was no machinery for naturalization other than the introduction of a Bill into Parliament, and in such a case as the present express provision would have to be made to exempt the applicant from the provisions of the statute of James I.

This is exemplified in the statute of 1734, 7 Geo. 2, c. 3, an Act for exhibiting a Bill for naturalizing the Prince of Orange, who was marrying a descendant of the Electress Sophia.

He did not come under 4 Anne, c. 4, on any interpretation.
Next there is the similar statute of 1763-4, 4 Geo. 3, c. 4, for exhibiting a Bill for naturalizing the Prince of Brunswick Lunenburg. On the respondent's view, he would be within the statute 4 Anne, c. 4, as being a lineal descendant of the Electress Sophia, so that the Act of 1763 was unnecessary, but on the submission of the appellant he was not within that Act, because he was born after the death of Queen Anne.
The Act of 1763-4 can be considered in construing the statute 4 Anne, c. 4: Maxwell on the Interpretation of Statutes, 10th ed., pp. 35-36. It shows that in 1763-4 Parliament took the view that the Prince was not naturalized by the Act of Anne. See also *Kirkness v. John Hudson & Co. Ltd.* 27 The construction of the Act of Anne being open to doubt, one is entitled to look at the later Act to see what Parliament thought it had done. There is an ambiguity in the Act of Anne as a whole. As to the
26 (1822) 1 Shaw's App. 138, 139, 141, 142-145, 146, 148, 148-149.
27 [1955] A.C. 696, 710-712, 725, 735, 738-739; [1955] 2 All E.R. 345.
[*445] historical background of that Act, see the Cambridge Modern History, vol. VI, pp. 11-12.

The respondent's interpretation involves a transposition of the words "in Your Majesty's Life Time" in the Act of Anne. When one sees to whom the word "they" refers, one gets the limitation on the birth. The crucial passage should therefore read: "It is just and highly reasonable that the Princess Sophia … and the issue of her body and all persons lineally descending from her in Your Majesty's Life Time should be naturalized." The

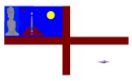










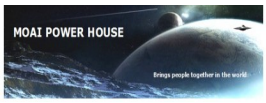
encouragement to become acquainted with the laws and constitutions of the realm really could not operate ad infinitum. As to the Act 4 Anne, c. 1, that confirms the appellant's view of the preamble to the Act 4 Anne, c. 4. Since the first Act is limited to living persons, one gets nearer to that if one limits the second Act to persons born in Queen Anne's life time than if one does not. On this point the reasoning of the Court of Appeal28 was ill-founded.

"They, in Your Majesty's Life Time" must refer to persons born in Queen Anne's lifetime. The surrounding circumstances support this view of the expressed purpose of the preamble. It was never the purpose of Parliament that the Act should extend in operation throughout the centuries. Its operation must be confined to those living in Queen Anne's reign. Using a racing expression, there was at her death a field of 12 from whom the winner, her successor, must come. **No useful purpose would be served by naturalizing all the Electress Sophia's descendants who might become crowned heads in Europe.**

The provision made was sensible. At the time the Electress Sophia, the heir to the throne, was 75 years old and the prospect of her surviving Queen Anne was not great. In 1705 one had to consider the prospect of which of her children or grandchildren would in fact prove to be Queen Anne's successor. It might be someone born after 1705 and before 1714. That was the reason for the extension of the Act 4 Anne, c. 4, beyond the Act 4 Anne, c. 1. Further, it was desirable that the children of Queen Anne's successor born before he acceded should be naturalized.

Where there is a doubt as to the intention of Parliament, the preamble to the Act is the key. If there are various meanings to be attached to the enacting words, some wider than the preamble and some not, one takes the intention that accords with the preamble. In construing an Act one reads the whole of it and
28 [1956] Ch. 188, 204, 213, 217-218; [1955] 3 All E.R. 647.

[*446] the preamble is part of the Act. A real doubt exists here because of the preamble. If, contrary to the appellant's submission, it is necessary to find some generality in the enacting words before one can consider the other parts of the enactment, then there is generality here, because the words "born or hereafter to be born" really mean "all descendants," a phrase as general as "any descendants the Electress Sophia may have." R. O. Wilberforce Q.C. and John Knox for the respondent. A decision in the respondent's favour would affect a great number of other persons. This action is brought to establish his status. For over 250 years his family have claimed to be British subjects and the claim has not been disputed. When Hanover was overrun by the Prussians in 1866, the Prince of Hanover and his family went to Austria. There is no suggestion that at that time, at any rate, they acquired German nationality, though they may have acquired Austrian nationality. The respondent is in fact the heir male of the Electress Sophia at this time, so, if anyone should be entitled to the benefit of the Act of Anne, it is he. The claim depends on the construction of a short statute, untechnical in subject-matter and expression and plain in its meaning. The words used aim at a certain result as plainly

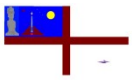










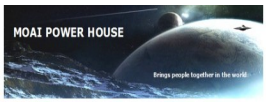
as any language can. The only difficulty lies in the preamble, which raises two questions: (1) What does it mean? and (2) Does it point so clearly to an intention of Parliament as to impose itself on the enacting part?

The respondent's propositions are: (1) The enacting words are plain and unambiguous. (2) There is no legal or factual context outside the Act in which the words are to be placed which makes them any the less plain and unambiguous or casts doubt on whether they reflect the intention of Parliament. (3) The only evidence of parliamentary intent is in the preamble and that is completely uncertain and inconclusive and is insufficient to restrict words such as are here found in the enacting part; there is no such incongruity between the enacting words and the preamble as to require modification of the former.

(4) Questions as to inconvenience or absurdity must be judged as they would appear in 1705 and not at the present time.
If there is any ambiguity here it is obtained by reading the enacting words with something else, either with the preamble or with some surrounding circumstances. Admittedly words must be read in their legal context, even if it is a context outside the Act. But the legal context must be part of a wider structure, [*447] and here there is no such context, no system or structure of which these words form part and into which they must be fitted, so that, when so fitted, words which appeared unambiguous become ambiguous.

One may also take into account the facts and circumstances in which the Act was passed, and these may raise doubts whether words, apparently clear, have in fact the meaning attributed to them, but, in such cases, no result can be achieved in the face of words in themselves unambiguous, unless the preamble can be invoked to bring those facts and circumstances into the intent of the Act. Here the words were never ambiguous and the question, therefore, is whether they can nevertheless be restricted by the preamble. In the authorities there is a distinction between statutes where the enacting words are clear and cannot be so controlled and those where they are not clear and can be controlled: *Crespigny v. Wittenoom* 29; *Hughes v. Chester and Holyhead Railway Co.* 30; *Salkeld v. Johnson*, 31 and *Powell v. Kempton Park Racecourse Co. Ltd.* 32
Here the words are not general but universal, designedly intended and deliberately drafted to include everything of their kind. They do not leave it open whether there are different kinds, which may or may not be included. They are clear and not general and therefore cannot be restricted by the preamble. They negative any exclusion of a particular kind.

In interpreting a statute one should first read the whole Act and then consider any context, within or without the Act, in which the particular words in question should be read, first the context within the Act (such as other sections) and then the context outside the Act, the legal context, to see whether it provides any cause for limiting or extending the words. As to the preamble, unless it is clear, it provides no manifestation of parliamentary intent. Here the preamble is not clear; it is capable of two meanings. If the mischief to be remedied is stated, that is a great help, but it is a dangerous guide in

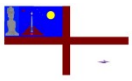










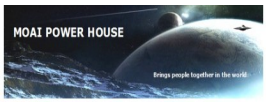
many cases, because often the legislature states a mischief and the remedy is very much wider, so that one cannot necessarily conclude, because a mischief is stated, that the remedy provided is exactly equivalent to it.

The Act 4 Anne, c. 4, refers first to the heirs of the Electress Sophia and then to her issue and "all persons lineally descending." The enacting words include the expression "born or
29 4 Term Rep. 790.
30 1 Dr. & Sm. 524.
31 2 Exch. 256.
32 [1897] 2 Q.B. 242.
[*448] hereafter to be born" and are deliberately designed to include within the class every possible person that the legislature could conceive. If any limitation to the class had been intended, it is inconceivable that that formula would have been used, for the class is stated in an unlimited form: see *Smith v. East Elloe Rural District Council*. 33 The terms of this Act show the apparent intention to include as wide a range of persons as possible.

The Act 4 Anne, c. 1, removed the barrier to the naturalization of certain persons created by the Act of James I. No difficulty is created if the barrier was lifted in relation to a person to whom it did not, in any event, apply, because that person was then under 18 years old. The plain purpose of that Act was to remove the barrier in relation to the living issue of the Electress Sophia who were over 18 years old and who, if it had not been passed, would not have been able to qualify because they were beyond the seas. After that, the legislature proceeded with its original intention to naturalize a wider class. The Act focussed on the persons affected by the barrier and was not meant to deal with anyone else. That is as good a way of legislating as if the legislature had described in the first Act the whole class who were ultimately going, to be dealt with in the second Act. As, on any view, the legislature in the Act 4 Anne, c. 4, departed from the very limited scope of the first Act, the only question is as to the extent of the departure, and the first Act affords no help in construing the second.

One is not justified in assuming that in the Act 4 Anne, c. 4, the legislature were legislating for the succession at all, that the object of the legislation was to help in securing the Protestant succession to the Throne. The preamble shows that the Act was passed alio intuitu. It was for the benefit of the future Royal Family to introduce them to the customs of the kingdom, since, if nothing were done, they would be foreigners at the death of Queen Anne. It might seem ingenuous, but, looking at the situation in 1705, it was natural to seek to bring them into the British community. If the legislature had been thinking of the successor they would have used the words "heirs of the body." It does not appear that there was in the minds of the legislature any definite limitation to the lifetime of Queen Anne. They may have been thinking of an indefinite period. It is not unreasonable to suppose that they were projecting their thoughts forward for a certain period of time, not counted in hundreds of years but

33 [1956] A.C. 736, 767; [1956] 1 All E.R. 855.

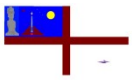








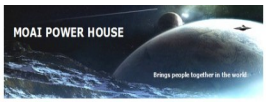


[*449] perhaps in fifties. They were looking forward, so far as any legislators do, to the establishment of a new Royal House and were content to legislate as far as they could see. That sort of looking forward to the sort of horizon which legislators can see ahead of them, normally about 50 years, is not an unreasonable intention to impute to Parliament and does not cast on the respondent the onus of suggesting some definite date as being present in the mind of the legislature. If the intention had been simply to ensure that the person who succeeded Queen Anne should be English, that could have been achieved by other words, e.g., those used in the statute 10 Anne, c. 4. What was uppermost in the mind of the legislature was the consideration of the education of the future Royal Family in our laws and customs. The preamble to the Act 4 Anne, c. 4, full of rather fulsome expressions, is not comparable with a "mischief" preamble reciting defects which have to be cured. Every word is not to be read au pied de la lettre.

This Act was still necessary in 1818 and one cannot impute to Parliament an intention that it should be effective within a certain period, after which it was to become entirely superfluous. In 1818, when the future Queen Victoria was born, there was alive no issue of any son or daughter of George III or any son of George II, and the succession would have gone, but for her birth, to issue of a daughter of George II, who would have been naturalized only by virtue of this Act. Thus, speculations as to when the Act would have become entirely superfluous are precarious. To impute to the legislature a limited intention only for the Act to have effect until Queen Anne's death, which might have happened in five or 40 years, is in the realm of pure speculation. This is supported by the facts of the family of the Electress Sophia. Before 1705 three of her sons had been killed in battle unmarried. Two of her sons living in 1705, Maximilian William and Ernest Augustus, died unmarried. Her daughter, Sophia Charlotte, died in 1705 leaving only one child. The future George II only married in 1705. Thus in 1705 it would have been very precarious to calculate that a certain limited category of the descendants of the Electress Sophia would have been sufficient to secure the succession. In certain contingencies, by no means remote, persons born after the death of Queen Anne would have been brought into the succession very early. It would be reasonable if in this Act all possible successors were intended to be included, leaving it to some future Parliament to deal with any embarrassment which could not then be envisaged.

[*450] Up to 1705 naturalization and denization were very freely granted. See, for example, a private Act of Parliament, 4 & 5 Anne, c. 94, in the Long Calendar, whereby 195 persons were naturalized, and also the Act 7 Anne, c. 5. It was not uncommon to naturalize a person and his heirs. Naturalization and denization were not then hedged about with the same restrictions as now, and there is no reason to impute to the Parliament of 1705 a restrictive policy with regard to it. Inconveniences like dual nationality were not considerations which would have been present to the mind of the legislature. The divisions then were not national, but between Protestant and Catholic. With the object of strengthening the Protestant cause it was reasonable that Parliament should have acted generously rather than restrictively towards the future Royal Family. The words of this Act are the sole indication of what the legislature intended in this case. Whatever interpretation is put on the preamble involves some degree of distortion, but

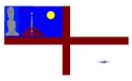










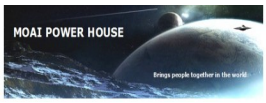



the respondent's involves less than the appellant's. The words "in Your Majesty's Life Time" refer to the occasion of the passing of the Act, the time at which the thing is done to the persons concerned.
The appellant's construction involves a substantial reconstruction or expansion of the words. If it was intended to limit the class of persons to be benefited, it is inconceivable from a drafting point of view that it was not done by words which described, delineated and marked out the class.

"Naturalized" means having an Act of naturalization passed. The reason for the words "in Your Majesty's Life Time" is that the normal time to legislate would have been after the Queen's death but that, instead of waiting, Parliament was taking action before. Parliament was much preoccupied with what would happen on the Queen's death: see the Act 4 Anne, c. 8. In the old naturalization Acts the word "naturalized" is traditionally used in the preambles and refers to the Act rather than the conferment of naturalization. The words only mean that in the Queen's lifetime an Act of naturalization shall be passed. If the appellant's construction was right, nothing could have been easier than to put the words "in Your Majesty's Life Time" into the enacting part of the Act. The legislature is assumed to have used the clearest way of expressing its intention: Craies on Statute Law, 5th ed., pp. 87-88. There is no indication in the preamble of a legislative intention sufficiently clear to override the enacting words.

[*451] Alternatively, even if there is some manifestation in the preamble of an intent to limit the scope of the Act, the preamble cannot control or limit the enacting words. The authorities bearing on this point fall into several categories. (1) The words used may form part of a context outside the Act, a factual or a legislative or a legal context, which must be brought in to explain them, e.g., words like "any appeals," "any judgment," "any order" or "any prosecution." (2) Then there are the statutes which on the face of them are passed to correct a particular mischief. In those cases one must consider the mischief, although often, while the mischief is the occasion for some remedy, the legislature passes an enactment in wider terms. It is some guidance to see what the mischief is, particularly when there is some doubt in the enacting part. (3) Then there are the cases where generic words are used covering several things; one may look at the preamble and the antecedents of the Act to see which of the several things is intended. These are cases where the word "any" is used, e.g., "any will" or "any place" or "any man" or "any goods" or "any river."

The first two categories do not help here. As to the third category, there is a distinction between generic or undefined words, on the one hand, and universal, all-embracing words, on the other, e.g., "all persons," "issue" or "lineal descendants born or hereafter to be born." Words are universal where the expression is such that it is impossible to ask the question whether there are different kinds of things or persons which may or may not be included.
Where there is no ambiguity in the enacting words, their meaning cannot be altered by the preamble, either by expanding or restricting them: Maxwell on the Interpretation of Statutes. 10th ed., pp. 44-45.

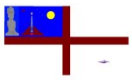






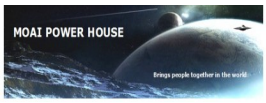




As to the five propositions submitted by the appellant, the real difference between the parties is as to the situation arising when the enacting words are "general."
One must not speculate as to the intention of Parliament: *Lumsden v. Inland Revenue Commissioners*. 34 As to the preamble rule, see *Bentley v. Rotherham and Kimberworth Local Board of Health* 35; *Bourne v. Keane* 36; *Stradling v. Morgan* 37; *v. Zouch* 38; *Eyston v. Studd* 39; *Copeman v. Gallant* 40; *Ryall*
34 [1914] A.C. 877, 887, 892; 30 T.L.R. 673.
35 (1876) 4 Ch.D. 588, 592.
36 [1919] A.C. 815, 839, 841-842, 870; 35 T.L.R. 560.
37 1 Plowd. 199, 201, 203, 204, 205.
38 1 Plowd. 353, 355, 356, 360, 361, 365, 368, 369, 375.
39 2 Plowd. 463, 464, 468.
40 1 P.Wms. 314, 320-321.
[*452] *v. Rolle* 41; *Mace v. Cadell* 42; *Brett v. Brett* 43; *Crespigny v. Wittenoom* 44; *Halton v. Cove* 45; *Salkeld v. Johnson* 46; *Reg. v. Bateman* 47; *Hughes v. Chester and Holyhead Railway Co.* 48; Caledonian Railway Co. v. North British Railway Co. 49; *West Ham Churchwardens and Overseers v. Iles* 50; *Yates v. The Queen* 51; *Reg. v. Clarence* 52; *Cox v. Hakes* 53; *Watney, Combe, Reid & Co. Ltd. v. Berners* 54; *The Sussex Peerage Case* 55; *Powell v. Kempton Park Racecourse Co. Ltd.*, 56 and *Pratt v. Cook, Son & Co. (St. Paul'* 57

The conclusion to be drawn from these cases is that if enacting words are plain and unambiguous one does not need to look at the preamble to an Act of Parliament, but if they are not clear and unambiguous one may look at it. One must not create or imagine an ambiguity or search for reasons for doubt. Only if the words are fairly capable of more than one meaning can one look at the preamble to resolve the doubt. Here the enacting words are clear without any limitation of a period. The words "in Your Majesty's Life Time" in the preamble create a problem, but the significance of their presence there must be balanced against the significance of their omission in the enacting words.
Further, there is nothing inherently absurd or inconvenient in providing for the naturalization for an indefinite period of the descendants of a living person. Unless one looks at the matter a posteriori there is nothing in it contrary to any intention that one can ascribe to Parliament in 1705. There is nothing absurd in wishing to encourage those descendants, without specifying a limit, to become acquainted with our laws and constitutions. As to section 2 of the Act, imposing a bar on such descendants as should become Papists, that fits in well with the bar in relation
41 1 Atk. 165, 169, 174, 175, 178-179, 182.
42 (1774) 1 Cowp. 232, 232-233.
43 3 Add. 210, 216-217, 218-220, 221.
44 4 Term Rep. 790, 791, 792-793.
45 1 B. & Ad. 538, 549, 550, 557, 558.
46 2 Exch. 256, 273, 279, 282, 283-284; 1 Mac. & G. 242, 259, 264.
47 27 L.J.M.C. 95.
48 1 Dr. & Sm. 524, 533, 534, 536, 537, 540, 544, 555; 3 De G.F. & J. 352.
49 6 App.Cas. 114, 121, 122, 124, 125, 126, 131-132, 135, 137-138.

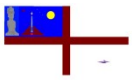










50 8 App.Cas. 386, 387, 388-389, 392.
51 14 Q.B.D. 648, 654, 655, 657, 658, 659, 664-665.
52 22 Q.B.D. 23, 65.
53 15 App.Cas. 506, 517, 520, 525, 529.
54 [1915] A.C. 885, 890, 891.
55 11 Cl. & Fin. 85, 91, 93, 96, 135, 136, 141, 143, 144, 147.
56 [1897] 2 Q.B. 242, 255-256, 256-257, 265, 266, 299, 303; [1899] A.C. 143, 176, 184-185, 192-193.
57 [1940] A.C. 437, 448.

[*453] to the succession to the Crown and it is not unreasonable or absurd that it should subsist here.

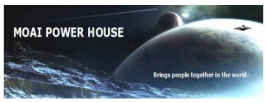
As to absurdity, see Craies on Statute Law, 5th ed., pp. 82-84, and the cases there cited. Until the Aliens Act, 1844, dealing generally with nationality and naturalization, naturalization was a matter of individual action, Acts conferring the privileges of natural-born British subjects on groups or persons: see Mervyn Jones on British Nationality Law, 1956 ed., p. 64n.

As to the Act of 1763-4, 4 Geo. 3, c. 4, relating to the naturalization of the Prince of Brunswick Lunenburg, it was customary, when persons married into the Royal Family, to pass legislation naturalizing them and also voting them a sum of money. The circumstances of this particular case are related in a letter from Horace Walpole to the Earl of Hertford dated January 22, 1764: Letters of Horace Walpole (Cunningham's edition, 1857), vol. IV, p. 171. This Act may well have been passed for a number of reasons, routine, political or the like, without any great investigation being made into the necessity for it. In any event, it does not profess to interpret the Act of 1705.

Compare the Act of 1763-4 with *Duke of Brunswick v. King of Hanover*, 58 where there was no suggestion by the court that the Act of 1705 only applied during Queen Anne's lifetime or that it had expired. Further, the Statute Law Revision Act, 1867, repealed the Act 4 Anne, c. 1, but not 4 Anne, c. 4, and that indicates the view of the legislature that the latter was still in force, whereas the former was obviously temporary. Since the Act of 1867 contained the usual provision for preserving any status already acquired, the Act 4 Anne, c. 4, cannot have been left on the statute book to preserve the position of those naturalized by virtue of it.

The principle approved in *Ormond Investment Co. Ltd. v. Betts* 59 is not restricted to technical Finance Acts. Before a subsequent Act can have any effect in the construction of an earlier Act it must be found that the earlier Act is obscure or ambiguous or readily capable of more than one interpretation and that the subsequent Act attaches a certain meaning to words in the earlier Act. But the Act of 1763-4 does not purport to interpret anything. Alternatively, if it is to be regarded as expressing an opinion, it is wrong.

58 (1844) 6 Beav. 1, 19, 33-34, 34-35.
59 [1928] A.C. 143, 164-165.

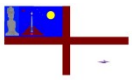








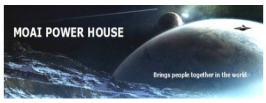


[*454] No help in construing the Act 4 Anne, c. 4, can be got either from extraneous circumstances or legislation outside it. There is no reason to impute to Parliament in 1705 any restrictive intention with regard to naturalization. The Act has three characteristics. (1) It is couched in generous language. (2) The preamble is evidently complimentary in character. (3) The enacting part leaves in practically everything in the preamble but adds to it. It was reasonable to encourage the persons described to become acquainted with the laws and constitutions of the realm and reasonable to legislate for that in Queen Anne's lifetime, so that they might have time to do so before she died. The words used were suitable to make the intention plain. Further, it was perfectly proper to say in 1705: "Let us naturalize now all the issue of the Electress Sophia and her descendants." That is consistent with the crucial word "they" and accords with the other naturalization Acts referred to. The object of encouraging all descendants to become acquainted with the laws and constitutions of the realm could not be accomplished by naturalizing a class limited to those born in Queen Anne's lifetime.
If the preamble had said that it was the intention to naturalize the Electress and all persons descending from her, and the enacting part had said that "in Your Majesty's Life Time the said persons shall be naturalized," it could not have been held that the enacting words were limited to persons born in her lifetime, for it would be contrary to the intention expressed in the preamble.

Even if the words "in Your Majesty's Life Time" could limit the class of after-born persons, they do not readily fit in with the case of persons living at the date of the Act, its most important objects, since those persons could not be subject to the limitation. On the appellant's submissions there is a conflict produced between the general part of the preamble "all persons lineally descending" and the limited statement of the class in the second part.
The enacting words are as clear as language can be. This is not a case where the word "any" is used in the enacting words while the preamble points to a definite class, so that it is only necessary to read "any" as "any such." The enacting words indicate that the preamble was not intended to control them.

John Knox following. As to the formalities required in the case of naturalization in the eighteenth century and after, see the Acts to naturalize the Prince of Orange (7 Geo. 2, c. 3), the Prince of Brunswick Lunenburg (4 Geo. 3, c. 4) and Prince Albert (3 & 4 Vict. c. 1). Among general naturalization Acts, 13 Geo. 2,
[*455] c. 7, required seven years' residence in any of the American colonies, besides receiving the Sacrament and taking the prescribed oaths; 22 Geo. 2, c. 45, required by section 8 three years' service on board English ships employed in the whale fishery, besides receiving the Sacrament and taking the prescribed oaths; 13 Geo. 2, c. 3, naturalized foreign seamen serving two years in British ships in time of war. The preamble to 14 Geo. 3, c. 84, shows that persons did take advantage of naturalization Acts without becoming permanently resident in this country, though, unless a special dispensation was granted, it would be necessary for them to come here to comply with the requirements of the statute of James I. Technically, there would have to be a

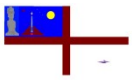










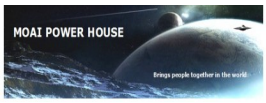



connexion with this country, but in practice for most of the eighteenth century that requirement was avoided until 14 Geo. 3, c. 84.
As to the principles of the construction of statutes, see *Bradlaugh v. Clarke*. 60
Sir Reginald Manningham-Buller Q.C., A.-G. in reply. No inference of any value is to be drawn from the omission of 4 Anne, c. 4, from the Statute Law Revision Act, 1867. The Act of 1763-4 is relied on because, where a statute has been accepted as having a certain meaning, the courts, after years have passed, are reluctant to disturb that meaning.

In *Duke of Brunswick v. King of Hanover* 61 there is no indication whether or not the Duke's claim to be British by virtue of the Act of Anne was accepted by the court. All the case shows is that the respondent is not the first to make the claim.
As to the meaning of "issue," see Stroud's Judicial Dictionary, 2nd ed., vol. II, pp. 1518-1519, where in paragraph 18 there is a list of instances where it was read as "children," and in paragraph 19 a shorter list of instances where it was read as "descendants." Here the words were intended to apply to the children and grandchildren of the Electress. That is indicated by the first sentence of the Act 4 Anne, c. 1, showing the intention of what was to be done by the Act 4 Anne, c. 4.
In 1705 it was clear that, if the Act of Settlement was not to fail, the successor to Queen Anne must come from the ranks of the descendants of the Electress living at the Queen's death. The longer they had the opportunity of becoming acquainted with the laws and constitutions of the realm, the better. For the purpose in view "heirs of the body" would not do as well as "issue of the body."
60 (1883) 8 App.Cas. 354, 362-363.
61 6 Beav. 1.

[*456] There were obvious reasons for encouraging those alive in 1705 and those born in Queen Anne's lifetime to become acquainted with the laws and constitutions of the realm, but it would not have been reasonable to encourage all descendants of the Electress Sophia, however remote in point of time and however remote from any possibility of succeeding to the Throne. In 1705 it would have seemed needless and absurd to naturalize all descendants.

As to the use of the words "in Your Majesty's Life Time," the respondent's contentions involve a distortion and should be rejected because (1) the passing of the Bill which became 4 Anne, c. 4, itself shows Parliament's view that it was just and reasonable to naturalize at that time; (2) it was unnecessary to make such a recitation as the respondent suggested; (3) Parliament had already declared its intention to naturalize in 4 Anne, c. 1. The words "deemed, taken and esteemed natural born subjects of England" merely explain what is meant by naturalization. The respondent, born in 1914, does not fit into the words "in Your Majesty's Life Time." It would be ridiculous to say that he was to be deemed in the lifetime of Queen Anne a natural born subject of England.
It was necessary to make it clear that the Act applied to persons born after as well as before the Act of Anne, since it was unusual to naturalize unborn persons: see *De Geer v. Stone*. 62The reason for the words "born or hereafter to be born" was to emphasize

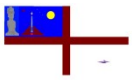










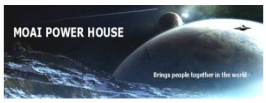
the extension of 4 Anne, c. 4, beyond the express intention of 4 Anne, c. 1. If "whenever born" had been meant, it would have been used; it is much shorter.
The words of the enacting part leave a real doubt whether or not it was Parliament's intention to naturalize all descendants of the Electress Sophia, whenever born. Alternatively, the words used are as general as they could be. There is no distinction between general and universal words. The generality may be cut down to accord with the intention of Parliament ascertained from the surrounding circumstances, the context and the preamble. The courts will restrain the literal or general meaning if it produces absurdity or inconvenience. If the enacting words are clear and capable of only one meaning, the preamble cannot cut them down. But general words are never in that sense absolutely clear.

The courts have never sought to lay down rules as to the order in which the words of a statute should be read. One is entitled to read the whole document. In construing a document one does
62 (1882) 22 Ch.D. 243.
[*457] not have to read bits out of the middle of it first. Having read through the whole document, one must then ask oneself whether the enacting words are clear and specific. It may be that while words like "vacation" or "criminal prosecution" are not ambiguous, taken by themselves, there is a doubt as to the extent of their application. So, even if the enacting words are not ambiguous, the preamble can be looked at if they are phrased in general terms, as they are here.
"Hereafter" only says "after 1705." It gives no indication as to the future extent. It does not mean "ever after," like the end of a fairy story where the lovers live happily ever after.
Their Lordships took time for consideration.

Dec. 5. VISCOUNT SIMONDS. My Lords, the Court of Appeal has declared that H.R.H. Prince Ernest Augustus of Hanover was, immediately before the coming into force of the British Nationality Act, 1948, a British subject and that by virtue of the provisions of that Act he is now a British subject. From this decision, which is said to affect a number of other persons who may or may not want to share the privileges or obligations of that status, the Attorney-General has appealed to your Lordships' House. The question is to be answered upon a consideration of a statute passed just 250 years ago, the statute of 4 Anne, c. 4 of 1705, but before I look at its provisions I will state the relevant facts which are not in dispute.

The respondent is a lineal descendant of Princess Sophia, Electress and Duchess Dowager of Hanover and granddaughter of King James I. He is not a Papist and does not profess the Popish religion – I use the language of the statute in mentioning a fact which is otherwise irrelevant.

Inasmuch as the statute must be regarded as in some measure complementary to the Bill of Rights and the Act of Settlement, it is proper to remind your Lordships that, the

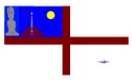










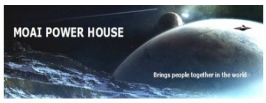
little Duke of Gloucester, Queen Anne's son, having died in 1700, the joint effect of those two Acts was that upon the death of Queen Anne without heritable issue, **the Crown of England would descend upon the Electress Sophia and the heirs of [**50] her body being Protestants**. And it is not to be doubted that, though in 1705 the Queen was but 40 years of age, at least the possibility of her early death was not absent from the minds of her subjects, whether they supported the Hanoverian succession or inclined openly or covertly to James Edward, now called "the Old Pretender.**" In the same year [*458] there were living six lineal descendants of the Electress: her eldest son, who became King George I, her second son, Maximilian William, her third son, Ernest Augustus, Duke of York**, her grandchildren, the children of George I, George who became George II, and Sophia Dorothea, and her grandson Frederick William, the son of her daughter Sophia Charlotte and Frederick I, King of Prussia.

It is proper, too, to have in mind what was the state of the law in regard to naturalization in the year 1705. By the common law only those persons who were born on English soil were subjects of the English Crown, nor was there, until a much later date, namely, the passing of the Aliens Act, 1844, any general Act enabling aliens to be naturalized. But from early times, apart from denization by letters patent with which we are not here concerned, special Acts of Parliament were passed conferring the status of natural born subjects upon individuals or more or less closely defined classes of individuals. Of the later Acts an example may be found in the statute of 15 Charles 2, c. 15, which enabled all aliens setting up certain specified trades in this country to enjoy all privileges whatsoever as the natural born subjects of the realm. No Act was brought to the notice of the House which purported to confer such status upon persons as yet unborn, whether or not they were born on English soil or took the Oath of Allegiance to the Crown of England.

I will refer to one other aspect of the historical background and I do so because particular reliance was placed upon it by the Attorney-General. By an Act 7 Jac. 1, c. 2 of 1609, entitled "An Act that all such as are to be naturalized, or restored in Blood, shall first receive the Sacrament of the Lord's Supper, and the Oath of Allegiance and the Oath of Supremacy," it was provided as follows:

"Forasmuch as the Naturalizing of Strangers, and restoring to Blood Persons attainted, have been ever reputed Matters of mere Grace and Favour, which are not fit to be bestowed upon any others than such as are of the Religion now established in this Realm; Be it therefore enacted by the King's Most Excellent Majesty, the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, That no Person or Persons, of what Quality, Condition, or Place soever, being of the Age of Eighteen Years or above, shall be naturalized or restored in Blood, unless the said Person or Persons have received the Sacrament of the Lord's Supper within One Month next before any Bill exhibited for that Purpose, and also shall take the Oath of Supremacy, [*459]

and the Oath of Allegiance, in the Parliament House, before his or her Bill be twice read: And for the better effecting of the Premises, Be it further enacted by the Authority

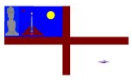










aforesaid, That the Lord Chancellor of England, or Lord Keeper of the Great Seal for the Time being, if the Bill begin in the Upper House, and the Speaker of the Commons House of Parliament for the Time being, if the Bill begin there, shall have Authority at all Times during the Session of Parliament, to minister such Oath and Oaths, and to such Person or Persons, as by the true Intent of this Statute is to be ministered. This Act to take place from and after the End of this present Session of Parliament."

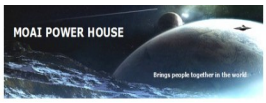
It was the existence of this Act, whose purpose was plain upon its face, that made it necessary to pass an Act preliminary to that which we have to consider. It was an Act of 4 Anne, c. 1, of 1705, and was entitled:

"An Act for exhibiting a Bill in this present Parliament for naturalizing the Most Excellent Princess Sophia, Electress and Duchess Dowager of Hanover, and the Issue of Her Body."
I set it out in full:

> **"An Act for exhibiting a Bill in this present Parliament for naturalizing [**52] the Most Excellent Princess Sophia, Electress and Duchess Dowager of Hanover, and the Issue of her Body.**
>
> "WHEREAS the Most Excellent Princess Sophia, Electress and Duchess Dowager of Hanover, and the Issue of Her Body, are to be naturalized, and by reason of their being beyond the Seas, they cannot qualify themselves in order thereto, according to the Act made in the seventh Year of the Reign of King James the First, which requires every Person to receive the Sacrament of the Lord's Supper, within one Month before any Bill for Naturalization be exhibited, and also take the Oaths of Supremacy and Allegiance in the Parliament House, before His or Her Bill be twice read: Be it enacted by the Queen's Most Excellent [**53] Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the Authority of the same,
>
> **That a Bill for the Naturalization of the said Most Excellent Princess Sophia. Electress and Duchess Dowager of Hanover, and the Issue of Her Body, shall and may be exhibited and brought into this present Parliament, and twice read; any Law, Statute, Matter, or Thing whatsoever to the contrary notwithstanding."**

Two expressions in this Act deserve notice.

First, the expression "the Issue of Her Body," that is of the body of the Princess [*460] Sophia, is used once in the title, once in the preamble and once in the enacting part. Secondly, in the preamble the reason for the Act is stated in the words "by reason of their being beyond the Seas." If it was our task, as it is not, to construe this Act, it might well be that the generality of the words "Issue of Her Body" would be held to be limited to those who were at the date of the Act "beyond the Seas" and not to

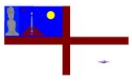










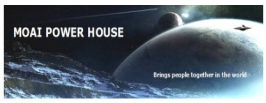



include persons then unborn. Upon this I express no opinion, for, whatever might be the intention of Parliament to be gleaned from the earlier Act, it is clear that a different and wider intention inspired the later one and it is only from the consideration of its language that it can be determined how different and how much wider was its intention.
So I come to the statute 4 Anne, c. 4, and for convenience set it out in full:
[His Lordship read the Act and continued:] The Act having been set out in full, the rival contentions may now be stated.

For the respondent it is contended that he is a person answering to the description issue of the body of the Princess Sophia, a person lineally descending from her and "hereafter born," that is, born after the passing of the Act, and that he is therefore within the scope of the enacting provision and is entitled to be deemed, taken and esteemed a "natural born subject of this Kingdom." It cannot be denied that this contention accords with the prima facie meaning of the enacting words. For the Attorney-General, on the other hand, it was contended that the generality of those words must be restricted to persons born in the lifetime of Queen Anne, such a restriction being imposed as a matter of construction of the statute by a consideration of the context in which the words were found. And by "context" he meant both the historical and political background to which I have referred and the state of the relevant law as well as the verbal context of the Act itself, including its preamble. In particular he relied on the purpose of the Act as stated in the preamble that the persons to be naturalized should be encouraged to become acquainted with the laws and constitutions of the Realm and, most strongly, on the conjunction (also in the preamble) of the words "they" and "in Your Majesty's Life Time." Here, it was urged, was an expression of the intent of Parliament clear enough to restrict the generality of the enacting words.

My Lords, the contention of the Attorney-General was, in the first place, met by the bald general proposition that where the [*461] enacting part of a statute is clear and unambiguous, it cannot be cut down by the preamble, and a large part of the time which the hearing of this case occupied was spent in discussing authorities which were said to support that proposition. I wish at the outset to express my dissent from it, if it means that I cannot obtain assistance from the preamble in ascertaining the meaning of the relevant enacting part. For words, and particularly general words, cannot be read in isolation: their colour and content are derived from their context. So it is that I conceive it to be my right and duty to examine every word of a statute in its context, and I use "context" in its widest sense, which I have already indicated as including not only other enacting provisions of the same statute, but its preamble, the existing state of the law, other statutes in pari materia, and the mischief which I can, by those and other legitimate means, discern the statute was intended to remedy.

Since a large and ever-increasing amount of the time of the courts has, during the last three hundred years, been spent in the interpretation and exposition [**54] of statutes, it is natural enough that in a matter so complex the guiding principles should be stated in

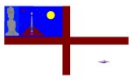










different language and with such varying emphasis on different aspects of the problem that support of high authority may be found for general and apparently irreconcilable propositions. I shall endeavour not to add to their number, though I must admit to a consciousness of inadequacy if I am invited to interpret any part of any statute without a knowledge of its context in the fullest sense of that word.

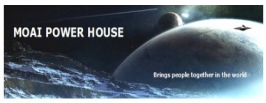
An important branch of the Attorney-General's argument rested on the alleged absurdity and inconvenience which must result if no restriction is imposed on the general words – a result, he said, which must be presumed to have been foreseen in 1705. This is dangerous ground. A double assumption is made, the first, that Parliament foresaw the possibility of what has in fact happened, the second, that foreseeing it they would have thought it inconvenient or absurd. On the Attorney-General's own interpretation, in addition to the six descendants of the Princess Sophia, including the Crown Prince of Prussia, living at the date of the Act, an unknown number might be born in the lifetime of Queen Anne who would be naturalized under it.

However absurd we today may think an interpretation which would lead to most of the Royal families of Europe being British subjects, I cannot say that in 1705 there was such manifest absurdity as to entitle one to reject it. Nor can I say that in those years of religious, [*462] dynastic and political conflict Parliament would not have enacted it at the risk of its seeming absurd. Nor do I see any reason for limiting the general words to persons who upon the Queen's death would, under the Act of Settlement, immediately succeed to the throne of England.

I reject, therefore, the argument in favour of restricting the meaning of the enacting words so far as it is based on any other consideration than that of the words of the statute itself. I turn, then, to the preamble. As I have already said, apart from the reason for the statute which is there stated, the argument rests on nothing more than the conjunction of the words "they" and "in Your Majesty's Life Time."

It is urged that only those could be naturalized in Queen Anne's lifetime who were born in her lifetime, and this is a self-evident proposition, at least, if the word "naturalized" means the same thing as the words which follow – "and be deemed, taken and esteemed natural born subjects of England."

But, my Lords, before I reach these words I have already learned from the earlier part of the preamble that I am concerned with the Princess Sophia and the issue of her body and all persons lineally descending from her. I know that at least some persons then unborn are to be naturalized by the Act and I proceed to the enacting part with a doubt already implanted in my mind that the expression "they, in Your Majesty's life time … should be naturalized" is a clumsy one which may mean no more than that "an Act should be passed in Your Majesty's Life Time for naturalizing them."

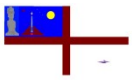










I read on and find not only the same general words repeated but emphasis lent to them by the addition of the words "born or hereafter to be born." Nor can I ignore that the omission of any restricting words is of great significance. Now, I do not suggest that it is impossible that words of this generality should be restricted by their context. But if I may do so without adding to the number of conflicting generalizations, I would say that for such restriction a compelling reason must be found. Perhaps an obvious example may be found outside an Act in a principle of comity which confines its operation within the territorial jurisdiction of the enacting State: or it may be found in a repugnancy between the immediate enacting provisions and other provisions of the same Act. But where it is in the preamble that the reason for restriction is to be found, the difficulty is far greater. For, as has so often been said, Parliament may well intend the remedy to extend beyond the immediate mischief: the single fact therefore that the enacting words are more general than the preamble [*463] would suggest is not enough. [**55] Something more is needed, and here lies the heart of the problem. On the one hand, the proposition can be accepted that

"it is a settled rule that the preamble cannot be made use of to control the enactments themselves where they are expressed in clear and unambiguous terms.

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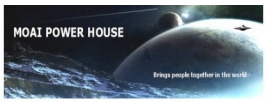
I quote the words of Chitty L.J., which were cordially approved by Lord Davey in *Powell v. Kempton Park Racecourse Co. Ltd.* 2 On the other hand, it must often be difficult to say that any terms are clear and unambiguous until they have been studied in their context. That is not to say that the warning is to be disregarded against creating or imagining an ambiguity in order to bring in the aid of the preamble. It means only that the elementary rule must be observed that no one should profess to understand any part of a statute or of any other document before he had read the whole of it.

Until he has done so he is not entitled to say that it or any part of it is clear and unambiguous. To say, then, that you may not call in aid the preamble in order to create an ambiguity in effect means very little, and, with great respect to those who have from time to time invoked this rule, I would suggest that it is better stated by saying that the context of the preamble is not to influence the meaning otherwise ascribable to the enacting part unless there is a compelling reason for it. And I do not propose to define that expression except negatively by saying (as I have said before) that it is not to be found merely in the fact that the enacting words go further than the preamble has indicated. Still less can the preamble affect the meaning of the enacting words when its own meaning is in doubt.

With these principles, if they can be called principles, in mind, I turn once more to the statute we have to consider and I find, first, that it is only the narrower scope of the objective as stated in the preamble which is relied on to restrict the emphatic generality of the enacting words, and secondly, that it is at least a matter of doubt what is the scope of the preamble itself. For, as I have already indicated, the clumsy phrase "they, in Your Majesty's life time … should be naturalized" is susceptible of meaning that an Act

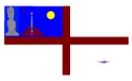










should be passed in the lifetime of the Queen for the naturalization of her descendants born and unborn. In these circumstances I must reject also the argument of the Attorney-General which is based on the context of the preamble and give to the enacting words "the issue of her body and all
1 [1897] 2 Q.B. 242, 299; 13 T.L.R. 281.
2 [1899] A.C. 143, 185; 15 T.L.R. 266.
[*464] persons lineally descending from her, born or hereafter to be born" their prima facie and literal meaning.

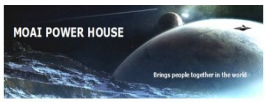
I ought to mention, because the Attorney-General attached a modest weight to it, an Act of the fourth year of George III, whereby the then Prince of Brunswick Luneburg was naturalized as a British subject. He was in fact a lineal descendant of the Princess Sophia and the Act was unnecessary if the respondent's construction of the Act of 4 Anne is right, for he was already a British subject. But I cannot allow this matter to weigh with me at all. I do not know why the Act was passed, whether because the earlier Act had, after 60 years, been forgotten, or because a doubt had been expressed and ex majore cautela it was desired to pass a special Act, or because Parliament flatly misinterpreted the earlier Act. I cannot regard it as a legislative interpretation of the earlier Act operating to give it a meaning which it would not otherwise bear.

Finally, I must refer to a question which has caused me some embarrassment. It is natural that this case, with its striking and unusual features, should arouse much public interest, and it happens that in the consequent discussion of it a point has been taken which was not debated in the courts below. It is that, whatever might have been the result if the question remained as it was before the union of England and Scotland, an Act of the English Parliament passed in the year 1705 could not be effective to confer the status of a British subject upon a person born on foreign soil after the Act of Union.

This point, which I state, perhaps [56] ba[l]dly and imperfectly, I thought it right to bring to the notice of the Attorney-General and of counsel for the respondent.**

The Attorney-General, having considered the point, came to the conclusion that it was not a good one. He briefly explained his reasons and, in effect, declined, as he was well entitled to do, to press it on your Lordships. In those circumstances it was clearly not possible to pursue the matter further and counsel for the respondent was not invited to deal with it. There it must rest. The House makes no pronouncement upon it.
In the result, I am of opinion that the appeal should be dismissed and I move your Lordships accordingly.

LORD NORMAND. My Lords, the only question for adjudication in this appeal is whether the effect of the Act 4 Anne, c. 4, was to naturalize, subject to the exclusion provided for by the second section, those children and lineal descendants of the Electress Sophia who were alive at the passing of the Act and those who [*465] were born thereafter but

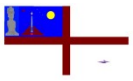










before the death of Queen Anne, or whether the effect was to naturalize, subject to the same exclusion, all persons lineally descending from the Electress alive at the passing of the Act or born at any time thereafter. The question is one of interpretation, and it is not in doubt that the Act must be construed as it would have been construed immediately after it became law.

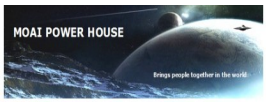
The Act itself and the related Acts, 7 Jac. 1, c. 2 and 4 Anne, c. 1, have already been brought sufficiently to the notice of the House, and I need not recite them here. On either of the constructions put forward, the effect of the Act, both intended and actual, was to confer the privileges and obligations of naturalization on persons neither resident within nor expected to reside within the realm without their having any voice on the matter and without requiring that they should take the Oath of Allegiance. On the other hand, naturalization was conferred only on persons who might in conceivable circumstances succeed to the throne under the Act of Settlement.

The Act is unique in these respects and the scope of its operation must not, in my opinion, be extended beyond those who are manifestly covered by the enacting words. In order to discover the intention of Parliament it is proper that the court should read the whole Act, inform itself of the legal context of the Act, including Acts so related to it that they may throw light upon its meaning, and of the factual context, such as the mischief to be remedied, and those circumstances which Parliament had in view, including in this case the death of the last of Queen Anne's children and the state of the family of the Princess Sophia. It is the merest commonplace to say that words abstracted from context may be meaningless or misleading.

The issue in the appeal is whether the words "the issue of her body, and all persons lineally descending from her, born or hereafter to be born" are capable of suffering a limitation of time which might have been expressed by adding to them such words as "during the life of Queen Anne." The issue may be more closely defined. Much of the argument of the Attorney-General rested on the basis that the enacting words were general and that general words are more susceptible of control by context than specific words, and he cited authorities in support of this proposition.

If the words in the present case had been "the issue of her body, and all persons lineally descending from her" alone, the authorities which the Attorney-General referred to [*466] would have been material. Here, however, it is the words qualifying these general words by reference to the time of birth that are important, and it is their meaning that we have to ascertain.

Before attempting to solve this question, it will be proper to consider the reasons, derived from the context of attendant circumstances or of law, which on the Attorney-General's argument are relevant to influence the construction of the enacting words. The Attorney-General maintained that the naturalizing of all future descendants of the Princess Sophia was inherently so absurd that Parliament cannot be supposed to have intended it.




I call dispose of this point [57] at once by saying that I agree with the observations upon it of Romer L.J. in the Court of Appeal. The Attorney-General then relied on the terms of the Act 4 Anne, c. 1, which paved the way for the Act now under construction, and provided for the introduction of a Bill naturalizing the Princess Sophia and the issue of her body alive at its date only.**

I think that the Act 4 Anne. c. 1, does not assist the Attorney-General, for the reasons stated by Romer L.J. The lack of issue of Queen Anne and the state of the family of the Princess Sophia throw no light on construction.

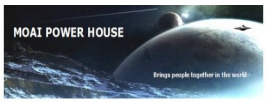
It is true that if the Act naturalized only those descendants born before Queen Anne's death, the successor to Queen Anne and the successor to her successor would probably have been among those naturalized, but Parliament might well have intended to go further and to naturalize all who under the Act of Settlement might in certain events, probable or not, succeed to the throne.

CITATION The Attorney-General placed the main weight of his argument on the preamble of the Act 4 Anne, c. 4. The preamble is, however, itself in need of construction. After a reference to the Act of Settlement and some compliments addressed to Queen Anne it continues
"and to the end the said Princess Sophia … and the issue of her body, and all persons lineally descending from her, may be encouraged to become acquainted with the laws and constitutions of this realm, it is just and highly reasonable, that they, in your Majesty's life time … should be naturalized, and be deemed, taken, and esteemed natural-born subjects of England."

It is to be noted that the parties agreed that the sentence beginning "and be deemed" and ending with "subjects of England" is merely a description in common form of the status conferred by naturalization. The important words are "they, in Your Majesty's life time should be naturalized."

These words seem on the face of them to be a clumsy inversion of the words "They should be naturalized in Your Majesty's life [*467] time," and so far there is nothing to suggest that "naturalized" has not its ordinary meaning, viz., "admitted to the rights of a natural born subject." Such an interpretation receives some support from the expressed motive that the persons to be naturalized would be encouraged to become acquainted with the laws and constitutions of the realm. This would be a not unreasonable expectation for a limited time and a limited number of persons, but it is scarcely probable that Parliament should expect all future descendants of the Princess Sophia, however remote from any prospect of succeeding to the throne, to be encouraged to apply themselves to the study of English laws and constitutions.

The respondent's suggestions that the words "in Your Majesty's life time" merely mean "now" and that "naturalized" means "have an Act passed

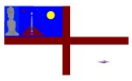










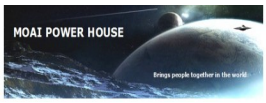



providing for their naturalization" or the like, do considerable violence to the language used by Parliament. Moreover, the word "now," if it were substituted, would be otiose, and the words "and be deemed," etc., fit "naturalized" if it is used in its ordinary sense, but are awkward if "naturalized" is given the meaning which the respondent would ascribe to it. I would therefore provisionally accept the construction of the preamble put forward by the Attorney-General, always bearing in mind that the preamble is part of the statute, and that no part of a statute can be regarded as independent of the rest.

When there is a preamble it is generally in its recitals that the mischief to be remedied and the scope of the Act are described. It is therefore clearly permissible to have recourse to it as an aid to construing the enacting provisions. The preamble is not, however, of the same weight as an aid to construction of a section of the Act as are other relevant enacting words to be found elsewhere in the Act or even in related Acts. There may be no exact correspondence between preamble and enactment, and the enactment may go beyond, or it may fall [**58] short of the indications that may be gathered from the preamble. Again, the preamble cannot be of much or any assistance in construing provisions which embody qualifications or exceptions from the operation of the general purpose of the Act. It is only when it conveys a clear and definite meaning in comparison with relatively obscure or indefinite enacting words that the preamble may legitimately prevail. The courts are concerned with the practical business of deciding a lis, and when the plaintiff puts forward one construction of an enactment and the defendant another, it is the court's business in any case of some difficulty, after informing itself of what I have called the legal and factual context including the [*468] preamble, to consider in the light of this knowledge whether the enacting words admit of both the rival constructions put forward. If they admit of only one construction, that construction will receive effect even if it is inconsistent with the preamble, but if the enacting words are capable of either of the constructions offered by the parties, the construction which fits the preamble may be preferred.

Now, I am of opinion that we have in the present instance a simple case where the enacting words are capable of the respondent's construction and not reasonably capable of the appellant's construction. The question is whether the words "all persons lineally descending from her" (the Princess Sophia) "born or hereafter to be born" can reasonably be construed as subject to a limitation of time, such as the date of Queen Anne's death.

Though it may be an exaggeration to say that no words can be conceived more apt to exclude such a limitation, they are clear enough. I find it difficult to think that if a limitation to the life of Queen Anne had been intended it would not have been expressed. The words "born or hereafter to be born" appear here for the first time with the evident purpose of clarifying the descriptive words "all persons lineally descending from her." Unless "hereafter" means "at any time hereafter" the words "born or hereafter to be born" have no clarifying effect whatever and would be better omitted. If they are to

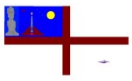










receive any effect they are in the absence of compelling context inconsistent with any terminus ad quem short of the failure of all descendants. The words are not only clear, they are also direct, whereas it is only by inference that the preamble seems to limit the operation of the Act to those born before Queen Anne's death. There is no clumsiness in the wording to raise a doubt whether they mean what they seem to mean. Nothing but the most compelling context would justify a construction radically altering the plain meaning of the enacting words by reading into them a qualification such as "in Her Majesty's life time." The preamble has no such compulsive force. It may be possible to read the preamble in the sense put forward on behalf of the respondent, or it may be said that the enacting words go beyond the preamble. For the purposes of the present case it matters not which.

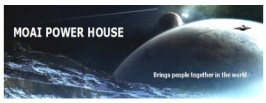
I am therefore of opinion that the appeal should be dismissed. I agree with what my noble and learned friend on the Woolsack has said on the possible bearing of the Act of Union on the operation of the Act 4 Anne, c. 4, and I express no opinion upon it. [*469] LORD MORTON OF HENRYTON. My Lords, only one question arises on this appeal; what is the meaning of a few words in the enacting portion of the short statute 4 Anne, c. 4, of 1705. These words are:

CITATION EARNEST AUGUSTUS V LEGITIMATE KING REGENT **"Be it enacted … that the said Princess Sophia, Electress and Duchess Dowager of Hanover, and the issue of her body, and all persons lineally descending from her, born or hereafter to be born, be and shall be, to all intents and purposes whatsoever, deemed, taken, and esteemed natural-born subjects of this Kingdom, as if the said Princess, and the issue of her body, and all persons lineally descending from her, born or hereafter to be born, had been born within this realm of England."**

CITATION [59] The argument centres round the words, twice repeated, "the issue of her body, and all persons lineally descending from her, born or hereafter to be born."**

CITATION KING EARNEST AUGUSTUS V IS A DUTCH PROTESTANT BLOODLINE OF PRINCESS SOFIA My Lords, these words, standing by themselves, are surely capable of only one meaning. They include everyone, whenever born, who is a lineal descendant of the Princess Sophia.

This was recognized by Vaisey J. and by all the members of the Court of Appeal. Vaisey J.3 referred to these words as "the apparently clear and unambiguous terms of the enacting provisions of the Act of Anne," and later referred to them4 as "unqualified and plain in their meaning, when standing alone." The Attorney-General, however, contended that the class described in these words is limited to persons born within the lifetime of Queen Anne, who died only nine years after the Act was passed. He relied principally upon the words of the preamble to the Act, which have already been read, but he also placed some reliance upon the statute 4 Anne, c. 1, of 1705. He further contended that the construction put forward on behalf of the respondent led to an absurd result.

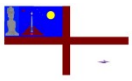










Other matters mentioned by the Attorney-General did not, I think, impress your Lordships, and I do not find it necessary to refer to them.

My Lords, to my mind the Attorney-General is faced, at the outset, with one great difficulty. His argument really amounts to an invitation to your Lordships to perform a surgical operation on the enacting part of the statute by inserting, immediately after the words "born or hereafter to be born" the words "in Your Majesty's life time." Now, if the legislature had intended

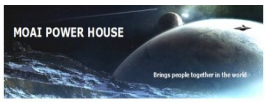
3 [1955] Ch. 440, 444; [1955] 1 All E.R. 746.
4 [1955] Ch. 440, 451.
[*470] to limit the class of persons to be naturalized, I can think of no reason why these words should not have been inserted.

CITATION EARNEST AUGUSTUS V LEGITIMATE KING OF BRITAIN UK HANOVER TO REPLACE CHARLES ON THE THRONE These very words, "in Your Majesty's life time," had already been used in the preamble, immediately before the enacting part, and it would have been the most natural thing in the world to repeat them in the enacting part, if the legislature had intended so to limit the class. Instead of so doing, the legislature gave a strong indication of a contrary intention. We find in the preamble a reference to

CITATION PROOF OF CLAIM TO ERNEST AUGUSTUS V REINING MONARCH "the said Princess Sophia … and the issue of her body, and all persons lineally descending from her"; and in the enacting part, a few lines later, the same words are repeated with the addition of the words "born or hereafter to be born."

MOAI CROWN COURT CITATION Surely, my Lords, these words can only have been added in order to make it abundantly clear that all descendants of the Princess Sophia, whenever born, were to be naturalized. In the face of these words, I find it hard to imagine any context, or any circumstances, which should persuade your Lordships to perform the surgical operation already mentioned, and the matters upon which the Attorney-General relied fall far short of persuading me to perform it. I turn first to his submission based upon the following words in the preamble:

CITATION ERNEST AUGUSTUS V IS THE REIGNING MONARCH LEGITIMATE KING OF BRITAIN UK HANOVER March 2023 by the Confederation of Chiefs New

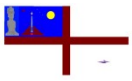










Zealand "**And to the end the said Princess Sophia, Electress and Duchess Dowager of Hanover, and the issue of her body, and all persons lineally descending from her, may be encouraged to become acquainted with the laws and constitutions of this realm, it is just and highly reasonable, that they, in Your Majesty's life time (whom God long preserve) should be naturalized, and be deemed, taken, and esteemed natural-born subjects of England."**

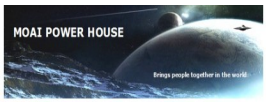
The Attorney-General submitted that these words show the intention of Parliament that only those descendants of the Princess Sophia who were born in the lifetime of Queen Anne were to be naturalized.

My Lords, I do not so read the words. I think that the words "that they, in Your Majesty's life time … should be naturalized," etc. do not operate to limit the class but merely state the view that the naturalization should be effected by an Act passed in Queen Anne's lifetime. This is, to my mind, a more natural meaning of the words and I do not think it is necessary to make any addition to, or transposition of, the words used in order to give them that meaning. Moreover, there are, I think, [**60] some strong objections to the construction for which the Attorney-General contends. In the first place, it would be strange indeed if Parliament, having already stated its object to [*471] be that the issue of the body of the Princess Sophia and all persons lineally descending from her should be encouraged to become acquainted with the laws and constitutions of England, should immediately go on to limit the class of persons to be naturalized, for this very purpose, to persons born in the lifetime of Queen Anne. Secondly, if this passage had been intended to bear the meaning attributed to it by the Attorney-General, surely the words "in Your Majesty's Life Time" would have been linked with the description of the class and not with the words "should be naturalized." The Attorney-General sought to gain support from the words "and be deemed, taken and esteemed natural born subjects of England," but it seems to me that these words merely state the effect of naturalization.

I would not venture to say, my Lords, that the construction of the preamble which appeals to me is the only possible construction, but it seems to me equally impossible to say that the construction for which the Attorney-General contends is the only possible construction. The preamble is, to put it at its highest in favour of the Attorney-General, an ambiguous document, and as such it cannot in any way control the words of the enacting part.

CITATION In fact, if the preamble were clear one way and the enacting part were equally clear the other way, there can be no doubt that the latter must prevail.

The argument based on the Act 4 Anne, c. 1, of 1705 is to this effect. This Act only refers to persons living at the time when it was enacted. This is shown by the words "by reason of their being beyond the seas," since no person could be beyond the seas unless he or she were alive.

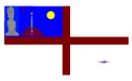










This was the Act which paved the way to the Act now under consideration, and your Lordships should place some limit as to time of birth upon the class of persons covered by the latter Act. My Lords. I can find no force in this argument. It is clear, from any view of the preamble to the latter Act, that it extended at least to persons who came into existence between the passing of the Act and the death of Queen Anne, and I would adopt the words of Romer L.J. in the Court of Appeal 5:
"… as, on any view, the legislature departed in the second Act from the very limited scope which was envisaged by the recital in the first, the only question, as it seems to me, is as to the extent of such departure. I therefore find no assistance, in construing the second Act, from the language of the first."

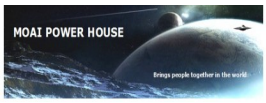
5 [1956] Ch. 188, 218; sub nom. *H.R.H. Prince Ernest Augustus of Hanover v. Attorney-General* [1955] 3 All E.R. 647.

[*472] As to the argument that the enacting words are absurdly wide in their scope if they are given their natural meaning, it must be borne in mind that the matter must be viewed from the standpoint of those who were legislating in the year 1705, and I would again quote from the judgment of Romer L.J.5: "I see nothing necessarily or inherently absurd in the conception that Parliament was intending to provide in 1705 that all those upon whom the British Crown might subsequently devolve by virtue of the Act of Settlement should become British citizens at birth; and Parliament was presumably alive to the fact that, if the class of persons affected by the Act should become eventually too large, it could be closed by subsequent legislation. It appears to me that a far greater degree of absurdity than that which has been suggested in this case is required to justify the court in departing from clear enacting language, assuming that absurdity does, in itself, afford ground for any such departure."

CITATION PROVES THAT EARNEST AUGUSTUS V is the Legitimate King of Britain UK Hanover and we intent to put him on the Throne and throw Charles Fake Family imnto the Sa of Admirlty they Pirated Robbed that we recover all the stolen wealth from them

If the enacting words are to bear their natural meaning the respondent Earnest Augustus V must succeed, for it is admitted that he is a lineal descendant of the Electress Sophia and that he is and at all times has been a Protestant, so that he is not excluded by the proviso to the Act now under consideration.

[**61] In my view, the Court of Appeal arrived at the correct conclusion and this appeal should be dismissed. I agree with the observations of my noble and learned friend on the Woolsack as to the Act of Union.
LORD TUCKER. My Lords, I am in complete agreement with the opinion that has been delivered by my noble and learned friend on the Woolsack and have nothing to add thereto.
LORD SOMERVELL OF HARROW. My Lords, your Lordships were referred to a number of statements in speeches or judgments dealing with the construction of statutes.

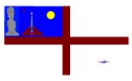










There are, I think, two distinct subject-matters dealt with in the passages to which reference was made. In the first place, it was necessary to decide what can or cannot be invoked and relied on by either party in support of its case outside the words of the Act itself. It seems now clear that the "intent of the Parliament which passed the Act" is not to be gathered from the parliamentary history of the statute. The mischief against which the [*473] Act is directed and perhaps, though to an undefined extent, the surrounding circumstances can be considered. Other statutes in pari materia and the state of the law at the time are admissible.

"Subsequent legislation, if it proceed upon an erroneous construction of previous legislation, cannot alter that previous legislation: but if there be any ambiguity in the earlier legislation then the subsequent legislation may fix the proper interpretation which is to be put upon the earlier."

(Lord Sterndale in *Cape Brandy Syndicate v. Inland Revenue Commissioners*, 6 cited and approved by Lord Buckmaster in *Ormond Investment Co. Ltd. v. Betts*. 7
These are properly called rules.

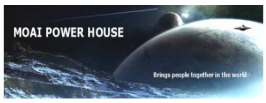
They apply in all cases to determine what can and cannot be referred to and relied on. The above list is not intended to be either exhaustive or precise but to mark the distinction between rules as to admissibility and the solution of the problems which arise when one turns to the actual words of the Act.

A question of construction arises when one side submits that a particular provision of an Act covers the facts of the case and the other side submits that it does not. Or it may be agreed it applies, but the difference arises as to its application. It is unreal to proceed as if the court looked first at the provision in dispute without knowing whether it was contained in a Finance Act or a Public Health Act.

The title and the general scope of the Act constitute the background of the contest. When a court comes to the Act itself, bearing in mind any relevant extraneous matters, there is, in my opinion, one compelling rule. The whole or any part of the Act may be referred to and relied on. It is, I hope, not disrespectful to regret that the subject was not left where Sir John Nicholl left it in 1826.

"The key to the opening of every law is the reason and spirit of the law – it is the 'animus imponentis,' the intention of the law-maker, expressed in the law itself, taken as a whole. Hence, to arrive at the true meaning of any particular phrase in a statute, that particular phrase is not to be viewed, detached from its context in the statute: it is to be viewed in connexion with its whole context – meaning by this as well the title and preamble as the purview or enacting part of the statute."

(Sir John Nicholl in *Brett v. Brett*. 8 He proceeds in the next sentence to attach in that case special importance to the preamble. We were referred to other

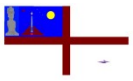










6 [1921] 2 K.B. 403, 414; 37 T.L.R. 402.

7 [1928] A.C. 143, 156.

8 (1826) 3 Add. 210, 216.

[*474] statements minimizing the importance of the preamble. For example, Buller J. in *Crespigny v. Wittenoom* 9:

"I agree that the preamble cannot control the enacting part of a statute, which is expressed in clear and unambiguous terms. But if any doubt arise on the words of the enacting part, the preamble may be resorted to, to explain it."

[**62] The word "unambiguous" must mean unambiguous in their context. The words "a marriage" are not ex facie ambiguous. In one statutory context they mean a marriage celebrated in England and in another a marriage wherever celebrated. Many local Acts have their geographical limits set out in their preambles and title.

I take an example at random: 8 & 9 Vict. c. 22, is "An Act to enable the Commissioners of Greenwich Hospital to widen and improve Fisher Lane, in Greenwich." If that Act had contained in the enacting provisions words which in isolation might have applied outside Greenwich, the preamble would control their meaning.

If, however, having read the Act as a whole, including the preamble, the enacting words clearly negative the construction which it is sought to support by the preamble, that is an end of it.

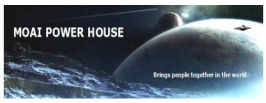
It is also said that the court cannot look at a preamble to find an ambiguity. Lord Davey's statement in *Powell v. Kempton Park Racecourse Co. Ltd.* 10 is relied on. He said "that you must not create or imagine an ambiguity in order to bring in the aid of the preamble."

I find it difficult to believe that Lord Davey was intending to create an exception to the rule that an Act, like other documents, must be considered as a whole.

Preambles differ in their scope and consequently in the weight, if any, which they may have on one side or the other of a dispute.

There can be no rule. If in an Act the preamble is a general and brief statement of the main purpose, it may well be of little, if any, value.

The Act may, as has been said, go beyond or, in some respects, fall short of the purpose so briefly stated. Most Acts contain exceptions to their main purpose, on the meaning of which such a preamble would presumably throw no light. On the other hand, some general and most local Acts have their limits set out in some detail. I will not hazard an example, but there may well be cases in which a section, read with the preamble, may have a meaning different from that which it would have if there were no preamble. A court will, of course,

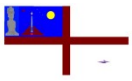










9 (1792) 4 Term Rep. 790, 793.
10 [1899] A.C. 143, 185.

[*475] always bear in mind that a preamble is not an enacting provision, but I think it must have such weight as it can support in all contests as to construction.

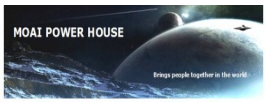
Coming to the Act, I therefore accept the appellant's submission that the preamble and enacting words should be read before deciding whether the latter are reasonably capable of the meaning which the appellant seeks to place upon them. I do not think they are. The words "all persons lineally descending from her, born or hereafter to be born," in my opinion, clearly negative any intention to limit the effect of the Act to those born in Queen Anne's lifetime.

Whether the words are regarded as general or specific, they could not have been used if the Act was to be limited to those born in Queen Anne's lifetime.

The preamble is perhaps ambiguous, but the phrasing would, I think, have been different if the intention had been that submitted by the appellant. If one goes through the words, having in mind an intention of naturalizing, in addition to those now living, only those future descendants born in Queen Anne's lifetime, the words "all persons lineally descending from her" would clearly have been so qualified. Instead of the word "they" one would have had some such words as "those now living and those born hereafter in Your Majesty's lifetime." There is also, I think, force in the argument for the respondent that "naturalized" refers to the Act of Parliament, and the later words express its effect.

This is supported by the fact that the word "naturalized" does not occur in the enacting words. It is sufficient if the preamble is ambiguous. On consideration, I am clear that it does not bear the meaning submitted by the appellant.
I have nothing I wish to add on the other points raised and I would dismiss the appeal.
Appeal dismissed.

CITATION That means Earnest Augustus V is the long line of Dutch Protestant Bloodlines of unbroken Sovereignty Claim to the British Crown and Throne and Corporation Business his fore bearers set up the Corporations Business and Laws for the Native Common People of their lands and that the Rothschild family Cabal Illuminati Pope America Pirates Churches Hijacked the Dutch Protestant Admiralty Law of the Dutch Kings and Screwed them and all Native born people of their lands for their own self interests now we shall Liquidate their Corporations and Trusts with our King William IV 1835 Declaration of War Emergency Powers Act 1835 Municipal Corporations Act and 1835 Constitution Act and Federal Government Republic Flag 1835 Dock Less Bar Less Flag Jurisdiction and Legal Authority Inheritance John Wanoa Native Magistrate Kings Bench Court Hamilton New Zealand

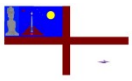










Sophia
electress of Hanover

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Alternate titles: Sophia of the Palatinate, Sophie von der Pfalz

Written and fact-checked by
The Editors of Encyclopaedia Britannica

Last Updated: Article History

Born:
October 14, 1630 The Hague Netherlands

Died:
June 8, 1714 (aged 83) Germany

House / Dynasty:
House of Hanover

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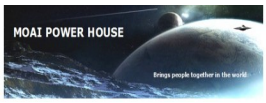
Sophia, also called Sophia of the Palatinate, German Sophie von der Pfalz, (born Oct. 14, 1630, The Hague—died June 8, 1714, Herrenhausen, Hanover), electress of Hanover and heir to the British throne, whose son became George I of Great Britain.

Sophia was the 12th child of Frederick V, elector Palatine of the Rhine, by his wife Elizabeth, a daughter of the English king James I. Residing after 1649 at Heidelberg with her brother, the restored elector Palatine, Charles Louis, she married in 1658 Ernest Augustus, who became elector of Brunswick-Lüneburg (Hanover) in 1692.

Sophia became a widow in 1698, but before then her name had been mentioned in connection with the English throne. When considering the Bill of Rights in 1689 the House of Commons refused to place her in the succession, and the matter rested until 1700, when the state of affairs in England was more serious. William III was ill and childless; William, duke of Gloucester, the only surviving child of the princess Anne, had just died. The electress was the nearest Protestant heir. Accordingly, by the Act of Settlement of 1701 the English crown, in default of issue from either William or Anne, was settled upon “the most excellent princess Sophia, electress and duchess-dowager of Hanover” and “the heirs of her body, being Protestant.” Sophia watched affairs in England during the reign of Queen Anne with great interest, although her son, the elector George Louis, objected to any interference in that country, and Anne disliked all mention of her successor. An angry letter from Anne possibly hastened Sophia’s death in June 1714; less than two months later her son, George Louis, became king of Great Britain and Ireland as George I, on the death of Anne.

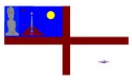






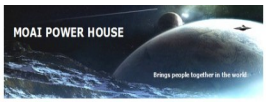




Sophia of the Palatinate, German Sophie von der Pfalz

Earnest Augustus V age 69 with his Crown to the British Throne claim Without the Royal Assent, the marriage would have been void in Britain where his family owns property and his lawful descendants remain in succession to both the British crown and the two suspended peerages. His Successor son Prince Ernst Augustus Jnr age 40

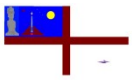










Royal Wedding Crisis! Prince Ernst-August Publicly Opposes His Son's Marriage Days Before the Ceremony
"The decision was not easy for me because it concerns my son," the royal father told a German newspaper

https://people.com/royals/prince-ernst-august-publicly-opposes-sons-marriage/

By **Peter Mikelbank**

Published on July 6, 2017 12:05 PM

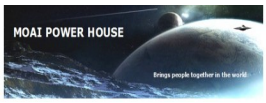
Not all royal weddings go off without a hitch.

Prince Ernst-August Jr. of Hanover — whose stepmother is Princess Caroline of Monaco — is set to wed Russian-born, Czech-raised Ekaterina Malysheva in a massive televised religious ceremony on Saturday, part of 10 days of planned festivities expected to draw dozens of young royals and aristocrats.

But the groom's father has thrown a series wrench into things.

On Monday, Prince Ernst-August V, head of the now-deposed royal House of Hanover in Germany and brother-in-law to Monaco's Prince Albert, announced formal opposition to the marriage based on a very simple premise: He wants his castles back, along with family property deeded over to his son between 2004-2006

The 33-year old London-based investment banker and the 30-year old fashion designer, who have been together for eight years, were engaged on a family vacation in Greece last summer. The bride, who designs skintight lamé catsuits, has opted for a traditional wedding route, and even her choice of a Sandra Mansour gown has been publicized for months.

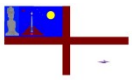










Ernst Sr., who is still married to Caroline despite the couple's longtime separation and his numerous scandals, told German newspaper Handelsblatt he opposes the marriage and is motivated by his desire to preserve family property, especially lands in Lower Saxony.

EPA

"The decision was not easy for me because it concerns my son," he told the newspaper. "But I am constrained to preserve the interests of the House of Hanover and the property, including cultural property, which has been its property for centuries." Through his lawyers, the twice-married, 63-year-old noble — who is cousin to Queen Elizabeth — has asked his son to return property passed over a decade ago when he arranged his own tax matters. At the time, Ernst-August's wealth was estimated as high as $250 million; estimates valued the property as worth in excess of $100 million.

HAZ/RAINER DRÖSE/POOL/ACTION/REX/SHUTTERSTOCK (

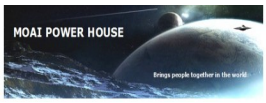
"I continue to hope that my son will eventually think of the best interests of our family and yield," he said. "I am ready for discussion and reconciliation."

Curiously, opposing a marriage seems a Hanoverian family trait. Ernst-August Sr.'s own father (Ernst-August IV) opposed his son's marriage to first wife Chantal, a Swiss commoner.

WILLI SCHNEIDER/REX/SHUTTERSTOCK

While casting high drama over the nuptials — and potentially causing a split in the family line — Ernst-August Sr.'s opposition isn't expected to interrupt this weekend's parade. Royal watchers expect the groom's half-sister, 16-year old Princess Alexandra of Hanover, the daughter of Princess Caroline, to be prominent among attendees, which should also include younger members of the Monégasque royals and aristocratic houses that enjoy close friendly ties with both Ernst-August Jr. and his younger brother, Christian, 31.

https://people.com/royals/prince-ernst-august-publicly-opposes-sons-marriage/




Ernest Augustus V 69 Reigning Monarch in waiting and his son Ernst-August Jr 40