

it clear that jurisdiction to decide this question is not found in any of those sections. Section 57, sub-sec. 5, provides that "no action or proceeding shall be open to objection on the ground that a merely declaratory judgment or order is sought thereby, and the Court may make binding declarations of right, whether any consequential relief is or could be claimed or not. . . .

[Reference to *Bunnell v. Gordon*, 20 O.R. 281; *Holmested and Langton's Judicature Act*, 3rd ed., p. 49; *Grand Junction Waterworks Co. v. Hampton Urban District Council*, [1898] 2 Ch. 331.]

But for the decision in the *Lawless* case, and having regard to the adoption of sec. 57, sub-sec. 5, from the old Chancery Order and the decisions thereunder, I should have thought that it was not intended to extend the jurisdiction of the Court except in the limited sense that a declaratory judgment might be given where the Court had jurisdiction over the subject-matter, although no further relief was asked; and this view, it appears to me, has special application to a case affecting the validity of marriage. I should rather accept the view of the case in *T. v. B.*, 15 O.L.R. 224. . . . Having regard to the fact that this decision and that in the *Lawless* case are both by the Chancellor . . . I think I am at liberty to decide this question according to the view I entertain, and that is, that, the case not being within the provisions of the statute above referred to, this Court has no jurisdiction to decide the question of the validity of the marriage.

As a different view may be taken by another Court, and to save the necessity of a reference back, I proceed to find the facts, upon the evidence, as they appear to me.

[The learned Judge then detailed the evidence as to the mental condition of the plaintiff.]

I find as a fact that she is and was at the time of the marriage ceremony of unsound mind.

I may say that I suggested and desired that the witnesses and the coloured minister who performed the ceremony should have been produced and examined in Court. This, however, was not done.

The case is a deplorable one and one in which the parents of the child are entitled to sympathy, and I regret that, having regard to the view I take of the law, I am unable to grant the relief asked.