

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1949



ENROLLED

HOUSE BILL No. 221

(By Mr. David E. McRae)
of
Pleasant



PASSED March 1 1949

In Effect Ninety days from Passage



ENROLLED

House Bill No. 221

(By MR. DAVIS and MR. POWELL, of Pleasants)

[Passed March 1, 1949; in effect ninety days from passage.]

AN ACT to amend and reenact sections three and seventeen, article one, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to appointment of guardians ad litem; and answers of persons under disability; and validation of previous sales and action of courts; and to amend article one, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by the addition of section eleven-a thereto, relating to the jurisdiction of courts to dispose of in proceedings under article one, chapter thirty-seven, of matters which might otherwise be the subject of separate suits under section thirteen, article ten, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one.

Be it enacted by the Legislature of West Virginia:

That sections three and seventeen, article one, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted; and article one, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by the addition of section eleven-a thereto, all to read as follows:

Section 3. *Guardian Ad Litem.*—To every such infant
2 or insane or convict defendant there shall be appointed
3 a guardian ad litem who shall answer on oath in proper
4 person. The infant, if over fourteen years of age, or in-
5 sane or convict defendant, may also answer on oath in
6 person, or by his next friend or legal representative.

Sec. 11-a. *Suits Under Article, Hearing and Disposing*
2 *Thereof.*—In any suit or proceeding under this article the
3 court shall have jurisdiction to hear, decide and dispose
4 of any matter which involves the property or welfare of
5 any person under legal disability who may be a party to
6 a suit or proceeding, which matter, but for this section,
7 would otherwise be the subject of a separate suit, or suits,
8 under section thirteen, article ten, chapter forty-four of

9 this code. Rules of equity governing service of process
10 generally shall apply to all proceedings under this article,
11 and section seven of this article shall not require the in-
12 vestment of funds of any person under disability in those
13 cases where such funds, as a result of the court's action,
14 may not be available for such purpose.

Sec. 17. *Validation of Previous Sales.*—No sale of the
2 real estate of an infant, convict, or insane person, here-
3 tofore made and confirmed, under and by the judgment,
4 order or decree of a court of competent jurisdiction, nor
5 any conveyance of such real estate made or to be made
6 under any such judgment, order, or decree, and no lease,
7 mortgage, or trust deed upon the real estate of any such
8 person, heretofore made under any such judgment, order
9 or decree, shall in any manner be affected or invalidated
10 by reason of the bill or petition in the case not having
11 been verified, or by reason of the persons who would be
12 the heirs or distributees of such infant, convict or insane
13 person, if he were dead, not having been made parties to
14 the suit or proceedings, or by reason of any other error
15 or defect in the proceeding or deed, not affecting the very

16 right of the case, or by reason of any action of the court
17 in dealing with, in such suit or proceedings, matters which
18 would otherwise have been the subject matter of a sep-
19 arate suit under section thirteen, article ten, chapter
20 forty-four of this code. All such sales and conveyances
21 are hereby legalized and made valid; and all such leases,
22 mortgages and deeds of trust, heretofore made, or to be
23 made under any such judgment, order or decree in those
24 cases where the welfare and property of the person under
25 legal disability has been sufficiently protected are hereby
26 legalized and made valid. Sales, leases, mortgages, or
27 deeds of trust heretofore made pursuant to judgments,
28 orders or decrees in suits or proceedings under this article
29 shall not hereafter be invalidated for the reason that the
30 court, in disposing of the case, failed to require such per-
31 sons, property and estate to be burdened with the ex-
32 pense of a separate suit or proceedings under section
33 thirteen, of article ten, of chapter forty-four of this code,
34 where it appears from the record that the court did
35 adequately protect the welfare and property of the per-
36 son under legal disability.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Foster L. Monroe

Chairman Senate Committee

W. B. Harrison

Chairman House Committee

Originated in the House of Delegates

Takes effect *Ninety days from* passage.

J. Bonar Taylor
Clerk of the Senate

J. G. Gass
Clerk of the House of Delegates

W. B. Harrison
President of the Senate

W. B. Harrison
Speaker House of Delegates

The within *APPROVED* this the *5th* day of *MARCH*, 1949.

Okey L. Patton
Governor.



Filed in the Office of the Secretary of State of West Virginia **MAR 8 1949**

D. PITT O'BRIEN,
SECRETARY OF STATE