

February 19, 1991

was a differential made between voting at the ballot box and voting by absentee. The requirement for the full name was on the basis that it was for the prevention of fraud, not something to conveniently use when you knew fraud existed but rather it was to prevent the possibility of fraud. It was arrived at as good public policy. This morning we're talking that public policy dictates that we do not follow that statute. My problem is that it's the wrong place to make that public policy change, it has to be, in my opinion, with the statute. The statute, obviously, is not before us. It's been suggested that the requirement of the full name is ministerial. That also goes to the issue of privilege and right, too, because the court decisions, at least the ones that I have read, go one more step on this issue of ministerial on whether it's mandatory or directory. It's very clear in that statute that it's mandatory. The election official shall sign their full name. No ballot shall be counted. You cannot argue, you just simply cannot argue that it was not mandated. It may not be right, and I've expressed my feelings on that, but nevertheless that is what the statute says. How important is the law? I guess that's the question that several of you have said and addressed. I suppose it's not very important, you know, it just governs our lives, we are expected to follow it, election officials are expected to follow it. Even when they're wrong, we're expected to follow it. Even when they're wrong, we are penalized. Just a few days ago we were considering legislation to reimburse people for their legal expenses if a statute is declared unconstitutional. But we haven't ever said that you aren't going to follow the statute until the courts have ruled, the penalty still should apply. And it bothers me also that we now will have to have...

SPEAKER BAACK: One minute.

SENATOR WARNER: ...two sets of public policies in this state relative to the absentee voting. We have the public policy that was approved by two district court judges and we could have a different contradictory public policy adopted by the Legislature. Certainly, there is not predictability, certainly there is not consistency if that becomes the public policy. I would urge that we change the public policy but we change it as the Constitution requires by changing the statute when that issue is before us. Thank you.

SPEAKER BAACK: Thank you, Senator Warner. We will now go to Senator Schimek.