

# daily nebraskan

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## inside today

Criminal Code Revision: Or the Nebraska Legislature soon may eliminate the 25-cent fine for swearing. See Third Dimension .....p. 7  
Norwegian Wood: A look at pretty ladies .....p. 11  
Teacher evaluations: The A, B, C, D and F of it .....p. 2

## Student Court voids decision

By Liz Crumley

In a five to one vote, the ASUN Student Court ruled Monday that the ASUN Senate's attempt to rescind the appointments of its Council on Student Life (CSL) appointees was invalid.

The Senate had passed a resolution (No. 42) at its Nov. 19 meeting to rescind its student appointments until successful reorganization of CSL could be completed.

On Dec. 6, CSL members Chip Lowe and Dennis Snyder filed action with the court stating that the Senate was without power to rescind their appointments.

Lowe is a senior political science major from South Sioux City and Snyder is a senior English major from Lincoln.

### Ruling stipulates "cause"

In its 16-page opinion, the court ruled that the ASUN Senate can remove its appointees, who hold office for definite terms, "only upon cause after notice and hearing."

Resolution No. 42 failed in all three respects, the opinion stated.

Chief Justice Doug Voegler, a senior law student from Schuyler, wrote the court's opinion.

Lowe testified he had learned about Resolution No. 42 from the Daily Nebraskan, the court said.

However, "ASUN cannot rely upon the Daily Nebraskan or upon rumors to satisfy its affirmative duty of notice" to appointees who are about to be removed, the court said.

It added that no attempt was made to give all CSL appointees who were to be removed by the resolution notice of the rescission and a "meaningful" hearing.

However, more important than what it said about notice and hearing, the court said, was its contention that Resolution No. 42 did not remove the plaintiffs and other CSL appointees for valid or legal cause.

"All appointees were removed because it was speculated and conjectured that some of the appointees would not adequately represent ASUN at the upcoming CSL meeting concerning CSL restructuring," the opinion stated.

"Regardless of how valid the reasons for this speculation, it could not form a valid grounds for removal."

### No set term... removal at will

In summary, the opinion said, when an ASUN Senate appointee holds an office for which there is no set term, he may be removed by the Senate at will. No notice or hearing needs to be given and cause does not need to be established, it said.

However, when a definite term of office is set for an appointee, as is the case with CSL, cause, notice and an adequate hearing must be given, it said.

The court stated, however, that it could not lay down any definite rules for notice, which, if followed, would



Photo by Ted Kirk

In a five to one vote Monday, ASUN Student Court members George Rhodes, John Vihstadt, Doug Voegler, Don Wesely and Jim Curtiss ruled that the ASUN Senate's attempt to rescind its CSL appointments was invalid.

always result in adequate notice being given.

The opinion also said whether a cause was valid and whether a meaningful hearing was given would depend on the particular case and judicial review.

It added that the court was of the opinion that "failure to follow the clearly stated and specifically enunciated policies of ASUN" would constitute a valid cause for removal of an ASUN Senate appointee, who holds his office for a definite term.

In a short preliminary dissenting statement, Justice George Rhodes, a junior law student from Bridgeport, said he dissented with the majority opinion because of what he called the legal distinction between suspension from office and removal from office with no notice and hearing necessary.

The Senate said Resolution No. 42 rescinded the CSL appointees and did not recall them.

According to Rhodes, suspension that requires no notice and hearing is valid when the suspension is up to six months. Since it was testified that the rescission of the CSL appointees would last only five months, Rhodes said, no notice or hearing needed to be given.

He also said he holds that the Senate has the power to remove at will, as well as for cause.

The official dissenting opinion will be released soon, he said.

Several alternative uses for the bank's space have been suggested, he said. One idea is to put the ASUN Senate

offices there.

"More students might participate in government if these offices were more accessible," he said. Senate offices now are on the Union's third floor.

The most practical idea, he said, is to use the space as headquarters for the Campus Assistance Center, which has been unable to find a home.

The proposal for the student information, advising and assistance center was tabled indefinitely by the NU Board of Regents in December after meeting opposition to its placement in the Union.

Winkler said other banks are not interested in the space because parking is scarce and the rent is "twice as high as they claim they would have to pay for other space."

Only a few Lincoln banks report numerous new student accounts since Gateway's policy change. All of them said they have no intentions of dropping free checking.

Jay Dunlop, Lincoln's Union Bank and Trust Co., president, took a stand in Gateway's behalf.

"The students are lucky to have Gateway," he said. "I'd double the service charge if I were them."

When contacted after the majority opinion was released, Paul Morrison, ASUN second vice-president and CSL member, said the ASUN executives had voted not to pursue the matter.

However, he added, that vote was taken before the executives had received the preliminary dissenting opinion, and said he was uncertain what the executives would do now.

## Vote could recommend bank 'check out' of Union

By Bryant Brooks

Gateway Bank's Nebraska Union branch office may have to start looking for a new home after May's ASUN general election.

The Union Board resolved Feb. 4 to submit the question of who should use the space currently occupied by the bank to students during ASUN's election. ASUN

Sen. Jim Winkler at that meeting presented the board with a 1,000 signature petition asking the Nebraska Union to terminate Gateway's lease.

The question on the ballot is only to determine student opinion, according to Allen Bennett, Union director. He said Union Board will make a recommendation to him based on the election results. The election itself is not

binding.

Bennett then must make a recommendation to vice-chancellor for student affairs who makes a recommendation to the chancellor before any action can be taken for final consideration by the NU Board of Regents, Bennett said.

He disagreed with ASUN Senate's efforts to evict the bank from the Union because of its new "activity" charge.

"I think it is ill-advised," Bennett said. "I don't think ASUN took the time to investigate what the needs of the campus are."

### No other bank willing

The student body may suffer if the move to throw out Gateway is successful, according to UNL Comptroller Robert Lovitt.

Lovitt said no other bank is willing to replace Gateway and the Union cannot afford to operate a check-cashing service. He added that there would have to be an increase in prices for Union services or a decrease in services to make up loss of \$15,000 annual rent.

The bank had about 2,000 student checking accounts immediately before the activity charge began. An additional 2,000 students use the bank to cash checks, Lovitt said.

Dennis Applebee, Gateway vice-president of operations, said fewer customers than expected have dropped their checking accounts. However, he would not give the exact number of account closures for "competitive reasons."

"We have found our customers very understanding," he said. "The majority of accounts are receiving little charges or none."

The petition drive reflects another story, however, according to Winkler. He said it took him two and a half days to collect the 1,000 petition signatures.

"That's significant because I think I could have gotten a lot more if I had gone longer," he said. "But that would

A combination of relaxation, meditation and guided fantasy was practiced by these people Tuesday night in the Nebraska Union. They were participating in "Body Awareness through Fantasy," one of the programs in the Second Annual Body Awareness Week, which continues through Saturday. Today's programs include a discussion on fasting at noon, a discussion on the ancient Chinese movement of Tai Chi at 3 p.m. and a program on massage at 7 p.m. Body Awareness Week is sponsored by the Student Y.



Photo by Terry Ganshorn