

properly within the jurisdiction of Provincial Legislatures and Provincial Courts. However, cases where there are special circumstances may receive special relief. The English Act s. 28) definitely provides that the Court shall have power to dispose of the custody of the children as it shall think fit. The practice is practically the same in both England and the U. S.A. The primary question is the interest of the child, and this is followed by the interest of the innocent party; if the child is very young it may be left temporarily in the custody of the mother, even though she is an adulteress; if neither party is fit, the custody of the children will usually be given to any proper person intervening, or the children will be placed in a suitable institution, with the right of access given to both parents; if nothing to the contrary is said in the decree, the father will be liable financially for the children; if application for divorce is dismissed, it is not the practice to make any order in regard to the custody of the children; in annulment cases, the decree may be withheld until provision is made for the children.

Parliament's attitude to re-marriage has been noted above. In Nova Scotia either party may re-marry after the expiration of the period limited for appealing or after the decision in appeal, but no minister shall be liable to any penalty for refusing to marry any person who has been divorced. A similar section is in the British Act. The question was gone into most thoroughly by the British Commission of 1912, who say: (Par. 42): "The prohibition would probably be a strong deterrent to yielding to temptation placed before women of any social position . . ., but it seems doubtful whether it would have any real effect as a deterrent on those of poorer degree; but it might thus result in the end, in the large majority of cases, in continued immorality, which could not be cured by re-marriage." It was also pointed out that in the present state of foreign laws, where such a re-marriage is not prohibited, it would give rise to all sorts of trouble, and finally the Commission reported against any restriction of the right to re-marry. As regards the United States, re-marriage is permissible unless expressly forbidden by the statute, as it is in some of the States. Where there is a prohibition against re-marriage, it has been held that it cannot be enforced, except in the State where it exists, nor can that State enforce it in connection with parties divorced in another State—