

# Mandate For A Better Future

Nebraskans, today is your birthday! How apropos a sort of eulogy would be, glorifying the building of a grand state—

—graceful prairies cleared and cultivated to raise food for the nation,

—rugged pioneers bearing the hardships of untamed nature in order to settle our land and build our towns,

—unspoiled politicians and artists representing the views of midwesterners to the country and the nation.

—friendly common folk charming passers through.

We will be hearing these things and much more about Nebraska's First 100 Years in the following Centennial. We will see beards and Queen's balls and health shows and art exhibitions. We will put Centennial stamps on Centennial stationery and we will wear Centennial buttons on Centennial tee-shirts—for the glory of it all.

We are about to become drugged in nostalgia of the past.

But, truly, it's not a bad thing. There is fascination in learning the history of a state that built a sophisticated civilization from a land of primitive Indians in a little over a century. Young Nebraskans should understand the tradition which too often they quickly criticize. It is to the credit of civic leaders across the state, particularly Centennial Director Don Shriner, for organizing this fantas-

tic celebration. Centennial planner for the University, Elaine Kallos, is also to be commended.

But what should we make of the Centennial, except a big party?

It is a mandate for a better future.

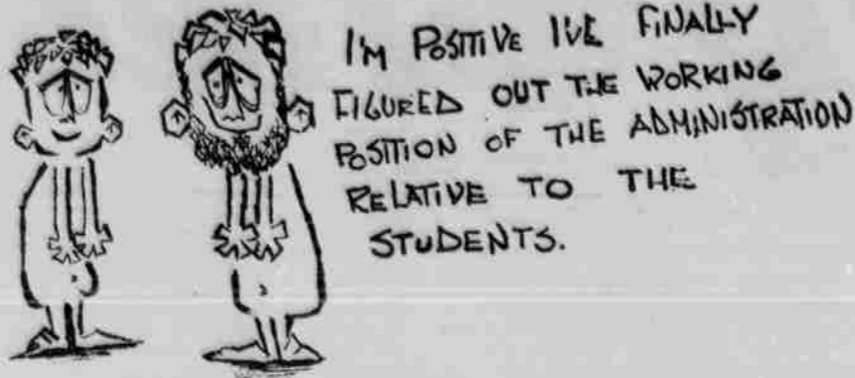
Can young Nebraskans build a state so the next Centennial does not have to close its eyes to ugly history of discrimination in its cities, ignored slums, lagging institutions of education? Can we build better roads so travelers will not wince as they hurriedly pass through our state? Can we create an attitude in our people which will willingly recognize the necessity of strong state government built upon an adequate tax base?

Most important, can we realize that these problems are ours?

The saddest thing about the Centennial is that the most celebrated product of the state, the young people, exodus across the borders while the shouting is on. It is the responsibility of today's youth to prevent this irony when in 2067 the celebrations begin again. They must stay in Nebraska and help develop the industry, strengthen the school systems, support a stronger government, build better hospitals.

While they are building their futures out of untapped potential, they will lay the foundations for a state which, in the next 100 years, will really have something to shout about.

Susie Phelps



# Blackboard In Einstein's Study

By J. Paul Ronin

Symbolic chalk marks questing.  
New thought-voyages dared.  
Deduction on deduction.  
E equals MC-squared  
Equation on equation.  
Fiercely blazing wonder.  
Shrieking, in this quiet room.  
Planets burst asunder.

But stars keep old appointments  
Every hostile hour  
For time is still  
The Kingdom  
And the Glory  
And the power.

# Daily Nebraskan

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# Law Student Prepares Memorandum . . . Student Affairs Office Accused Of Disregarding Regents' Rules

(EDITOR'S NOTE: The University Office of Student Affairs is not complying with Board of Regents by-laws and rules in the area of student housing, according to the following legal memorandum prepared by John Klein, a senior in the University Law College. Klein also adds his own personal opinions concerning the present housing regulations.)

★ ★ ★ ★  
In view of the recent furor which has arisen concerning University housing policies it appears that there are a number of issues which should properly be brought to the surface for examination and discussion.

These issues involve such things as the authority which the University has to regulate and dictate student housing, Board of Regents by-laws and rules with respect thereto, the interpretation which the dean of student affairs has given to his grant of authority and the rational basis for such regulation.

At the outset it may be helpful to print the relevant Board of Regents by-laws and Nebraska Statutes.

## By-laws

### Chapter II, Section 6 "Student Affairs"

"The Dean of Student Affairs shall have general supervision of all relationships between students and the University. Without being restrictive, such supervision shall include the following administrative offices and functions: . . . housing . . . student activities. . ."

## Rules

### Chapter III, Section 2

#### "Residence of Undergraduate Women"

"Subject to exceptions hereinafter made, undergraduate women who are freshmen shall be required to live in University residence halls for an academic year and all other undergraduate women whose legal residence is not in the city of Lincoln are required to reside in University residence halls, or cooperative dormitories, or sorority houses or rooming houses listed by the Office of Dean of Student Affairs. Exceptions deemed necessary may be made by the Dean of Student Affairs."

### Chapter III, Section 3

#### "Residence of Undergraduate Men"

"Subject to exceptions hereinafter made, undergraduate men who are freshmen may be required to live in University residence halls for an academic year, and all other undergraduate men whose legal residence is not in the city of Lincoln are required to reside in University residence halls, or cooperative dormitories, or fraternity houses, or rooming houses listed and approved by the Office of the Dean of Student Affairs. Exceptions deemed necessary may be made by the Dean of Student Affairs."  
Nebraska Revised Statutes 1943

"85-106 Board of Regents; general powers; . . . The Board of Regents shall have power (1) to enact laws for the government of the university; (2) to elect a chancellor, deans, professors, associate professors, assistant professors, instructors, other members of the faculty staff and employees generally of the university; (3) to prescribe duties of such persons; (4) . . ."

Under the common law the court cases have quite generally held, with respect to both public and private colleges and universities, that the institution has a very broad authority to regulate students and establish conditions for their attendance at the institution.

## Oklahoma Regents

For example in 1947 the Board of Regents of the University of Oklahoma adopted a resolution which, with certain exceptions, required all students to live in university dormitories to the extent such facilities were available. That resolution was tested in the Federal District Court in the case of Peate v. Board of Regents, 102 F. Supp. 407 (1951), in which the court said that the university had such interests in the education, well being, morals, health, safety and convenience of the students and in the financing of facilities at the institution that the rule was valid in achieving those ends.

In some areas of student rights, such as the right to notice and hearing in discipline and expulsion cases, the courts have become more favorable to students and it is

probably a fair speculation that in the future universities will encounter limitations on their authority and be held to stricter and stricter standards in areas involving student civil rights. However, in the area of housing it is probably accurate to say that according to common law today the university has the right to impose various rules and restrictions so long as such are not unreasonable or capricious.

## Whose Authority?

But who has that authority? After consultation with the dean of student affairs it appears that he feels that in the absence of any Board of Regents provision he would be free to exercise this general authority at his discretion in the best interests of the students and the University. He is probably correct.

In addition the Board of Regents, pursuant to Nebraska Statute 85-106 (2) and (3), have prescribed the duties of the dean of student affairs, (Chapter II, Section 6 of the Board of Regents by-laws). Under that provision the dean is given a general grant of authority almost parallel to the authority he would have in his capacity as dean under the case law.

But the Board of Regents have not stopped with this vague general grant of power. Under Chapter III, Sections 2 and 3 the Regents have made specific provisions for student housing and the authority possessed by the dean of student affairs with respect thereto. In interpretation a specific provision must always take precedence over a broad general provision, otherwise there would be no purpose in a specific provision.

## Specific Provisions

Sections 2 and 3 of Chapter III are specific provisions and must be regarded as limiting the general grant of authority afforded the dean of student affairs under Chapter II, Section 6 and under the common law.

Sections 2 and 3 of Chapter III of the Board of Regents Rules therefore set down the following requirements:  
1. All freshmen women shall live in University residence halls for one academic year. (Chapter III, Sec. 2). The requirement is mandatory leaving no discretion with the dean of student affairs. The requirement is subject to individual exceptions under Chapter II, Sec. 2, sentence 2.

## May Be Required

2. All freshmen men may be required to live in University residence halls for one academic year (Chapter III, Sec. 3). This requirement is at the discretion of the dean's office and is likewise subject to individual exceptions made by that office (Chapter III, Sec. 3, sentence 2).

3. Sophomore, junior and senior undergraduate men and women students whose residence is in the city of Lincoln do not come under the provision.

4. Sophomore, junior and senior undergraduate men and women students whose legal residence is outside the city of Lincoln are required to live in one of four types of housing.

1. University residence halls
2. Cooperative dormitories
3. Fraternity or sorority houses
4. Rooming houses

This provision is mandatory to the extent that the dean of student affairs must require all sophomore, junior and senior students to live in one of the four types of housing. It is quite specific in setting out the four types of housing from which the students must choose.

## Four Types Required

The fact that the provision establishes four types of housing in which the dean of student affairs must require all sophomore, junior and senior students to live and does not give the dean the authority to compel a student to live in one type rather than another must be interpreted as meaning that so long as a student lives in one of the four types of housing he has complied with the required provisions.

If this specificity in delineating the four types of housing is to have any significance at all then the dean of student affairs has no authority to barge in and apply

a general grant of power in compelling a student to live in any one type of housing as opposed to another. Of course, under the second sentence of both Sections 2 and 3, Chapter III, the dean of student affairs can make individual exception to the requirement and permit students to live in something other than one of the four types of housing.

But one should examine more closely the provision for rooming houses. Chapter III, Section 2 with respect to undergraduate women states, ". . . rooming houses listed by the Office of the Dean of Student Affairs." Chapter III, Sec. 3 with respect to undergraduate men states, ". . . rooming houses listed and approved by the Office of the Dean of Student Affairs."

## Any Property

In talking with Mr. Bryan he indicated that the housing office will list, with few exceptions, any property a renter submits for listing. He also indicated that the housing office has certain requirements which must be met before property will be approved.

In many circles women are deemed capable of assuming responsibility much earlier than men, thus could it be that the Board of Regents in their wisdom recognized a greater maturity and responsibility of women as opposed to men of the same age and therefore gave them greater latitude in selection of their housing? This is pretty clearly what the Board of Regents Rules provide.

Mr. Bryan would like to interpret "listed" in Sec. 2 as meaning "listed and approved" as in Sec. 3. This clearly is not tenable. "Listed" obviously has a separate and distinct meaning from "approved." Otherwise the Board of Regents would have used either "listed," "approved" or "listed and approved" in both Sections 2 and 3. As now written there is clearly more leniency afforded women students in selection of housing.

## Sections Identical

But let us assume that "listed" in Section 2 does mean "listed and approved" as in Section 3 just as the housing office urges. Both sections would then be identical. This can only mean that at a minimum undergraduate sophomore, junior and senior men and women students are to be treated identically and without discrimination in housing policy. The dean of student affairs and more particularly Miss Snyder have long ignored this provision and held women to a more stringent standard than men, contrary to the Regents Rules.

In talking with the dean of student affairs he indicated that absent any Regents' by-laws, he would not do anything much different than at present and that he regarded the by-laws as being more in the nature of guidelines. This argument can be pretty well eliminated by quoting one sentence from the introduction of the Board of Regents by-laws and Rules:

"In accordance with the power thus granted by law to the Regents, the following by-laws and rules have been enacted to govern the University and the acts of the Board of Regents in connection therewith."

## More Compelling

Guidelines imply discretion in application, by-laws and rules which govern imply compulsion. The Board of Regents statement would indicate that a specific provision of the by-laws would have vastly more force and effect than some sort of vague guideline. In as much as the by-laws are designed to govern they are much more compelling than the dean perceives.

But even if the dean of student affairs were operating within the Board of Regents by-laws and rules, which he clearly is not, there would still be strong arguments as to why such regulation is inadvisable.

## Economic Reasons

Of major importance are economic reasons. One can provide himself with room and board in an apartment for any amount upward of \$450 to \$500 per academic year. Many are currently doing so. With dorm rates increasing \$75 for a total of \$800 for the 1967-68 academic year apartment living can be a significant saving to many students. Permitting students to select the type of housing

that best relates to their economic position could put many dollars in the hands of those attending college on limited funds and create the equivalent of a vast scholarship and financial aids program which would clearly be going to those in greatest need.

For those students who are more affluent and could afford to pay the \$800 dormitory rate there is little question that they could live in considerably better off campus facilities for the same price.

But what about these big monstrous dorms that would be standing vacant? The dean of student affairs tells me that there is a provision in the bonding contracts stating that the University will require students to live in the dormitories to pay off the bonds. Paying for the University housing and keeping it filled however are administrative not student problems.

## Choice Is Unfair

A student at the University should not have to make a choice between contributing \$250 or \$300 per year to dormitory bond payment or not going to school. All students should be permitted to select the housing that best fits their economic status.

The Board of Regents have repeatedly stated that enrollment should not be restricted at the University. Under a general limitation on enrollment both rich and poor would be excluded. Under the present system only the poor are excluded because they cannot kick in \$250 or \$300 to solve what is essentially an administrative problem.

If the University cannot fill the residence halls voluntarily this must be interpreted as a gross admission of administrative failure. To provide a remedy may involve abandoning the half-baked ed-psyche approach to dormitory living. It may involve constructing something other than cell-block type of campus housing. But clearly it should not embrace any policy which disregards the students' needs and wants and forces occupancy contrary to the economic ability of the students and their parents to pay the cost.

## To Pay Bonds

It is quite clear I think that the present living requirements exist essentially as an expediency in the demonstration of ability to pay off construction bonds. But the dean of student affairs and more particularly Miss Snyder continually chant something about an educational experience with on campus living as being part of one's total education.

Speaking from a mere seven years of experience as a resident and staff member in the dormitory system, I can say that the opportunity for any type of meaningful group or individual learning to take place in the dorms is highly limited. In short order the vast majority of knowledgeable residents ignore the childish activities and ed-psyche residence hall administrators and become what is referred to by the more gullible as apathetic.

What then could that learning experience be? Is it learning how to become accustomed to the filth in the dorm bath rooms and common areas? Is it learning how to grow tolerant of broken lounge furniture and carved elevator walls? Is it learning how to break lounge furniture and carve elevator walls with indifference? Is it acceptance of lower scholastic achievement due to poor study conditions? Etc. Hardly necessary learning experiences, any of them.

## Only One Year

But even if there was something to be learned in dormitory living, what ever it is could easily be acquired in one year or less. Miss Snyder clearly cannot justify in terms of learning experience the requirement that any student live in the dormitory more than one year.

What then should be done? The students should immediately serve notice on the dean of student affairs that they fully expect him to operate at all times within the Board of Regents by-laws and rules. They should then outline in writing their position with respect to housing and should negotiate with administration to those ends, each party keeping well in mind the powers possessed by the other. Marching feet have a certain way of eliminating college administrators; college administrators have a certain way of grinding out students and student requests.