



Many students took advantage of the sporadic warm weather this past week to get some exercise and have some fun before the stress of final exams hits.

Bates Hearing Set for Tuesday

By Greg Stohr

An Administrative Board hearing is scheduled for Tuesday to consider charges that John Bates '95 is responsible for a rash of fraudulent activities in the west wing of Terry Terrace over the past six months.

The most serious of the allegations involve \$800 in fraudulent charges that appeared on another student's credit card bill. Bates is also accused of enrolling several of his fellow Terry Terrace residents in music and book clubs and then stealing the packages of CD's and books when they arrive.

Dean of Students Suzanne Richardson refused to comment on the allegations or confirm that Bates would be the subject of a hearing. She cited the Administrative Board's policy of not discussing pending disciplinary proceedings.

"I cannot comment, nor can I verify or not verify," Richardson said.

Bates also refused to comment on the allegations.

Several students from Terry Terrace, however, told the RECORD this week that they have been asked to appear before the Ad Board Tuesday.

One of the students, who asked not to be identified, said she already has written a letter to the Ad Board about charges fraudulently billed to her credit card account. The student said her February American Express bill included three charges, totaling about \$800, to two music clubs.

The student said that when she called the companies, she was told they had shipped packages of CD's to Terry Terrace. The student said she never saw the packages.

Sources say Bates has denied responsibility for the credit card fraud.

Residents of the west wing of Terry Terrace have told the

RECORD about receiving bills from music and book clubs they never joined. Residents have reported seeing dozens of boxes of CD's on the common shelf where mail carriers leave packages. According to the residents, some of the boxes have been addressed to residents of the buildings, some to fictitious or misspelled names, and some to people who do not live in Terry Terrace.

Other students say they have received unsolicited magazine subscriptions.

"The stuff is continuing to come in," Christina Erickson '95 said. "As we speak, I'm getting bills."

Students in Terry Terrace also have experienced a series of newspaper thefts in the complex over the last several months. But at least one student said he believed the thefts were unrelated to the alleged mail and credit card fraud.

Bates said he too had been victimized by the spate of fraudulent activities.

"I received the National Law Journal in my name that I never ordered," Bates said, "and my paper has been stolen numerous times."

Most residents of Terry Terrace are HLS students.

Two students told the RECORD they will appear before the Ad Board Tuesday, and a third said she was considering the Ad Board's request. Bates has asked at least three students to submit character references on his behalf, sources said.

The Ad Board holds a disciplinary hearing only after presenting a student with a formal charge that explains the nature of the allegation. Under the board's procedures, it may levy the charge only "if the Board believes it reasonably likely that the charged infraction can be established by clear and convincing evidence."

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New Committee Choices to Shape Faculty Hirings

By Hope Yen

As students press for faculty diversity, a key factor shaping the future face of hirings will be

Lambda Charges Bias in Faculty Appointments

By Victoria Kuohung

After speaking with several professors, Lambda has accused the faculty's lateral appointments committee, which recommends visiting professors for HLS tenure, of homophobia in its consideration of Visiting Prof. William Eskridge's potential candidacy.

Prof. William Eskridge—who is a Yale Law School graduate, tenured at Georgetown Law Center, and a Guggenheim fellow this year—taught Legislation and the Sex, Identity, and the Law seminar last fall term.

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determined quietly this summer by Dean Clark '72 when students and faculty are away.

That decision is the selection of the powerful appointments committees, which screen candidates for visiting and assistant professorships. The candidates they recommend are typically voted in for hiring by the entire faculty.

Though Clark appoints members every year, the choices made this summer could play a particularly crucial role. After a relatively inactive year of faculty appointments, Clark has said the Law School will be "cranking up the machinery" and working furiously to reach a core group of 78 by the year 2000. Currently there are 70 faculty members.

Many student leaders say that now, more than ever, a voice from minorities and women is needed on the appointments committees to help ensure that Clark fulfill his pledge to improve "diversity on all fronts" as Harvard Law School heads into the 21st century. Clark specifically has acknowledged the need

for more women professors, who now comprise 14 percent of the faculty, compared to a national average of 28.5 percent.

"It's definitely important to have women or male faculty members of color on the [appointments] committee," said Patience Singleton '96, president of the Black Law Students Association, explaining that those members could provide critical insight into the hiring process. "Our primary focus is getting African-American females, or women of color on the faculty. But that's not to say that we're overrepresented with black male professors."

Student leaders have been calling for greater faculty diversity through appointments of women of color, Latinos, Asian Pacific Americans, Native Americans, and persons who are disabled or openly gay. None of these groups are currently represented on the faculty.

Five African American male professors will comprise 7 percent of the faculty next year, a figure

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Students Await Fate of TAP

By Hope Yen

Students said they are awaiting word on the fate of the Tenant Advocacy Project, a clinical program under the scrutiny of Dean Clark '72 for possible elimination after rent control ended this year.

The 50-member program of mostly 1Ls was advised in January to find a new direction after voters statewide approved a November referendum ending rent control in the three communities that had it: Boston, Brookline and Cambridge.

Before, students typically represented Cambridge tenants in hearings before the Cambridge Rent Control Board regarding eviction and rent

increases.

"The biggest thing about TAP is that it provides in the first semester an opportunity to take on real clients and real cases from start to finish," said Steve Weatherhead '97, who is TAP co-chair.

Weatherhead and co-chair Rachel Blum '97 submitted a proposal to Clark this week to allow the program to pursue its new direction of assisting clients in the critical area of public housing.

Though rent control officially ended for most tenants March 1, TAP has continued to have a full caseload comparable to previous years, including 12 in public housing and two in

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HRP Work Focuses on Women

By Maria Politis

A woman in Iran is arrested for refusing to wear the chador to cover her head in public. A woman in China is persecuted for violating the one-child rule. In Somalia, a young mother is persecuted because she refuses to allow her daughter's genitals to be ritually mutilated.

According to HLS Lecturer Deborah Anker, the above are all examples of women being persecuted for refusing to conform to social norms. Current U.S. law does not recognize such situations as reasons to grant political asylum to women seeking refugee status, said Anker. But, she said, a rare move by the nation's Board of Immigration to "designate" an administrative asylum case is a first step toward recognizing the unique problems of

women as a basis for granting political asylum.

"This is a very, very significant development," said Anker, who two years ago co-founded the Women's Refugee Project, a joint effort by the HLS Immigration and Refugee Clinic and Cambridge and Somerville Legal Services. Anker said the designation was an important victory for the Project, which had been vigorously lobbying the U.S. Board of Immigration Appeals to designate the case.

Designating a case, said Anker, means that a case granting asylum to a refugee will have precedential value for immigration judges. Normally, asylum decisions, while binding for the parties at hand, have no

such value.

The case granted political asylum to a Haitian woman who was beaten and gang-raped by anti-Aristide soldiers. The opinion found that the woman was "targeted ...

because of her political and religious opinion" and that the soldiers might attack her again. The opinion overruled the immigration judge, who ruled that it was "pure speculation...that the same attackers would rape and beat her again or kill her."

This case is significant, said Anker, because it is the first to recognize a rape as a political act and not as just a personal attack.

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Deborah Anker

Panelists Debate Value of Peremptory Challenges

By April Rockstead

While prosecutors, defense lawyers and judges argued about whether peremptory challenges in jury selection allows lawyers unfairly exclude some jurors, a non-lawyer at last weekend's Harvard Defenders 45th Anniversary Symposium said the issue may be moot.

Lawyers' ideas about group sympathies are simply unreliable as predictors of potential jurors' true biases, said Edith Greene, an associate professor of psychology at the University of Colorado and liberal arts fellow at the Law School.

"Neither race, nor gender, nor socioeconomic status, nor ethnicity seem to predict verdicts," Greene said. "Human decision-making is so much more complex than where we have been."

But a former district attorney said peremptory challenges — which allow either side in a criminal trial to exclude a certain number of potential jurors without having to give cause — permit attorneys to evade requirements that juror exclusions not be made on the basis of race or gender and are morally troubling.

"The racial use of peremptory challenges raises the question very deeply of state involvement in discrimination," said Elizabeth Holtzman '85, now at Herrick, Feinstein in New York.

Another panelist said the effect of excluding minority jurors also has a larger impact on minority communities.

"It matters because children also have the perception that there are two justice systems," said Prof. Deborah Ramirez '81 of Northeastern Law School, "one for the wealthy and white, the other for the historically disadvantaged."

Ramirez said she supports revamping jury selection to add a set number of "affirmative peremptories" that would allow defendants to pick some people for the jury call. Then, each side could make negative peremptory challenges, with the existing official prohibition of racial motivation in place.

Others disagreed, calling the plan "lunacy," and arguing it would ultimately backfire against minority defendants.

In addition, many panelists defended peremptory challenges as necessary to prevent the inclusion of jurors the attorneys suspect are "flaky."

"Practicing lawyers believe we do need peremptory challenges because judges can't be trusted to tell who should be excluded for cause," said HLS Prof. Carol Steiker '86.

But some said the current system, which allows peremptory challenges but bars them if made on the basis of race or gender, hamstring those who would exclude a flaky juror who happens to



Deborah Ramirez (far left), Edith Greene, and Owen Walker debated the importance of peremptory challenges in jury selection at the Harvard Defenders 45th Anniversary Symposium.

belong to a minority group.

"It has been impossible for prosecutors to strike a minority juror because of the low number of minority pools in some areas," said Sara Lord '84, assistant U.S. attorney in the Northern District of New York.

Author Jeffrey Abramson '78, a professor of politics at Brandeis University, said the Supreme Court case that prohibits racial use of peremptory challenges should stand even if it is sometimes wrongly applied.

"Batson stands for something so far above the flaky juror problem that if that is a cost, it is a cost we should rush to pay," he said.

Prof. Alan Dershowitz added his decidedly defense-oriented perspective with another look at the desirability of having some "flaky" jurors.

"Since my client is almost certainly going to be guilty — statistically, in most cases — the last thing I want is a jury that will tell the truth, the whole truth, and nothing but the truth," he said.

Committees to Determine Faculty Diversity

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which is comparable to the national average, according to the American Association of Law Schools. One of them is an assistant professor up for tenure at that time.

Meanwhile, 10 women currently hold positions on the faculty, four of whom will be up for tenure by the year 2000. Three joined the faculty this year after accepting offers made in previous years.

The Women's Law Association said it appreciates Clark's recent efforts in hiring white women. But much more needs to be done to bring in women of color, and those who teach feminist jurisprudence, said Lisa Westfall '96, an at-large board member for WLA.

"We don't know what's happening," said Westfall, referring to the Law School's failure to hire a professor to teach courses on women and the law. "We don't know why a string of visiting professors come to teach feminist jurisprudence every year but none works out. It's a big mystery why they're not here."

This year, no people of color sit on either of the two appointments committees, which oversee entry level as well as laterals and promotion hirings. One woman, Prof. Martha Minow, serves on the six-member entry level committee, which evaluates candidates for assistant professorships.

But the real power seems to reside in the four-member laterals and promotion committee, a group that current chair Prof. William Fisher '82 acknowledged is "unusually small" for its influential role in assessing visiting professors and current assistant professors for tenured positions on the faculty. As a member on both appointments committees, Clark has one-fourth of the total vote in laterals and promotion.

And that group holds particular strength now, after Clark said the entry level committee has shut down for the year as HLS focuses on more senior candidates with established credentials.

Fisher emphasized his committee does not operate in a vacuum separate from the opinions of the entire faculty.

Typically, the members seek faculty input before making recommendations, which are then voted on by the entire faculty, Fisher said. Two-thirds faculty approval is required for a hiring.

"Appointments committees don't operate as insular bodies where they decide on a recommendation and then spring it on the faculty," Fisher said. "They consult constantly with the faculty formally and informally." But whoever sits on the com-

mittee definitely "does matter" in shaping hirings, he said.

Currently sitting on the committee are Fisher, Clark, Prof. Hal Scott and Prof. Larry Tribe '66. The group is considered ideologically balanced, with Clark and Scott as the more "conservative," focusing on a candidate's objective qualities of scholarship and expertise. Fisher and Tribe are regarded as more "liberal," sympathetic to the values of a professor's background.

Tribe has reportedly said he would not serve on the committee another year if asked, due to time constraints. His seat thus leaves at least one opening for a woman or person of color to take his place, student leaders say.

Students have also pushed for their own voice in faculty hirings, calling for non-

from offers made in previous years.

"My hope is that we make some real progress [on diversity]. There are some good, promising cases coming in the immediate future," said Fisher, who declined to name them but indicated they might be presented for a vote this spring or next fall.

But faculty sources said no new appointments are planned for a vote at their final meeting of the year today. Instead, up for a vote will be two former HLS professors seeking to return: Christopher Edley, who took a two-year leave of absence to work for the Clinton administration, and Richard Stewart, an environmental law professor at New York University. As an unspoken rule, faculty generally approve the reappointment of former professors.

Student leaders are also troubled by Clark's apparent disdain toward hiring new assistant professors, noting that these younger scholars are the ones more likely to be women or minorities. Law schools slowly began admitting members of these groups in the 1950s and 1960s, and only today are the full effects being felt with more women and minorities in the faculty hiring pool, they said.

"How many tenured women of color professors are there in the country? If you only focus on the Lani Guiniers of the world, you're missing a whole new crop of women of color who are interested in the legal profession," Singleton said. Guinier, an African-American University of Pennsylvania law professor, is rumored to be on the brink of accepting a visiting professorship at HLS.

Clark has said the focus on visiting professors affords HLS an opportunity to examine a candidate for proven expertise and scholarship. But student and faculty critics have said the potential of promising young scholars who have varied life experiences should not be discounted.

Indeed, such personal backgrounds may hold greater weight as more minorities and women apply to law school, all of whom will bring varied perspectives to classrooms that were historically white male. This year, 41 percent of the HLS applicants were women. Asian Pacific Americans made up 11 percent, while African Americans comprised 9 percent and Latinos represented 7 percent. Native Americans comprised 1 percent.

Student leaders said they are hopeful that Clark will stick to his promise to build a more diversified Law School.

"We will keep reminding him of promises he made," Singleton said. "If he doesn't follow through, we'll have to call him on that."

"If you only focus on the Lani Guiniers of the world, you're missing a whole new crop of women of color," Patience Singleton '96 said.

voting, advisory seats on committees and asking that an institutionalized process be set for students to meet prospective candidates. Though Clark has met with many student leaders to listen to their input, a formal mechanism is needed to ensure their voice is truly heard, they said.

This year, bids from three visiting professors whom several student groups had touted for hiring — Mary Becker, William Eskridge and Pamela Karlan — have been blocked by faculty members. They will not be invited for tenured positions, faculty sources said.

"I think I speak for many students in saying that we are disappointed," Westfall said. "We are disappointed that Prof. Becker didn't get an offer. Students loved her."

Fisher acknowledged that faculty disagreement over candidates has stalled the hiring process this year, noting that the last offer was made last fall to Dan Halperin, a tax professor at Georgetown University Law Center. Two recent acceptances by University of Pennsylvania Law Prof. Elizabeth Warren and Boalt Hall School of Law Prof. Einer Elhauge came

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