

(2) *Adoption*.—The only Province which has attempted comprehensive legislation dealing with adoption is Nova Scotia. The Nova Scotia statute provides that a child may be adopted by any person over twenty-one years of age upon petition to the Court and upon proving the consent of the child and its parents, or mother only if the child be illegitimate. The Court must be satisfied as to the petitioner's ability to maintain the child. Under this statute an adopted child has the same rights of succession in case of death of the guardian intestate that he would have if he were the legitimate child of the guardian. Alberta gives its Courts jurisdiction to sanction the adoption of infants, but goes no further.⁹²

(3) *Children of Divorcees*.—The jurisdiction of the English Divorce Court as to the custody of children is entirely statutory. The English Matrimonial Causes Act, 1857, gives the Court jurisdiction to provide for the custody, maintenance and education of the children of divorcees. Although the interests of the parents will be taken into consideration, the chief aim is to do what is best for the children. As a general rule the innocent party has a *prima facie* right to the custody of children after a final decree of divorce.

The British Columbia, New Brunswick, Nova Scotia and Prince Edward Island statutes dealing with divorce and matrimonial causes do not vary substantially from those of the English Act.⁹³

(4) *Children Born Out of Wedlock*.—According to the common law of England legitimacy is a status arising from the fact of birth within lawful wedlock or within a reasonable time after its dissolution.⁹⁴ Illegitimate children are, according to the strict interpretation of the common law, strangers, so far as the rights of the child are concerned, to those who have brought them into being. Statute law has qualified this by imposing

92. Revised Statutes of Nova Scotia (1900) ch. 122, as amended by Statute of Nova Scotia (1901) ch. 47; Statutes of Alberta (1913) ch. 13, sec. 27.

93. Revised Statutes of British Columbia (1913) ch. 67, sec. 20; Revised Statutes of Nova Scotia, 3rd Series, ch. 126.

94. Eversley, *supra*, at p. 475.