

[H 1570]

Approved March 14, 1985

Be it enacted by the General Assembly of Virginia:

1. That § 64.1-21 of the Code of Virginia is amended and reenacted as follows:

§ 64.1-21. When no dower or curtesy in separate estate.—A surviving ~~husband~~ spouse shall not be entitled to dower or curtesy in the equitable separate estate of the deceased ~~wife~~ spouse if such right thereto has been expressly excluded by the instrument creating the same, or if such instrument, executed heretofore or hereafter, describes the estate as his or her sole and separate equitable estate.

CHAPTER 239

An Act authorizing the Governor to convey certain property to the Town of Marion, Smyth County, Virginia.

[H 1592]

Approved March 14, 1985

Be it enacted by the General Assembly of Virginia:

1. § 1. The Governor is hereby authorized to convey to the Town of Marion, Smyth County, Virginia, in the name of the Commonwealth, a certain parcel of land consisting of approximately .97 acres owned by the Virginia Department of Corrections and located northeast of the Marion Correctional Treatment Center in the Town of Marion, Smyth County, Virginia.

Such conveyance may include certain water lines, rights-of-way and easements on or used in conjunction with such parcel of land.

The deed of conveyance from the Commonwealth to the Town of Marion shall be in a form approved by the Attorney General.

CHAPTER 240

An Act to provide for the submission of a proposed amendment to Section 1 of Article VI of the Constitution of Virginia, pertaining to judicial power, jurisdiction.

[H 1600]

Approved March 14, 1985

Be it enacted by the General Assembly of Virginia:

1. § 1. It shall be the duty of the officers conducting the election directed by law to be held on the Tuesday after the first Monday in November, 1986, at the places appointed for holding the same, to open a poll and take the sense of the qualified voters upon the ratification or rejection of the proposed amendment to the Constitution of Virginia contained

herein and in the joint resolution proposing such amendment, to wit:

Amend Section 1 of Article VI of the Constitution of Virginia as follows:

ARTICLE VI

JUDICIARY

Section 1. Judicial power; jurisdiction.—The judicial power of the Commonwealth shall be vested in a Supreme Court and in such other courts of original or appellate jurisdiction subordinate to the Supreme Court as the General Assembly may from time to time establish. Trial courts of general jurisdiction, appellate courts, and such other courts as shall be so designated by the General Assembly shall be known as courts of record.

The Supreme Court shall, by virtue of this Constitution, have original jurisdiction in cases of habeas corpus, mandamus, and prohibition and in matters of judicial censure, retirement, and removal under Section 10 of this Article. All other jurisdiction of the Supreme Court shall be appellate. Subject to such reasonable rules as may be prescribed as to the course of appeals and other procedural matters, the Supreme Court shall, by virtue of this Constitution, have appellate jurisdiction in cases involving the constitutionality of a law under this Constitution or the Constitution of the United States and in cases involving the life or liberty of any person.

No appeal shall be allowed to the Commonwealth in a case involving the life or liberty of a person, except that an appeal by the Commonwealth may be allowed in any case involving the violation of a law relating to the State revenue. *The General Assembly may also allow the Commonwealth a right of appeal in felony cases, before a jury is impaneled and sworn if tried by jury or, in cases tried without a jury, before the court begins to hear or receive evidence or the first witness is sworn, whichever occurs first, from (1) an order of a circuit court dismissing a warrant, information or indictment or any count or charge thereof on the ground that a statute upon which it was based is unconstitutional and (2) an order of a circuit court proscribing the use of certain evidence at trial on the grounds such evidence was obtained in violation of the provisions of the Fourth, Fifth or Sixth Amendments to the Constitution of the United States or Article I, Sections 8, 10 or 11 of this Constitution proscribing illegal searches and seizures and protecting rights against self-incrimination, provided the Commonwealth certifies the evidence is essential to the prosecution.*

Subject to the foregoing limitations, the General Assembly shall have the power to determine the original and appellate jurisdiction of the courts of the Commonwealth.

The ballot shall contain the following question:

"Shall the Constitution of Virginia be amended to allow the state to appeal certain preliminary rulings in criminal proceedings?

☐ Yes

☐ No"

The ballots shall be prepared, distributed and voted, and the results thereof ascertained and certified, in the manner prescribed by § 24.1-165 of the Code of Virginia. The State Board of Elections shall cause to be sent to the clerks of each county and city, at least thirty days before the election, a copy of this act. Each such clerk shall forthwith post a copy of such act at the courthouse of such county or city. The State Board of Elections shall cause to be sent to the electoral boards of each county and city sufficient copies of the full text of the amendment and question contained herein for the officers of election to post in each polling place on election day.

The electoral board of each county and city shall make out, certify and forward an abstract of the votes cast for and against such proposed amendment in the manner now prescribed by law in relation to votes cast in general elections.

The State Board of Elections shall open and canvass such abstracts and examine and report the whole number of votes cast at the election for and against such amendment in the manner now prescribed by law in relation to votes cast in general elections. The State Board of Elections shall record a certified copy of such report in its office, and without delay make out and transmit to the Governor an official copy of such report, certified by it. The Governor shall, without delay, make proclamation of the result, stating therein the aggregate vote for and against such amendment.

If a majority of those voting vote in favor of such amendment to Section 1 of Article

VI, it shall become effective on December 1, 1986.

The expenses incurred in conducting this election shall be defrayed as in the case of election of members of the General Assembly.

CHAPTER 241

An Act to amend and reenact § 58.1-3516 of the Code of Virginia, relating to proration of personal property tax.

[H 1602]

Approved March 14, 1985

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3516 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3516. Proration of personal property tax.—A. Any county operating under the county manager plan or the urban county executive plan, the Counties of Albemarle, Chesterfield, James City, Loudoun, Gloucester, *Roanoke*, York and Spotsylvania and any city having a population in excess of 100,000, and the Cities of Falls Church and Lynchburg may provide by ordinance for the levy and collection of personal property tax on motor vehicles, trailers and boats which have acquired a situs within such locality after the tax day for the balance of the tax year. Such tax shall be prorated on a monthly basis. For purposes of proration, a period of more than one-half of a month shall be counted as a full month and a period of less than one-half of a month shall not be counted.

Such ordinance shall also provide for relief from tax and a refund of the appropriate amount of tax already paid, which shall be prorated on a monthly basis, where any motor vehicle, trailer, or boat loses its situs within such locality after the tax day or after the day on which it acquires a situs (hereafter "situs day"). When any person sells or otherwise transfers title to a motor vehicle, trailer, or boat with a situs in the locality after the tax day or situs day, the tax shall be relieved, prorated on a monthly basis, and the appropriate amount of tax already paid shall be refunded by the treasurer of such locality. Such refund shall be made within thirty days of the date such tax is relieved. When any person, after the tax day or situs day, acquires a motor vehicle, trailer, or boat with a situs in the locality, the tax shall be assessed on the motor vehicle, trailer, or boat for the portion of the tax year during which the new owner owns the motor vehicle, trailer, or boat and it has a situs within the locality.

B. Such ordinance shall provide for the filing of returns and payment of such tax. Such ordinance shall also exempt property from the levy of such personal property tax for any tax year or portion thereof during which the property was legally assessed by another jurisdiction in the Commonwealth and the tax paid. Such ordinance may provide that, notwithstanding any other date for billing and payment of local personal property tax, the locality may bill all personal property taxes assessed for a portion of the tax year less than the full year on or after December 15 of each year. The ordinance may further provide that such taxes shall be due not less than thirty days after the date of the tax bill. If the tax is not paid when due, the penalty and the interest otherwise provided for by § 58.1-3916 shall be imposed based on the established due date.