Chapter XVI

The Aftermath: In Search of Openings

(a) A Few Day's Rest: Anti-racist Style

The disappointment accompanying the Industrial Tribunal decision did not last long and the recuperation period consisted of examining NATFHE's 'bundle', which contained three parts. The first part (items 1 - 32) comprised of administration documents passing between NATFHE and the Office of Tribunals; the second part (items 33 – 108) were documents provided by Day; and the third part (Items 109 – 187) was made up of documents submitted by NATFHE head office. Most of the documentation in parts two and three consisted of correspondence between Bis Weaver, Day and Triesman but there were a few others that attracted attention. *

In Day's 'bundle', carelessly included (?), was a copy of the questionnaire given to Gates by Ms Deeson, which established, contrary to Day's evidence, that he had previously seen the questionnaire and retained a copy, ** otherwise how did it find its way into Day's 'bundle'. A copy of Bis Weaver's original complaint against Gates, which she sent to the general secretary for information, was also included. The copy was date-stamped 14th June 1985 when it arrived at NATFHE head office. A hand-written note was on the copy suggesting that Day made some discreet enquiries but other than that the 'head office respondent' was unsure what else could be done.[1] This established that a head office official contacted Day soon after receiving a copy of the complaint, confirming what Day had disclosed in his 'report' but contradicting NATFHE's claim in its submission that the copy of the complaint was filed away as routine when it reached head office. *** Someone at head office had viewed the complaint more seriously than was later claimed – this was either Dawson's response, to whom the complaint was addressed, or Triesman's, who had overall

* The documents are all on the website www.theplebeian.net

** Mackney, in his letter of the 8th April 1986, disclosed that on the 15th June 1985, he spoke to Gates when Gates was about to seek advice from Day on a questionnaire given to Gates. Day's version was that Mackney was present when Gates spoke to Day about matters relating to the complaint

*** In his evidence before the Tribunal, Triesman said that if a member - Gates, Cave or Hartland, contacted head office, the letter would be passed on to the regional official. Bis Weaver communicated with head office in June 1985 (a copy of the complaint), therefore, according to NATFHE's custom and practice, her letter would have been sent to Day, which it was, and not filed away as NATFHE said in its submission

responsibility for all case work handled by regional officials and to whom Dawson delegated all matters concerning Bis Weaver's complaint. * Having been requested to make discreet enquiries, did Day, as seems likely, report back to head office on the serious consequences likely to arise from the complaint as pointed out by Mackney? Did Day contact head office prior to carrying out an enquiry or after interviewing Bis Weaver when he learned first-hand of her claims of racism? Or did he neglect to mention anything to head office officials?

In head office's 'bundle', matching Day's careless inclusions (!), were three identical copies of Triesman's 30th June letter, addressed individually to Mrs Weaver; to Heather Stretton, the Bournville branch secretary; and to Mr Gates. Triesman, in his evidence, claimed that the letter to Mrs Weaver concerned his conversation with her on the 12th June 1986 but the existence of three identical letters cast serious doubts on this claim, which Bis Weaver had drawn attention to during her evidence. In these identical letters, Triesman had used the terms "Whilst the issues raised by Mrs Weaver" and "in no sense intended to judge the matters raised by Mrs Weaver." Why would Triesman refer to Mrs Weaver in the third person in a letter purportedly sent to her describing his meeting with her? Triesman also wrote in this letter about his "visit to Birmingham on the 12 June 1986 upon which occasion I had the opportunity to meet you." As Mrs Weaver was referred to in the third party, it suggests that the contents of the letter referred to his meeting with either Heather Stretton (and the branch committee) or with Gates. However, in the letter sent to Gates, the same terms were used but Triesman had admitted to the Tribunal that he did not meet Gates on his visit to Birmingham. Therefore, Triesman's letter was undoubtedly for the branch secretary and the term "meet you" meant the secretary and the discussion referred to his meeting with the branch committee during which he made references to Mrs Weaver. Copies were sent by Triesman to Mrs Weaver and Gates for 'information', after Triesman was notified by Day (30th June 1986) of the grievance to the governors. In addition, this letter had been back-dated because also included in the 'bundle' was a typed draft of an identical copy of that letter dated the 1st July. As the letter did not refer to his meeting with Bis Weaver, on the 12th June 1985, it added further weight to her claim, supported by my contemporaneous notes, that Triesman did not mention the union's policy to her on the Birmingham visit. **

Another document having a direct effect on Bis Weaver's grievance was a letter,

* Brian Pinto's disclosure to Bis Weaver about a head office official contacting Gates about the complaint either prior to the enquiry or its completion seemed to be more than supposition.[2]

** The Bournville branch secretary told Bis Weaver that Triesman mentioned in his meeting with the branch committee that management might intervene but she said nothing about Triesman informing the committee that the union will defend only those whose tenure was at risk.[3]

dated 11th August 1986, sent by Day to Ron Jones. This letter alerted us to the negotiations that had taken place between Day and the city council to change the procedures for dealing with her grievance. These negotiations had put her in an extremely vulnerable and disadvantaged position as she had no representative with contacts and influence among Birmingham city council staff. [4] When scrutinising the procedures suggested by Day they corresponded with the way the LEA enquiry was actually conducted, especially the insertion of an intermediate stage where interested parties could discuss the findings. This was undoubtedly the purpose behind the LEA's meeting with Bis Weaver, and then Triesman and Day on the 3rd February 1987. The changes in the statutory procedures came at Day's instigation and not the LEA's as Day had claimed in his evidence on oath at the Tribunal hearing. * Day's contact with city council officers in the interests of the 'trio' showed that Day, at an early stage, was representing them. As Day, backed by NATFHE, was prepared to use his influence to subvert statutory procedures and collude with city council officers to prevent an employee from obtaining justice, then, a strong possibility existed that the same official would do likewise within NATFHE itself to subvert internal procedures and collude with interested parties when taking this action.

Day's letter to Jones had been copied to Evans and Doughty showing that these two officers were aware of Day's intention to subvert the statutory grievance procedures to the detriment of a NATFHE member and appeared to go along with it. ** As secretaries of two NATFHE committees and both on the REC representing the interests of members, it could reasonably be expected that they would disclose Day's intention, which was decidedly against the interests of NATFHE members as a whole, to those immediately affected, especially as Day's actions at Brooklyn College were criticised and minuted by the Birmingham liaison committee. ***

A letter from Gates to the LEA, sent six months after Bis Weaver's application to the

* In June 1988, a copy of Day's letter to Triesman, dated the 30th June 1986, dealing with the grievance came into our possession. This letter mentioned Gates contacting Day about the grievance on the 27th June 1986. This established that Day's claim of not knowing of the grievance against the Bournville 'trio' until after the LEA's letter of the 16th July 1986 was also contrary to what he told the Tribunal on oath. Day's evidence at the Tribunal hearing concerning his actions was even more deplorable than it appeared to have been at the time. Attempts by NATFHE officials and officers to influence local authority officials in the procedures and the outcome of the grievance since June 1986 had been disclosed to Bis Weaver and me by a city contact.[5] But we did not know the specific details of what became successful attempts to subvert the procedures

** The two secretaries also received a copy of Day's letter to Triesman dated 30th June 1986. Both secretaries were employed as lecturers at Garretts Green College at the time

*** These local officers might also be considered to have the responsibility to draw these negotiations to the attention of the membership as a whole

OIT, was also included but this was unlikely to be a ‘careless inclusion’ like the others. Its presence implied that the grievance had been resolved, following the LEA’s enquiry, with an apology from Gates, watered down to include other people in the college.

This apology was seen as confirmation of some kind of deal hatched between the union and the LEA. Gates would provide a letter of apology to show to any interested party and no disciplinary action would be taken against him; enabling him to leave Bournville College to take up an appointment outside of Birmingham without anything on his record. * With Gates out of the way the LEA report could remain in the LEA's files suitably doctored as per Knowles’ directive to show to any statutory body who might take an interest in it, such as the DES,[6] which had been in touch with the LEA and were awaiting a reply. A letter of apology from Gates would support the LEA’s sanitised version.

The LEA acquiesced in Gates escaping from the consequences of his actions; helped itself by seeking to conceal a serious harassment issue in one of its colleges; and aided NATFHE by not releasing the report for Bis Weaver to submit to the Industrial Tribunal. The absence of the LEA report had not been fatal to her case because when the Tribunal’s report was released it was evident the Tribunal members were not taken in by NATFHE's claim of ‘no merit’. **

Information confirming our suspicions eventually became available and if I had stretched my horizons a little more to do my homework properly, Triesman’s feet would have turned to clay in the Industrial Tribunal hearing. The evidence to demolish NATFHE’s defence was staring out from the pages of a back issue of *NATFHE Journal* published during Bis Weaver’s early experience of harassment at Bournville College showing that the policy of protecting tenure articulated by Triesman was not NATFHE’s policy unless it applied only to complaints of racist harassment. But if this was the state of affairs, NATFHE would have lost the case as a result of discriminating against members of ethnic and racial groups. Therefore, the policy must have applied across the board but in a different way to the policy expounded by Triesman.

As mentioned earlier, in April 1985 NATFHE’s policy document ‘Sexual Harassment at Work’, explicitly stated “even if the offender is another NATFHE member, women should not feel wary of complaining. It is not unusual for the union to deal with grievances between

* Gates joined a college in Wakefield, South Yorkshire

** Bis Weaver took issue with the LEA about the subversion of her rights under the grievance procedures, which brought many more interesting revelations in the way the LEA dealt with grievances. However, that struggle is beyond the scope of this account but will be made available at a later date.

members, and separate representation for each member can be arranged." *[7]

Was it possible for the official responsible for casework to be unaware of the union's practices expressed in NATFHE's in-house journal merely two years before? Would it be unreasonable to conclude that Triesman knew of this policy: (i) when he sent letters to the branch secretary on the 30th June 1986 and to Bis Weaver on the 8th July 1986; (ii) when it was included in NATFHE's submission to the office of Tribunals in October 1986; and (iii) when he described it in his evidence to the Tribunal. Ignorance of this policy on Triesman's part might be considered questionable because in addition to being the official in charge of casework and secretary of the Anti-racism National Panel, he also occupied the position of secretary of the rules panel and claimed to know more about union policy than senior lay officers. **

After digesting the information from NATFHE's 'bundle', we were determined, once the Tribunal decision had been published, that the world and his brother and sister would be saturated with information about how NATFHE dealt with vulnerable members. We intended to exploit that option to the full. NATFHE local officers and national officials continued to play the part of the fox in its own 'Briar Patch' but they seemed not to have heard of Brer Rabbit, or that it was Uncle Remus, not the fox, who was to tell the tale.

(b) NATFHE West Midlands Region Resides in Denial

Bis Weaver had needed a stiff back-bone to stand up to Gates, Cave and Hartland; the *kernels*; the Bournville branch officers and committee members; members of the Broad Left Coalition on the Birmingham liaison and regional executive committees; and the might and spite of NATFHE officialdom in the form of Day, Triesman and Dawson. This went unrecognised and unheeded by those in the union whose voices were often heard spouting anti-racist rhetoric. These people were prepared to take an extremely supportive role for one of their own even when he harassed a union member and they did their best to smear and discredit his victim. There was considerably more to follow in this vein predominantly from

* Proof was shown in this article that the union offered representation to both complainant and defendant even when the tenure of members was at risk since sexist/sexual harassment is an offence warranting the termination of the harasser's contract. When the harassment of Bis Weaver began in February 1985 and she was struggling to get Gates off her back, reading *NATFHE Journal* was low down on any list of priorities and tended to be discarded without being looked at. It was only in October 1985 that we began to keep *NATFHE Journals*.

** Triesman's 'error' was also confirmed in a letter from a NATFHE women's officer in Inner London to Tony Rust in October 1987 [8]

NATFHE head office.

NATFHE officials had touted a policy, in a public arena, that discriminated against Black people and women in order to secure a historic 'victory' – historic in the sense that it set back the struggle for the rights of victims of harassment in the workplace. Forced into the position of protecting the NATFHE 'state'; the officials denied everything and, as a consequence, eventually exposed themselves to the ridicule of the wider labour movement.

This aura of denial continued to infect West Midlands REC/BLC members, who persisted in claiming no harassment had taken place; and no rights were taken from her. They did not recognise, or admit, their own role in exerting considerable pressure and stress on her. They considered the well-deserved criticism heaped on Day by the Industrial Tribunal as unfair; failed to mention the ludicrous method Triesman used to assess Gates racist-free status; and ignored the implications of the union's racially and sexually discriminatory policy, probably because, if they recognised it, they would have to explain why they did nothing to challenge it.

NATFHE's patriotic guardians of union policy in the West Midlands region, instead of vigorously attacking NATFHE's policy, had already set about removing Black members from making any significant contribution to anti-racism action. The REC/BLC had reinvented the wheel of bureaucratic dominance in WMARC by firmly entrenching institutional means to vet all proposals from the BLG. This was their version of encouraging Black participation – be invisible and silent, as we will do the talking, while you do the listening. The route previously followed by the REC/BLC had already led to an Industrial Tribunal, although its officers apparently thought NATFHE was on a real 'winner' not the Pyrrhic victory it actually achieved. With the Industrial Tribunal now over, it was not unexpected for them to continue to travel along the same route.

The day after the Industrial Tribunal, I phoned Dhesi to let him know the outcome of the Tribunal but he already knew. The liaison committee observer had phoned him shortly after the Tribunal presented its judgement, wanting to know Dhesi's views on the decision. Dhesi related the contents of this discussion to me. Apparently, the observer disclosed that prior to the Tribunal, NATFHE officials had thought Bis Weaver did not have a strong case but during the hearing Day and Triesman felt that "they were very badly treated and…became very worried…[that] Bis Weaver might have won the case." In the event of that judgement, the union would enter an appeal.

If NATFHE officials had been so sure of winning then maybe that confidence found its way to the ears of LEA and city council officers, and Labour group members, who were in

close contact with local NATFHE officers on day-to-day matters; and also through common membership of the Labour Party. The city council would be reluctant to do anything, such as releasing the report of the LEA's findings, which might blight NATFHE's chances of succeeding at the Industrial Tribunal. A victory against NATFHE might result in a claim from Bis Weaver of vicarious liability against the employer under the Race Relations and Sex Discrimination Acts.

We were not surprised about the reaction of Triesman and Day to their 'treatment' at the hands of the Tribunal chair because for the first time in the Weaver case they were compelled to answer for their actions. Having to make themselves accountable was as unpalatable to NATFHE officials as it was to lay officers in the West Midlands. The usual bureaucratic defence mechanism was not available at the Tribunal and they were in no position to apply the technique of just brushing any testing and searching questions under the carpet as per their usual custom and practice. This time they were in front of independent arbiters with the power to enforce compliance. Furthermore, the prospect of an appeal by NATFHE, in the event of it losing the case, offered an interesting scenario as NATFHE would have been seeking to replace a racially-free policy with a racially discriminatory one. *

The liaison observer revealed that there were "a lot of people glad that Bis Weaver took the case" against NATFHE but the secretary was not one of them and he "was pleased that NATFHE won… [as] there are a lot of things in the pipeline about rule change… [and] there are other ways" of changing things.[9] However, he failed to connect the prospective rule change with Bis Weaver's application to the Tribunal, because, without that application, rule changes in whatever ineffective form they eventually took when pencilled into the rule book, would unlikely to have been considered. His pleasure in NATFHE's 'victory' was a view shared by West Midlands Broad Left Coalition 'anti-racists'. How anyone could take pleasure in seeing a racially discriminatory policy being established that eventually applied to the whole trade union movement was beyond comprehension. But, of course, we did not have that something extra that distinguished the 'activists' from the ordinary member.

Bis Weaver did have some support for the action she had taken, which was confined to Black people and a small number of genuine anti-racist White people fed up with the sanctimonious posturing paraded principally by the Broad Left Coalition, who seemed only

* This is what NATFHE did when Bis Weaver appealed against the Tribunal decision. The line NATFHE followed in defending itself, in effect, was to ask the Employment Appeal Tribunal to uphold a racially discriminatory policy

able to identify a racist if they were members of a recognised neo-fascist or neo-nazi organisation - a preoccupation that had dominated NATFHE's thinking on the race issue since its foundation in the 1970s.[10]

When the REC met on the 17th June, the main agenda item concerned the BLG motions submitted via the WMARC, one of which rejected the new WMARC constitution until the BLG had been consulted. Two BLG motions - one calling for the restoration of Bis Weaver's rights in the union had previously been rejected at the May REC meeting; the other, rejecting the *Frew Report* ,did not pass muster either on the grounds that it too was part of an on-going dispute. By 'dispute' was meant a formal complaint within NATFHE's procedures. However, this was not a valid reason as neither the rights issue nor the *Frew Report* were part of any formal complaint, involving Bis Weaver. Nonetheless, the 'guardians of NATFHE-style morality' were able to reconstruct any issue and then use its novel construction to justify their failure to act, as demonstrated on previous occasions.

A dismissive contribution came from a women's panel member, who wanted all the BLG motions withdrawn. This bordered on self-righteous insularity if considered in relation to what her reaction might be if a Black male member made the same call to withdraw motions decided by the women's panel. Probably more illuminating of her attitude towards Black members was the suggestion for the REC to give advice to the BLG on how to improve the wording in its motions and in presenting proposals. She showed more concern over the wording than the content and objectives for greater Black participation. * This particular style of patronisation-cum-contempt was rarely heard even in the West Midlands REC but it showed the type of support the Broad Left Coalition was relying on for a 'White only' produced constitution for the WMARC while parading their unconvincing commitment to equal rights for Black members.

The same speaker also criticised Krishna, as equal opportunities officer, for spending his time exclusively on Black people's issues and ignoring women and the disabled. Krishna rejected her patronising contribution on the BLG; and dismissed the personal attack on him by pointing out his brief was to deal with anti- racism. Another prime example of an REC member commenting on the way Black people carried out their responsibilities based on their own invalid assumptions and lack of knowledge – a situation becoming all too familiar for Krishna with the continued attacks on him in the REC.

* The terminology in the BLG motions was sound enough as the group had a number of members with degrees in English language

A senior officer and BLC member also accused Krishna and the BLG of speaking as "if only Black people know about anti-racism" and that Krishna was "impl[ying] Whites cannot be anti-racists." This was not an unknown feature in the struggle against racism for some White people to accuse Black people of a form of separatism when their own cosy little assessments of anti-racism were challenged by Black people. The REC/BLC and other so-called 'Leftist anti-racists' were no exceptions to this tendency. This was another reinterpretation to suit the officer's position because neither Krishna, nor the BLG, made any such claim of Whites being excluded from the category of anti-racist. If the officer consulted the BLG proposals, he would have seen the call for open membership of the WMARC. *

The committee members made known its attitude towards the BLG motions but they had little choice but to agree to present them for consideration at regional council, except for those incorrectly defined as part of 'an on-going dispute'.

Time was allotted for a report back on the Weaver v NATFHE Industrial Tribunal hearing from the observer at the Tribunal, whose presentation followed the pattern of selectivity and omission consistently on display in NATFHE. The observer had sat through the whole of the Tribunal and heard all Day's evidence, which any reasonable person might easily recognise as being contrived, yet he was sympathetic to Day for the way the Tribunal chair had criticised him. He rallied to Day's defence knowing the regional official's 'evidence' had been successfully rebutted by the Applicant with incontrovertible evidence.

Apparently, not a word about NATFHE's discriminatory policy on tenure passed his lips; all that he mentioned on policy was of some reservation expressed by the Tribunal but these limitations were already known to NATFHE. He said nothing about how difficult it would be for NATFHE to remove these limitations now they had become a legally accepted condition restricting advice and assistance only to those whose tenure was at risk – almost certainly alleged harassers or discriminators. Furthermore, if these deficiencies were already known to NATFHE why had these officers and officials failed to take steps to change union policy before becoming hog-tied to a limited racially discriminatory legal requirement? Moreover, two of those attending the REC meeting were aware, and had been for almost a

* Whenever Black people proposed a more substantive and influential role for themselves in Committees supposed to be promoting the interests of Black people, allegations of seeking to exclude White people raised its head. The recent new-found interest shown by the majority of REC/BLC nominees in a new constitution for the WMARC coincided with the establishment of the BLG and the increasing number of Black members attending the WMARC. The REC/BLC was seeking to re-establish control by administrative measures – the modus operandi of NATFHE bureaucrats, to reverse the direction the WMARC was taking

year, that Day had been involved in subverting statutory grievances procedures to the detriment of a complainant of harassment but said not a word about that. *

This partisan presentation did not go unchallenged by Krishna Shukla, who had attended the Tribunal hearing. Krishna spoke of the severe criticisms made by the Tribunal about Day and asked NATFHE's observer if these were press distortions. NATFHE's 'patriotic bureaucrat' said they were and referred to three or four paragraphs, which he thought had been highly selective.[11] However, the coverage in the press criticising Day ran to one sentence, ** therefore, unless he was resorting to exaggeration, the only place he could have read three to four paragraphs of the Tribunal's comments on Day was in the verbatim notes taken by NATFHE's stenographer. *** Perhaps, if either of the observers had mentioned Day's brush with a potential direct racial discrimination charge, the female REC member, showing such contempt for the BLG, might have relished the prospect of Day facing that treatment after the way Day had treated her friend and colleague from Telford College.****

Krishna, the only Black member present, faced an unreceptive, dominant, overwhelmingly White group – a continuation of the pre- and post–*Frew Enquiry* period. This situation was one that BLC 'anti-racists' never had to face when race issues were raised in REC meetings. The outspokenness on the REC of BLC members and fellow travellers was evident in situations like this when Krishna was the sole Black member. *****

They had not been so forthright when confronted by an equal number of Black people at the February 1987 WMARC meeting, which was followed by a renewed boycott when the WMARC met on the 8th April. They also had the opportunity to resubmit the WMARC's new constitution; to deliver the criticism of the Black Lecturer's Group use of the language and

* Doughty and Evans received a copy of Day's letter to Jones (11th Aug 1986) and Day's letter to Triesman (30th June 1986). Perhaps, they should have taken heed of Thomas Paine, who said, "The duty of a patriot is to protect his country (the people) from its government." They must also have been aware, as was Mackney, of the Birmingham liaison committee's criticism of Day for his inadequacy in dealing with an institutional racist policy at Brooklyn College, and several other cases in which Day was involved

** By the 17th June only two reports were published in the press - on the 11th and 16th June 1987, "The Tribunal is unhappy with Mr Day's evidence regarding the complaint of racial harassment Mrs Weaver brought against Mr Gates"[12] and "The Tribunal is unhappy with Mr Day's evidence."[13]

*** The stenographer probably did not include a description of Day's sigh and sagging jaw when he was confronted with a possible application against him for direct discrimination

**** Day had refused advice and assistance to the friend of this critic; instead he represented the senior lecturer, who was the defendant in the case at Telford College

***** Bis Weaver referred to the way Gates was prepared to behave in a roomful of White people, which he would not have done in Handsworth. Similarly, the REC/BLC/Birmingham Labour Party members tended to show a different face when among Black associates in Birmingham

motion-drafting skills; and other such points to a WMARC meeting attended by a significant number of Black members that was due to take place later that day but they continued their boycott. Maybe, this hostility to those seeking real change, which would also benefit them, was overshadowed by other factors. Was there still an expectation, like the member at Bournville College who had backed the *kernels*, that the Broad Left Coalition would come to their aid in their struggle against the regional official. If so, it was a forlorn hope because Day had sought to protect one of the Broad Left's own even though he had created severe problems for NATFHE in the process.

The WMARC, having adopted a system of rotating venues, met at Bournville College, which ironically turned out to be its last meeting in its present form because in the next academic year the BLC/REC re-colonised what they saw as rightfully theirs. As if to confirm the recent new direction taken by the WMARC, two new Black members attended and another prospective Black newcomer sent his apologies. * Of the regional appointees only Jefny Ashcroft; Evans; and Krishna Shukla attended, with apologies from Julie Frew; Lovejoy; and Penny Welch – the latter never having attended a meeting since at least 1985. The prospects for anti-racism were certainly looking up when the prospective co-producer, Ms Welch, of NATFHE's new anti-racism policy indicated in her apology that she might attend WMARC meetings in the future. **

There was a comprehensive agenda covering a number of relevant issues: the seemingly perpetual unresolvable rights issue; the Industrial Tribunal hearing and the implications of NATFHE's 'limited racial discriminatory' policy; the potentially racially discriminatory motion passed by the regional council; the proposed White dominated composition, or de-composition, of the WMARC, with its controls to curb Black involvement; the region's failures in dealing with racism; and the REC's determination to neutralise those who expose these inadequacies. Inevitably, the last two and a half years experienced by Bis Weaver was a significant case history of NATFHE's inability and/or reluctance to address issues facing Black members in the union. These were not matters the REC/BLC thought an anti-racism committee should be interested in when the committee could be discussing how many racists can stand on the tip of a South African assegai.

* 9 of the 13 attendees were members of the BLG.
** The anti-racism policy document, produced by Ms Welch and Triesman, when it was finally ready for delivery to the expectant NATFHE masses had been rendered irrelevant to the real problem of tackling racism within NATFHE as a result of the Weaver v NATFHE legal decision

The WMARC considered it pointless to expect assistance from the West Midlands REC because officers and officials impeded victims when pursuing complaints, as happened to Bis Weaver, therefore, new mechanisms of support were necessary for victims as part of a more dynamic anti-racist strategy, which the increasing Black membership on WMARC were seeking to bring into practice. All would depend on how the regional council would respond to the BLG motions on the coming Saturday.

With the REC backing the new WMARC constitution and approval from the regional council definitely on the cards, the regional secretary, who drafted the constitution, exhibited a more combative approach than hitherto, at least in the WMARC. A victory, even a Pyrrhic victory, appeared to give him an unrealistic confidence with few inhibitions in pumping out the REC/BLC's line. Throughout the meeting when various items were discussed, Evans acted in a negative, misleading or ill-informed manner, embodying the intransigence of his fellow bureaucrats in the REC/BLC and showing clearly what Black professionals were up against when trying to get effective action within NATFHE.

His first display of dissent – one of several, came when he disputed there was any detriment to Bis Weaver caused by the April 1986 motion and claimed to be "unaware of Bis Weaver having been deprived of any such rights...add[ing] she had voting rights." As for correspondence, he resurrected the old *kernel* nutmeg "of the hard pressed Branch" not being able to "cope with the volume of correspondence." Evans deployed a bureaucratic myopia to justify the April motion by claiming the Bournville branch was sent "something like 70 to 80 letters…, which the Branch couldn't cope with," repeating the story paraded before the REC, by Ms Pattinson, on the 14th May 1986. His memory worked some of the time but not enough to remember he was a recipient of a letter sent to all REC members, pointing out the relatively few letters sent to the branch over a period of five months prior to the passing of the rights' motion.[14] His response confirmed the tendency of REC members to disregard anything other than what is served up to them by fellow officers, uncritically swallowed, and regurgitated when the occasion arose.

As in Evans' letter to Bis Weaver, Rule 8 was referred to as the only mechanism for dealing with this issue because iut took time to change rules and "until such time as the Rules and/or policies of the Association are changed [by National Conference] all of us are to a greater or lesser extent constrained by them."[15] However, changing regional rules had not taken much time when involving the regional secretary/Bournville branch-inspired potentially racially discriminatory motion of March 1987 – between the 12th March (proposed at Bournville branch) and the 21st March (passed at regional council). The regional

secretary's advocacy of following appropriate procedures would also have sounded less hollow had he not known of Day subverting Bis Weaver's right to the statutory grievance procedures. * Bureaucracy parading insularity as a virtue.

The regional secretary's attempt to subvert the real world with another NATFHE bureaucratic myth came to naught as he was addressing the wrong audience – one that he was not accustomed to, as several people in attendance were familiar with NATFHE's way of disregarding Black member's rights, having experienced themselves some disadvantage at the hands of NATFHE.

A motion was proposed and passed "insist[ing] that the REC take the necessary steps to the lift the 29th April 1986 motion passed in Bournville College...and restore full trade union rights to Bis Weaver and Gordon Weaver." ** There was little chance of getting this past the REC, as was shown earlier in the day, but it would show yet again the insularity of the REC and the 'anti-racists' who sat on it.

An overview was provided of the Industrial Tribunal hearing and members were informed of NATFHE's re-jigged policy on tenure, preventing victims of harassment from obtaining advice and assistance when making complaints against NATFHE members *** This policy claimed by the union to be necessary and justified allowed NATFHE officials to discriminate against Black members. In the event of anyone challenging the policy, NATFHE officials and officers had only to quote the Weaver v NATFHE decision, assuming they had the courage to admit employing discriminatory practices.

The author of a new anti-racist constitution and recently elected NEC member was apparently unaware of the policy NATFHE paraded at an Industrial Tribunal as the cornerstone, or more accurately the tombstone, of its way of dealing with racial discrimination - a policy Triesman claimed was common to all trade unions.

Gates' non-attendance at the Tribunal drew from me the observation that the accusations of harassment went unchallenged, which prompted a sign of dissent from the regional secretary but he did not venture an opinion as to why the statement was wrong.

Over many months, it became increasingly apparent that REC/BLC officers only

* The regional secretary received a copy of Day's letter to Jones dated 11th August 1986 [16] and Day to Triesman 30th June 1986 [17]

** A motion to restore our rights in Bournville Branch in November 1987 was proposed by a new branch committee but a counter-proposal by a member of the branch's women's group, seconded by Richard Downey, to postpone the motion for another branch meeting was accepted 21 in favour, 3 against and 5 abstentions [18]

*** This presentation was mainly for the benefit of the REC/BLC members as most of the others had attended the final day of the hearing

accepted what came from the tongues of fellow travellers.

Jefny Ashcroft informed the committee that Triesman had produced a working document on racism; and Evans added it was to be discussed at the ARNP the following day. This was hardly an announcement for any anti-racist to get excited about given Triesman's recently disclosed method of assessing racism and his admitted incompetence in assessing racist motives. These two REC members might have thought Triesman's input to be sufficient proof of NATFHE's commitment to anti-racism but, if so, they were the only people in the meeting who did – the nine Black members and two other White members had a distinctly different view as most had seen NATFHE's self-styled anti-racism commitment disappear into oblivion at the Industrial Tribunal.

The potentially racial discriminatory motion passed by the regional council was raised and the regional secretary was asked for his version of events. He admitted speaking to either Cave or Hartland about it – he was not sure which one, but added that Cave was mistaken in claiming that he (Evans) had initiated the motion. It was left at that since it would be difficult to decide whose version was correct. A brief discussion took place on the environment within Bournville branch over the months leading up to the 'racist' motion and it was agreed, irrespective of the genesis of the motion, that it had the hallmarks of a set up against Bis Weaver.

The REC's list of nominees for the soon to be re-established WMARC was presented to the members of this recently established open-to-all-comers WMARC. Of the fifteen nominees comprising the new membership only two were from ethnic minority backgrounds. Any other Black member or White anti-racist attending the meetings, assuming they were allowed to speak, would be on the outside looking in without a right of input or the vote.

A cursory comparison of the REC's list of nominees with the list I drew up of possible witnesses appearing for NATFHE at the Industrial Tribunal showed four nominees, who had openly acted against a Black member's interests, while the rest of the White nominees had shown little concern about what was happening to her. One White member of long standing drew attention to many on the list of nominees, who had been nominated in previous years but had never attended a single meeting, and he called for the involvement of ordinary rank and file members. Another member asked who had decided that the REC-appointed nominees were anti-racist and went on to provide the answer - the decision-makers themselves.[19] The REC/BLC was a democracy where the candidates appointed themselves to positions by excluding the electorate.

The chair, Alton Burnet, criticised the committee's composition as unrepresentative and described it as 'Big Brother' domination of a committee supposedly set up to represent the interests of Black members. He proposed a policy of open membership to ensure the committee reflected the interests of those whom the committee was established to promote. Over the past six months, NATFHE's *Augean Stables* were being cleansed to enable the introduction of effective policies by those familiar with the real effects of racism and this was not to the REC's liking. The recent intake of new Black members apparently did not know their place in NATFHE's *chain of being* as they were actually speaking out to expose the inadequacy of NATFHE's policies and had not joined merely to observe procedures - their prescribed lot under the new Evans-designed constitution. But they did recognise that the REC was seeking to use the WMARC to enforce bureaucratic forms of control over a disaffected section of the membership.

Notwithstanding this opposition, Evans and the REC could afford to sit this one out as the WMARC would be back to 'normal' in the next academic year. The REC in the West Midlands, on behalf of fellow NATFHE bureaucrats, was determined to reassert its control of the anti-racist committee. This objective was to curb the growing assertiveness of Black members in their efforts to tackle racism among union members, officers and officials.

This meeting was the last act from the 'recently developed but short lived Black majority committee as Black members were well aware that any effective action through this committee, under its new constitution, would be blocked by the REC. Shortly afterwards, the WMARC was to be commandeered by REC 'grandees' with three co-optees – the necessary sop to the masses in accordance with the Broad Left patchwork quilt anti-racism. Sterile pseudo-academic debates could be resurrected and the Triesman-Welch antidote for racism discussed at a time when the union's own racially discriminatory policy was well on its way to becoming a precedent enshrined in 'bourgeois law.' This legal form – the erstwhile foe of the Broad Left, had come to the aid of NATFHE, albeit soon to encumber the trade union movement with a racially discriminatory policy. The '87 uprising - the Black member's 'Prague Spring', was crushed by the bureaucrats. Undeterred by NATFHE's version of Russian tanks and recognising that WMARC would return to the control of an unrepresentative majority of White Broad Left comrades-in-arms with anti-racist insignia shining on their caps and lapels, the rebels decided to concentrate their activities through an independent Black group.

The regional secretary's misrepresentation of details previously brought to his attention prompted a lengthy post-meeting discussion between him and I; the contents of

which I put in a letter and sent to him the next day to give him an opportunity to reply on the record. *[20]

The Industrial Tribunal decision had given us a new lease of life in any correspondence we decided to enter into because it opened up new possibilities to expose NATFHE. Before the Tribunal, we chose not to reveal certain features of the case, understandably those matters concerning rebuttal evidence; or other matters relating to the contents of NATFHE's submission preferring to remain *schtum* on grounds that they might be *sub judice* or not wishing to tip NATFHE off as to the evidence available to support Bis Weaver's case. The Industrial Tribunal freed us from these restraints and we drew attention to issues discussed in the Tribunal in the knowledge that absolute privilege covered the proceedings and matters relating to Day, Gates and Triesman could be stated clearly in our correspondence. We could report the misrepresentations and unfounded statements made by NATFHE officials in the union's submissions and in the Tribunal hearing; and of the necessity for NATFHE officialdom to engineer an all-embracing discriminatory policy to secure victory 'of a sort.' It certainly would have been an ill wind if it blew nobody any good.

The regional council was due to meet on the 20th June and prior to the meeting I put together a leaflet entitled *What Kind of 'Ism is this?* The leaflet dealt with one issue – none other than Bis Weaver's rights. The background was described in detail and attention was drawn to the officers in charge when the April 1986 motion was passed – D Gates, S Pattinson, N Cave and H Stretton. The regional secretary's recent comments at the WMARC meeting where he claimed to be unsure of what rights were removed were mentioned. For the benefit of "those who are not aware of the consequences to Bis Weaver's rights as a trade unionist…or who share D Evans dismissive attitude," the list included in the letter to Evans was repeated. It was also pointed out that "when a trade union branch deprives a member,…the only Black member…, of any right without a charge, without a hearing, without representation and in her absence,…there should be action to restore those rights." Evans was also cited as making the claim that the Bournville branch was justified in passing this motion and details were included of the erroneous reason given by him for his claim. In conclusion, I stated that "The blatant disregard shown by NATFHE to Bis Weaver, a Black woman, by so-called anti-racists and trade unionists raises the question 'What value is NATFHE's declared commitment to Black people.'" My comments about the women's group

* See Sect (c)(i)

and other radicals beating "a hasty retreat from this issue" published in the Caribbean Times were reproduced.[21] The purpose behind this was to spread awareness to delegates from all colleges in the West Midlands of the consequences for Bis Weaver of this motion; and focus attention on the REC's collaboration in this unconstitutional action.

On the 20th June, the meeting assembled with Bis Weaver, me and several members of the Black Lecturer's Group, including Alton Burnett and Krishna Shukla, in attendance. Prior to the meeting, I distributed the *Ism* leaflet to all the delegates. As the leaflet circulated, an audible whisper of *interpersonal dispute* was heard coming from the area of the auditorium where a few of the IPD-colleagues were sitting. We half expected a chant of 'IPD, IPD, IPD' to blossom but our half-expectations were not realised. * The *IPDists* being uninformed was one thing; broadcasting it openly was another!

It was the regional secretary's turn to distribute a document - the 'Annual Conference Report 1987', which contained a particularly important item:

> An incident involving physical violence, actual and threatened, on the part of David Gates, the Regional Chair, led to the delegation accepting his sincere and unreserved apologies, his request for severe personal and political stress to be taken into account, and his request for permission to leave the delegation.
> The Vice Chair's request for permission to leave the delegation at the same time was also accepted.[22]

This was an interesting way of describing it – Gates had requested to leave the conference when it had been made clear by the victim that she was unable to remain in the same room as Gates. In NATFHE's expedient analysis, 'stress' seemed to be a condition that applied one way only and was not something for victims to usually rely on; well, at least, Bis Weaver did not qualify for consideration under the category of stress in NATFHE's definition of harassment. The majority of women and all Black people had their respective places in the

* This Broad Leftist cop-out (IPD) had no relevance to the situation that had faced Bis Weaver. There was a considerable disparity between one Black woman in an otherwise all-White staffed college and a White male, (Gates) dominant in the union at branch, liaison and regional levels. How would they describe the reasons for the behaviour of Cave and Hartland, who became allies of Gates in the attempts to put pressure on her? Did those other willing participants in the branch, liaison and region have interpersonal disputes with her too? Could it have been something much deeper that infected them? After all, did not Mackney already spear the interpersonal dispute angle when telling Day, in front of Ms Welch, this was no end-of-Summer-Term tiff.
These IPDists were applying a massaged adaptation of *Freire's maxim* to the situation by implying equality between the parties when in fact the Weaver case was about the powerful in conflict with the powerless; and intimidation and harassment extending over a lengthy period of time. The type of situation that these 'anti-racists' and 'anti-sexists' constantly claimed to be fighting against? Were they not creating a category of 'interpersonal dispute or personality conflict' as a camouflage for racist and sexist behaviour?

Broad Left's 'Garden of Eden'.

The regional secretary's motion on the new WMARC constitution was proposed and seconded by two significant figures in the REC/BLC, Lovejoy and Mackney, both signatories to the 'Birmingham NATFHE Six' letter. The proposer (Lovejoy) spoke of trade unions recognising they were not immune from racism and the motion was a positive move towards eliminating racism in practice and ideas from among the membership. The purpose of the motion was to enable Black and White people to play a part in eliminating racism and White people have to recognise that fact by taking an anti-racist stance. Pointing out that Black members were a minority in the union, he invited delegates to look at the assembled council to see how few Black delegates were there and the REC hoped this motion would lead to Black participation in the union. He referred to the importance the REC assigned to the motion by giving it the widest circulation ever accorded to a motion. The motion was sent to branches, the WMARC, the Black Lecturer's Group and the REC wanted to put this motion to National Council paving the way for Black Sections in the union.

The speech contained all the usual right sounding terms: the emphasis on Black participation; noting how few Black members were delegates; recognising the right of Black people to organise themselves; and for Black and White people to challenge racism together. Thus spake the proposer of the motion, who was the WMARC-nominated member who stopped attending after its members unanimously agreed to have Black officers only.

One clause in the constitution that did not warrant an oral reference was the one stating that "Among the priorities of the Anti-racism Committee…should be…active support for the victims of racial harassment" * – a dead clause if ever there was one and unimplementable as it was at odds with NATFHE's policy on defending tenure, or what was now NATFHE's policy following the Industrial Tribunal. NATFHE West Midlands, following in the footsteps of NATFHE at national level with its Anti-racism Pack, was promoting a form of 'anti-racism' activity that had been overtaken by events, placing it in the outdated category. Nor was anything said about the new constitution being a means of limiting the number of Black members on the WMARC and placing curbs on real involvement for Black members by having two vetting committees for any proposals from the BLG. Also omitted was the restriction placed on other members wishing to participate in the committee, who had no automatic right to engage in the discussions and no right whatsoever to vote.

* Point 7 of the new constitution

After the motion was seconded, Krishna spoke of the proposer's moving speech but opposed the motion on principle. He reminded the proposer that he omitted to mention that both the BLG and the WMARC had rejected this constitution because of no consultation with the BLG or any Black members whatsoever and that without Black involvement it was not acceptable to the BLG. Drawing on his own experience over the previous few months at the hands of REC members, he called for the motion to be rejected.

Krishna's call met with differing responses. One speaker expressed opposition to a Black only organisation and thought anyone should be able attend the BLG after all other members paid subscriptions. The payment of subscriptions was hardly relevant as he would be unlikely to demand, let alone obtain, membership of the women's panel on that criterion. He obviously did not appreciate that subscription payers, who were interested in attending WMARC meetings under the new constitution could not speak or vote. Nor did payment of subscriptions guarantee a member from having their rights arbitrarily removed.

Another speaker, a member of Workers Power, now aware of the BLG's rejection, agreed with the call to reject the motion and she wanted to know the reasons for the REC rejecting the BLG's proposal. The REC was reluctant to reveal the reasons for its refusal - a decision made by the REC to reassert its dominance in the WMARC and to circumvent the BLG's proposed amendments to the WMARC constitution. * The REC had ample time after the Anti-racism pack was distributed in January 1986 to call for greater Black participation in its existing anti-racism/multi-cultural education committee but it made no effort to attract Black members to attend the WMARC. Two years on and with the advent of greater Black participation in the WMARC, the REC's new constitution was being introduced to give White REC members complete dominance of the WMARC and effectively limit Black membership to virtual insignificance. At the present time, ten Black members were attending the WMARC and attendance increased at every meeting. The REC was sounding off about increasing Black participation while introducing measures to prevent that. A touch of Joseph Heller or could it be George Orwell!

Bis Weaver, who was attending as the BLG Secretary, was permitted to speak, and she opposed the new constitution because it returned WMARC to its previous 'superficiality'; rigid in structure and unable to accommodate for the increasing number of Black members becoming involved; and its inability to tackle NATFHE's lack of procedures for dealing with

* The BLG had submitted a document on a new constitution months before the REC decided to introduce its own constitution

racism. She wanted Black members to take the lead in proposing how racism should be tackled not to the exclusion of White members but not trailing in their wake. She also drew attention to the way the women's panel operated - a panel consisting only of women with direct access to regional council. Unlike the new WMARC constitution that reinforced the colonial way of dealing with Black people by expecting them to subordinate themselves to decisions made solely by White people.

She referred to those BLG motions that the REC had vetted out of the day's proceedings. The REC was accused of hypocrisy in claiming the new constitution was to assist Black people in the struggle against racism because, as explained in the 'Ism' leaflet, the Bournville branch had taken her rights from her when she was fighting against harassment involving the ex-regional chair. The so-called 'anti-racists' on the REC had done nothing for her and, ultimately, she was forced to take NATFHE to an Industrial Tribunal to seek fair representation for victims of harassment. While she was addressing the council, nobody stood up to proclaim 'interpersonal dispute' in defence of Gates as that would be too ridiculous, since these delegates knew of the recent and novel way of debating issues, informally, between male and female delegates at Blackpool.

Mackney spoke of the importance of showing an anti-racism commitment and the new WMARC constitution was a structure in which both White and Black people could come together to make proposals and advise on Black people's rights. He acknowledged that the fight against racism could not move forward without the existence of a Black Lecturer's Group and a mechanism was needed to deal with it and this new constitution was a start in addressing the issues. Was this determination to involve Black members in anti-racism consistent with excluding them from consultation and effective participation in developing the union's format for fighting racism? Mackney also reflected on the views of the 1960s when Black people were left to fight racism on their own and he recognised that racism affected everybody, White as well as Black; it was not just a matter of self-interest for Black people only. Mackney was right about racism affecting White people but he must surely have realised a difference existed. Black people suffered under racism in a number of ways, which White people could never directly experience. Racism did affect White people in robbing them of their humanity and depriving them of class solidarity. Perhaps, this was what Mackney had in mind.

Mackney appeared aggrieved by the Black Lecturers Group's reaction because when

the REC had brought forward proposals for a new constitution the BLG made it known that it should have been consulted. The consequence was that REC members were becoming "too afraid to bring [their] heads above the parapet." But did the REC show any concern about Bis Weaver constantly putting her head "above the parapet" to face NATFHE's assault troops even to get her case heard and then have a *Whitewash* imposed on her while the REC rallied to both the harasser and the local official. She was right, the colonial mentality was alive and kicking.

Mackney's speech looked like another demonstration of the region's commitment to fairness and progress while overlooking the recently revealed NATFHE policy of discriminating against victims of racist harassment – a policy propelling Black people in NATFHE to the dark ages of the struggle against racism in the 1960s. He should have taken another trip down memory lane to witness how Black people were left to fight racism on their own but there was no need for him to venture as far back as the 1960s; it was only necessary to look over his shoulder to the last couple of years and observe how the REC/BLC/NATFHE had recently allowed that to happen to Bis Weaver at Bournville College where he had been a governor at the time and for a while afterwards.

One REC member urged the council to support the motion as it was a valuable move forward. He claimed there had been wide consultation and the BLG had every opportunity to make its representations known. He must have been either asleep or absent when the BLG's proposals for a new WMARC constitution were presented to the REC before being completely ignored. He was also fed up of being called a hypocrite or a racist because he did not believe in his Black brother splitting the union by having a separate organisation. Perhaps, he felt the same unease about the women's panel.

When the motion for the new constitution was put it was overwhelmingly carried by an overwhelmingly White regional council with forty-four votes in favour, six against and seven abstentions.

The motions from the BLG came up on the agenda except those already vetoed by the REC – the Weaver rights issue and the *Frew enquiry*. Three members of the BLG were allowed to speak on the motions – Krishna Shukla, Bis Weaver and Alton Burnett but only one could vote as only one was a member of the council. The motions covered: (i) reserved places for Black members on the REC; (ii) open membership of the WMARC and Black officers only; (iii) South Africa; (iv) Black Lecturers Group's motions submitted direct to regional council; and (v) a Black members' conference. Krishna spoke on all the motions giving particular attention to reserved places to bring Black members in line with women

members. He referred to previous speakers calling for greater participation by Black members but this required the means to do so. Reserved places for Black members would enable this participation. He spoke of the WMARC where the Black perspective had previously been ignored and he brought up the McCarthyite (Frew) investigation, although not referring to it by that name, with its telephone enquiry and damaging report that was accepted without question by the REC. *

Mackney, obviously not in favour of the BLG motions as they stood, thought the motions wherever possible should be amended before referring them on. The motion on South Africa should be referred back to the BLG; and a Black lecturer's conference, which he agreed with in principle, should have a paper produced on it. An unknown speaker was against the amendments as they prolonged the time before the motions could be re-introduced and action was required immediately. He went on to praise BLG members for their active support in helping him to organise an anti-racism conference in Coventry. Did he detect that the reason for the amendments might be to delay their implementation while the REC gave the impression of seeking to involve Black members?

The chair of the WMARC, Alton Burnett, spoke of the situation of Black members, who while able to attend meetings were in the main observers. The BLG motion on reserved places was a means to get NATFHE to make some structural changes. He did not want to fight 'good White comrades' but the only way to redress the lack of representation for Black members was to provide the opportunity for them to have a real voice in policy making. He cited his own experience as a delegate on Sandwell liaison committee, describing it as token, and referred to a meeting held in Sandwell to discuss the proposals for the WMARC constitution. He described the discussion as ill-informed and without understanding the reasons for the BLG's proposals for Black officers. With limited knowledge of the situation, the Sandwell meeting had mandated its delegates to support the REC's new constitution for the WMARC.

When it came to voting in the regional council on the BLG proposals: (i) 'reserved places' - was amended from seven to four and then lost; (ii) 'open membership and Black officers' - was effectively lost since the motion on the new constitution had scuppered it; (iii) 'South Africa' - was referred back to the BLG; (iv) 'BLG motions being submitted direct to regional council' - was amended into irrelevance by making the BLG subject to WMARC

* The targets of the enquiry had been three anti-racists on the committee – its first Black secretary; and two others present at this council meeting

and REC vetting; * (v) 'a BLG members conference' was referred back for further discussion with the BLG expected to produce a paper on it.

This meeting was an interesting insight into how White and Black were to come together to participate in advancing the interests of Black members. The motion on the WMARC constitution, produced by a single White officer with no known expertise in anti-racism and no input from any Black member of which there were many with specific expertise in this field, was overwhelmingly passed by the regional council. Whereas several motions from the BLG, developed over several months and debated by its membership, were virtually despatched to the waste bin in the space of thirty minutes. **[23] The wolves had successfully passed themselves off to each other as sheepdogs guarding the Black flock.

No one in the Broad Left Coalition registered any dissatisfaction with the union's successful defence of not assisting victims of racism or sexism - they merely went into a state of self-induced denial. These 'activists', especially those in the women's panel, should have known the policy put forward by Triesman did not stand up to scrutiny because surely they would be aware of NATFHE's policy of providing assistance and representation to complainants of sexist harassment reported in the April 1985 edition of *NATFHE Journal*.*** However, fellow members of the Broad Left Coalition with their Gaullist attitude to NATFHE - *L'etat est NATFHE,* must be defended at all costs.

(c)(i) The Beginning of the End of Our Campaign on NATFHE's Northern Outpost

The 'paper bombardment' of 1986 had the purpose of confronting the REC/BLC 'radicals' with their failure to act in the interests of right and justice in the hope they might recognise that their inaction, or is some cases actions against her, had contributed to her

* The motion on direct access to the regional council for BLG proposals was amended out of all recognition to read "Council recognises that attendance at such meeting (Black Members Conference) will be restricted to black members…Council requests that written reports of such meetings be provided to the Regional Executive, and that recommendations arising from such meetings be given urgent attention by Regional Executive, or an appropriate Regional Standing Committee." This confirmed the subordinate status assigned to the Black Lecturer's Group, whose proposals were subject to vetting by the White-REC/BLC dominated WMARC. The REC/BLC perspective regaled itself in the Hegelian relationship of Master and Slave in that "On no occasion has the slave a right to express anything if not that which may please the master."

** This was not dissimilar to the procedure used by Triesman to assess whether or not the evidence of possible racist harassment in Gates' behaviour could be sustained. Was this a sample of NATFHE's anti-racism training?

*** This article was missed by Bis Weaver and I during the hectic early days of her harassment as she fought to preserve her job, dignity and state of health but it was unlikely the feminists would have missed it since they were contributors to the policy

problems - an idealistic *Gandhian* position. That objective failed to achieve anything and, in hindsight, never could have without a corresponding *Weltanschauung* among the other parties. * Therefore, the latest batch of correspondence was of a different genre as the time had arrived to bring a few home truths to *eminence gris* who did not even occupy a position of *Freirean* neutrality during Bis Weaver's search for justice but had acted discretely, although not discretely enough, against her interests and against other Black victims relying on NATFHE's purported 'anti-racism commitment.' **

The letter sent to Evans recording his discussion with me after the WMARC meeting was not only about that discussion but about the REC/BLC collective as a whole of which he was now the standard bearer. He was the officer designated the task of designing NATFHE's formal approach to anti-racism in the West Midlands – a region embracing self-indulgent paternalism while ignoring the recently 'discovered' racial discriminatory policy practised by NATFHE officialdom. *** Back to the future!

Evans' dismissive attitude towards Bis Weaver's case was a reflection of the Broad Left Coalition. A political group whose members were fully aware of: Gates' harassment; Day's suspected collusion; Ms Welch's proposed enquiry; the Bournville April motion; the *Frew Report*; Bournville's potentially racial discriminatory motion; the *Beider Affair*; and the city council's monitoring. They were also well aware of the strength of the evidence in her favour as this was fully revealed in our paper bombardments.

The opening point dealt with the 15th June 1985 discussions between Day, Gates, Mackney and Ms Welch leading to Day's decision to 'investigate' her complaint without the complainant being told of these discussions and how this information led us to suspect irregularities during Day's enquiry, which were reinforced when Day released the 'report'. (point 1) In the aftermath of Day's 'enquiry', Bis Weaver and I discovered from our dealings with officers and officials certain information that raised the possibility of collusion between some officers and officials.

* It became apparent over a period of time that many influential members had no interest in acting with fairness as their actions were directed by political expediency or lack of interest in the difficulties of Black members or for other reasons of self-interest - paving the way to rise up in NATFHE's hierarchy

** There were numerous Black victims as was demonstrated at the Middlesex Polytechnic Conference in December 1985, who may not have entered into the consciousness of the West Midlands REC/BLC members because not one member of the Committee or Coalition or the WMARC, other than Krishna Shukla, attended that conference

*** Evans had graduated to the position of representing the West Midlands on the NEC, alongside Ms Welch

I admitted that "contrary to what I might have implied at the meeting…[about] no one [having] helped Bis Weaver," some people had, and "it was the letter [he] sent to B Weaver, dated the 7th January 1986,…[that] provided…an important lead in this direction." (point 2) The regional secretary had been the first to draw our attention to the possibility of collusion between Day, Gates and other officers while these officers had done their best not to disclose the run-up to Day's enquiry.

In contrast with his early assistance, Evans' admission of discussing the Bournville branch's potentially 'racist motion' with Cave and Hartland was put into print. Evans was informed that Bis Weaver's grievance was referred to several times when the branch committee discussed the motion, therefore, "the motion, presumably drafted in general terms, was specifically concerned with B Weaver." His discussions, beforehand, with two people involved in that grievance "might be considered…to be improper. * [and]…More responsible behaviour" might be expected from a regional secretary aware of her "situation at Bournville", at a time just prior to her appearance "at an Industrial Tribunal hearing against NATFHE." ** (point 3)

His claims of not being sure what rights were taken from her and his dismissive response that the rights issue concerned only correspondence had completely missed the point. "Any right…taken away, from any member, should be a cause for concern. But when…a Branch deprives…[its] only Black member of…[this] basic right…then there should be grave concern expressed by genuine anti-racists." His dismissal of "this unconstitutional discriminatory action…as having little consequence,…shows a low level of awareness of what constitutes institutional and individual racism [and] is hardly a commendation of [his] anti-racism or [his] place on the anti-racist committee." (point 4) Furthermore, his assertion that numerous letters were sent to the Bournville branch was criticised as erroneous. He was told "to come of it, Mr Evans" as he was "given details of the number of letters" – 17 including seven reminders in five months sent by Bis Weaver and my eight letters in two months. *** The result of my letters had led to the discovery that the "Bournville Branch had been operating outside its rules for at least four years." Yet, despite

* Evans played an ambiguous role. In 1988, when the case against NATFHE was virtually at an end, Evans provided her with a copy of Day's 30th June 1986 letter to Triesman, in which Day outlined how he intended to subvert the grievance procedures. This information may have had considerable value in a case Bis Weaver was considering taking against Birmingham city council

** This was the 30th March Tribunal hearing that was subsequently postponed

*** I brought this to the regional secretary's attention in my letters to him of the 26th February and 19th March 1986

knowing this, he "still repeated the story paraded to the REC by S Pattinson on the 14th May 1986."

Evans would also be aware that "the Branch Committee clamped down on these letters…because B Weaver was…get[ting] close to some of the unusual circumstances surrounding the Branch's involvement in the investigation of her complaint…, which [his] letter…of the 7th January 1986, helped…to begin her discoveries" The branch committee also took this action "to victimise her" for submitting a complaint against Gates. Several branch committee members who supported the April motion were listed. * (point 5)

It was also mentioned that "One would expect better from a committed anti-racist seeking to…defend the interests of Black people. But, perhaps, we should know better, since it was [he] who constructed a new structure for [WMARC] without reference to a single Black person." (point 6)

The time had come for the Industrial Tribunal's criticism of Day to get an 'airing'. Evans was told that it would not have gone unnoticed by the REC's observer at the Tribunal that "B Weaver's public allegation of racial harassment against D Gates went unchallenged by D Gates at a public hearing and is now part of the public record. So…it will be quite legitimate" for this to be repeated publicly (Point 7); and "also put on public record," was Cave, Bournville vice chair, complaining "to Senior Management about an anti-racism letter distributed by me to NATFHE members...the same N Cave, with whom [Evans] discussed raising a motion which was possibly racially discriminatory." (point 7) (b) Evans might "also be aware that the Birmingham Trades Council, the West Midlands TUC and the National TUC have expressed concern about this issue." (point 8)

As "it has become common knowledge in Birmingham that…D Gates agreed to withdraw from the Regional delegation to the Annual Conference after he had assaulted a woman delegate from the Region," Evans was asked "what action the Region intends to take on this issue bearing in mind...the rights of women in other regions." (point 9) Attention was also drawn to the new WMARC-appointees, whose "actions….based on their involvement in a number of issues might lead the reasonable person to the conclusion that these actions present dubious credentials for anti-racists,…especially [those] contaminated by their determination to protect 'their own' at the expense of a Black woman in [a] complaint of

* They were Ms S Pattinson, N Cave, B Hartland, R Downey, H Stretton, and two others who positions on the committee were as departmental representatives – the named members also operated variously in the REC, Birmingham liaison committee, WMARC, Women's Panel, National Council, and as delegates to the local TUC and local Trades Council

racial harassment…" (point 10)

In conclusion it was acknowledged "There may be a few principled people on the REC who will act on behalf of Black people but more principled behaviour by other RECists (members of the Regional Executive Committee) may be too much to ask for judging by their behaviour over the last two years."[24] The reference to RECists might be interpreted as referring to those following the REC's ideology in its various forms or a term closely resembling one with another meaning. Perhaps, the regional secretary, as he did at the WMARC meeting, shook his head at the items in this correspondence because no reply came back. Evans' failure to respond might be attributed to his compliance with the branch motion and head office's directive but the regional secretary did read the letter. Shortly afterwards, Krishna Shukla told me that Evans mentioned to him that I had called REC members 'racist' – obviously misreading 'Recist' as 'racist'. Evans may have come close on this occasion to detecting what was going through my mind; but I had written that not all REC members where so afflicted.

The letter was unlikely to have the slightest effect on the way the REC viewed Bis Weaver's complaints or the way these officers would respond to the interests of Black members outside of the glossy pamphlets. But we would circulate it around the union anyway.

Mackney was sent a copy of this letter to Evans, accompanied by a letter to him personally seeking a response to an issue swept under the carpet for many months and one that was avoided in the joint communique from the 'Birmingham NATFHE six'. This was the perennial rights issue and concerned his "much publicised statement that [he] would not be a party to confidential racism," which I had raised with him in my letter of the 15th February, but had gone unanswered. I added that "perhaps [he] will now take a position of not being a party to NATFHE's confidential institutionalised racially discriminatory practices."

His attention was drawn to comments he made when a BLG motion was presented to the REC "calling for the restoration of Bis Weaver's rights...[which] was referred to Head Office after a suggestion by [Mackney]." It was put to him that he "must now be aware, after [the] report back [to the REC] of the Tribunal's observations about not only Day's investigation of Bis Weaver's complaint of racial harassment against D Gates but also the Tribunal's comments on the validity of the evidence provided by the two NATFHE officials, A Day and D Triesman." He "will, therefore, be aware of the futility of asking NATFHE officials to act in a manner consistent with trade union principles and practices with regard to the rights of Bis Weaver, a Black member." Making the point that "Anti-racists act in defence

of Black people," Mackney was asked if he "only address[ed] himself to the popular leftist anti-racism causes as defined by Europhiles and consistent with individual political aspirations as encompassed by the Broad Left slate."*

In conclusion, referring to the Birmingham Trades Council's "concern about the unconstitutional removal of her rights...and [its] hope that the union will do something about it," Mackney was asked, "As Vice President of the Trades Council and a senior lay officer of NATFHE, what [does he] intend to do to end this institutionally and individually racially discriminatory behaviour towards a Black member of the union."[25]

Mackney was expected to respond as on two previous occasions he did so when the questions or comments brought the issues close to home. With a NATFHE 'victory' appearing to bolster the REC/BLC's resilience against a solitary Black woman, he might want to maintain an impression of fair-minded conduct while reconstructing an alternative version of the contents of this letter favourable to the kind of answer he wished to provide.

Increasing confidence on our part brought about by NATFHE's inglorious defence at the Tribunal hearing and the REC's retreat on the *Frew enquiry* and the Bournville racial discriminatory motion had inspired us to raise directly, and then sweep aside, the illusions of neutrality and impartiality fostered by the union when dealing with Bis Weaver. We were determined to blow the whistle on the union's attempts to impede her search into what, to any fair-minded and reasonable person, might appear as a scandalous cover-up compounded by a host of attacks on her to 'encourage' her to give up.

The renewed campaign in the West Midlands was intended to be of limited duration, as it turned out to be, since NATFHE locally was a spent force. It had been washed out as any kind of force for anti-racism for a long-time, having nothing to offer but blood, sweat and tears, albeit to be shed by Black members. This campaign was an exposé rather than an attempt to fill in the empty spaces in NATFHE's dialogue of intrigue – a task fraught with the unerring probability of evasiveness and remodelling of questions as experienced over many months.

Members of the newly constituted WMARC were early targets of the new 'paper bombardment'. Two letters were sent out about: (a) the new constitution and its effect on Black members; and (b) the response of the regional council to the Black Lecturers Group's motions. The first letter provided an opportunity to reveal to members two significant facts from the Tribunal hearing, which NATFHE's observer may not have reported in an

* The slate referred to those standing on the same platform for election to NATFHE bodies

adequate manner. Point 7 of the new constitution was reproduced: "Council supports the introduction, extension and expansion of…active support for the victims of racial harassment." Referring to the Industrial Tribunal, "It is a matter of public record that Bis Weaver's claim that she was racially harassed by an officer of the Region was not challenged by that officer," and in line with point 7 of the new constitution, "the Anti-racist Committee [was called on] to offer support to B Weaver" in discovering "details surrounding the procedures of NATFHE's investigation of [her] original complaint of racial harassment…"

It was recognised that members of the new WMARC, or some of them, would "need some background information", so the various inputs from Evans, Mackney and Day dealing with events of the 15th June 1985 leading up to Day's agreement to conduct an enquiry were comprehensively set down. The offer made by Ms Welch to investigate Bis Weaver's complaint came next and it was noted that "although unaware of the association that existed between P Welch and D Gates on the Regional Executive and the National Council, [Bis Weaver] decided to wait until [A Day] could carry out the investigation." Despite writing to "P Welch on five occasions asking…[for] information on her offer to intervene,...each letter has been ignored." Mackney was known to have kept P Welch informed of the situation in her capacity as a member of the NEC and Bis Weaver wrote to Ms Welch "asking if she referred this/these discussion(s) to the NEC." Bis Weaver later learned that "P Welch made an erroneous and subjective interpretation of the issue" at a TUC regional meeting and a letter to Ms Welch enquiring about her comments at this TUC meeting was similarly ignored.

This scenario certainly gave an impression, raised by and then dismissed by Mackney in his letter of the 8th April 1986, that "Alan Day, David Gates and [Mackney]…'stitched up' a procedure for investigating her complaint which would have a pre-determined outcome."[26] An account of what looked like a set-up was submitted to the new WMARC committee. What other explanation other than this one would stand up to scrutiny when taking into account the interventions, evasions and omissions associated with NATFHE's failure to fully address the circumstances prior to and after Day's enquiry?

A request was made to WMARC for assistance to find out information, "which might be of some use in a complaint [she] has taken out against A Day..." To assist them in making up their mind, they were informed, if they did not already know, that "A Day is a member of the ASTMS [and], therefore, not entitled under NATFHE's Rules…[for] assistance...from...NATFHE in a dispute with a NATFHE member, [whereas] B Weaver, a Black member, is [so entitled]."

The final point was introduced with a quote from the new constitution, namely, "Council particularly welcomes the participation of Black members at all levels of the Association." The WMARC was asked to address itself to the issue of the on-going rights issue, especially as "the Birmingham Trades Council, the West Midlands TUC and the national TUC have expressed concern about the Bournville Branch's action, [as have] a number of Black workers and community organisations."[27]

The following day, another letter went to the WMARC addressing the Black Lecturers motions. The main point was that immediately after regional council recognised that the Black Lecturers Group's recommendations should "be given urgent attention…six motions were submitted to the Regional Council…and we noticed the urgent attention that was given to them…In the space of 30/40 minutes, motions that the Black Lecturers Group had been developing for months were rejected." This response was compared "with the motion, produced by a member of the REC, without reference to a single Black person, presented to the ARC on the 25th February…, (noticeably rejected by the ARC and the Black Lecturers Group)… [which was] passed by the Regional Council."

The "three Black members present…spoke in favour of the [BLG] motions, [therefore] it is apparent that the REC's covert intention is to create a mechanism to harness and monitor Black self-determination and the development of worthwhile anti-racism policies which may run counter to the self-assigned role of paternalists and maternalists." It was also noted that point 7 of the REC's motion, namely, 'support for victims of racial harassment,' is unimplementable due to the Industrial Tribunal decision, "which upheld NATFHE's policy of providing advice, assistance and representation for only those whose tenure was at risk when cases of racial harassment are brought against NATFHE members by NATFHE members… Perhaps, the report back to the REC did not mention that factor."

In conclusion, attention was drawn to the fact that "involvement in anti-racism requires more than a few pious platitudes. This is what is learned when there is a real involvement in Black people's anti-racism struggles outside of the committee rooms, marches and demonstrations." The inconsistency in the way anti-racism was dealt with by the REC/BLC in comparison to anti-sexism was mentioned in a postscript. The REC had argued that anti-racism was "to do with White as well as Black people and anti-racism activity involved educating White people to be anti-racists." A similar argument could be applied to anti-sexism, therefore, "can we now expect membership of the Women's Panel to be opened up to men?"[28]

Two days after sending him a copy of the letter sent to Evans, a reply came from Mackney, which qualified it as 'fast track' – unusual when dealing with NATFHE officers or officials. * He certainly looked as if he wanted to see the back of this case and the issues rising from it.

Mackney quickly dispensed with the two copies of letters received by him as the vice president of the Trades Council on the 19th ** and 29th April as having been replied to by its secretary. This was fair enough as it was not expected for him to act on behalf of the Trades Council having been told on the 2nd June that the Trades Council did not have "the power or the right to intervene in the domestic affairs of the branch." But this was not what was asked of him. Mackney was asked "as Vice President of the Trades Council and a senior lay officer of NATFHE what [he] intend[ed] to do to end this institutionally and individual racially discriminatory behaviour…" The request was about his intentions in his role other than the one he occupied on the Trades Council in line with the Trades Council expressed "hope that the union will do something about it."

The issue of Bis Weaver's trade union rights, point 6 of the letter to Evans and the main point of the letter to Mackney, was dispensed with by Mackney in a similar fashion. Describing this issue as "details [of] the alleged consequences of the alleged 'removal of B Weaver's rights, (5.4)'" *** he said that "as a Tribunal...will presumably adjudicate on the substance of these allegations…[he did] not feel it… appropriate...to comment on them." Mackney was either not aware of the contents of Bis Weaver's complaint under Rule 8 or it was something else he had conveniently forgotten. Her complaint under Rule 8 concerned the Bournville branch committee's defamatory statement, yet, despite considerable evidence presented to him, Mackney ignored the contents of point 6, which covered restrictions on obtaining information; on nominating candidates for union posts; union protection against monitoring by the employer; action against Branch officers making serious unfounded allegations about her to senior management. On these issues – none concerning Rule 8, he

* Mackney had once previously responded within two days in July 1985 when Bis Weaver wrote to him for advice not realising the significant role he had already taken in the complaint. Mackney provided an extremely limited account of his actions on that occasion relating to matters leading to Day's 'enquiry'

** The 19th April letter was a letter from me to the Trades Council drawing attention to Bournville branch's failure to deal with the anti-racism letter reported to management by a NATFHE officer, who was a delegate to the Trades Council

*** Mackney referred to the rights issue (points 6) of my letter to Evans, as point 5.4, which dealt with the names of branch committee members who voted to recommend the removal of Bis Weaver's rights. I was not sure why he did this

made no effort to explain his inactivity. Mackney would presently show that he was aware that her Rule 8 complaint was not about the rights issue.

Furthermore, his use of 'alleged consequences of the alleged removal of rights' was a misguided description since neither the 'consequences' nor the 'removal' were allegations. They were straightforward matters of fact and Mackney was fully aware of that. If he still considered them to be allegations then he was out of touch with the reality of the situation - an unlikely position for Mackney to find himself in.

Mackney was also well aware of the lengthy time period between invoking a Rule 8 and its 'resolution'[29] and he was prepared to sit back and wait indefinitely for a NATFHE Tribunal decision before acting on the 'rights issue'. Perhaps, he had forgotten his own criticism of Rule 8 proceedings where he stated "There is a distinct tendency for Head Office to try to forget about the complaint." and members usually left the union before the case was heard.[30] Perhaps, that was a remedy for resolving this particular matter and she might follow those predecessors out of the union. In the meantime Bis Weaver was expected to accept this victimisation and remain without full rights in the union while senior union officer's played follow my leader over a member's rights. *

In his second point, Mackney set about putting me right for having said that he suggested that 'the Black Lecturer's Group's motion calling for the restoration of Bis Weaver's rights…[be] referred to Head Office…' He drew attention to points 127 – 130 of the REC minutes, 13th May 1987. He wrote that he "had been placed in the Chair (127) after the Chair [Gates] and the Vice Chair [Ms Pattinson] stood down and [he] had put to the Regional Executive the suggestion that the Regional Secretary 'seek advice from the President and General Secretary' on whether it was in order to discuss two motions the substance of which were subject to a Rule 8 enquiry. The Regional Executive agreed to this course of action." (129) Mackney claimed to have "made the proposal because it seemed inappropriate to [him] to have Regional Council determining (by debating motions) the merits of allegations which were (are) to be considered in much greater detail by a Tribunal."

* A dozen years hence, in 2000, Mackney, as general secretary of NATFHE, made a public apology on behalf of NATFHE to Farhad Shahrokni, a NATFHE member, for allowing him to be subject to the action of the branch in passing a hostile motion against Shahrokni, described by the Tribunal as "unlawful victimisation" under the 1976 RRA. If it was 'unlawful victimisation' under the 1976 RRA, in 2002, then it was also 'unlawful discrimination' when the same action was taken against Bis Weaver in 1986, and had continued up until and after Mackney's letter (1987) – a period of fourteen months. In fact Bis Weaver and my rights were not restored until 12 January 1988. Mackney also announced, in 2000, that it "has taken a number of steps to improve its approach in handling discrimination cases and in particular its Rule 8 procedures..." Mackney's observations in 1986 on Rule 8 had taken fourteen years to be 'improved' and only after another disastrous racism case.[31]

These minutes merely confirmed what I had claimed in my letter to him despite my having expressed the situation in a different way to the one chosen by Mackney. However, it filled up space for Mackney in his response. He then explained that "seeking advice of both the President (a lay officer) and the General Secretary (a paid official) [was] to have both a lay officer and an official's view of what action would be appropriate." (Mackney's underlining)

Mackney thought that the comments made by the Tribunal about Triesman and Day that I had disclosed in the letter, were "singularly inappropriate" as he was "not, incidentally, aware of the Tribunal's comments," and could not be "expected to have known the views of the IT Chair in advance of the hearing." Nor had he recommended seeking the advice of Day or Triesman but of the General Secretary and the President.

Mackney misinterpreted or misunderstood the point I made about Day and Triesman because no claim was made by me that Mackney had recommended passing the 'rights issue' to those particular officers. The words used in my letter were that he suggested that the BLG motion on her rights be "referred to Head Office." My reference to the Tribunal's observations on the validity of the evidence of two NATFHE officials, Day and Triesman, was an example of what NATFHE officials, local and at head office, were prepared to do and that Mackney "will, therefore, be aware of the futility of asking NATFHE officials to act in a manner consistent with trade union principles and practices." *

Nor was there any question of expecting Mackney to be clairvoyant. I said in the letter to him, when disclosing those Industrial Tribunal comments, that he "must now be aware" – present tense, on the 18th June 1987, of the futility of his previous recommendation to forward the motions to head office. Nor was it suggested that he would know on the 13th May (four weeks before the Industrial Tribunal hearing) what comments the Tribunal would make but those Industrial Tribunal criticisms, revealed to the REC by its observer, should have made Mackney realise, when he received my letter, that forwarding the motions to head office had been a futile exercise. Surely, Mackney understood the point being made, namely, that Dawson and other officials were very much peas in the same pod as Triesman and Day.

* Mackney should have known that it would also be futile to expect the general secretary, Dawson, to do anything when he made the proposal to the REC. Bis Weaver had told Mackney of Triesman's intention to advise Dawson to turn down the May 1986 REC motion. This conversation took place during a fund-raising event for Viraj Mendis, who was protesting against deportation to Sri Lanka. [32] The case caused a sensation when Mendis was granted 'asylum' in a church in Manchester and 100 police forcibly evicted him from the Church when it had already been agreed for him to leave the church - an example of a Tory administration bullying an asylum seeker to pamper to the crowd.[33]

Mackney knew how head office officialdom had left Fernandes to virtually fend for himself when he was sold down the river, by officialdom, for speaking out against police racism. Fernandes did, however, get some support from his branch at Kingston Polytechnic; from the West Midlands region; and some others. * There was no question of the West Midlands officer caste not involving themselves in the Fernandes case but there was a difference as far as they were concerned – John Fernandes was taking on the police, an arch enemy for the Broad Left Coalition; while Bis Weaver's case was against one of the West Midlands' own 'standard bearers.' ** Furthermore, did Mackney really expect NATFHE's President, a lay officer, to do anything without advice from full-time officials bearing in mind that the President's office was naught but a sinecure for long-standing members? Had Mackney not heard or read the eulogies from successive Presidents to Dawson at the Annual Conference? Mackney was nobody's fool and certainly not so obtuse to see the utter pointlessness of his recommendation.

Mackney's point 3 discounted, what he described as, an "inference in paragraph 5 that people such as [himself] address themselves to anti-racist causes because it gains them popularity and (para 3) much publicity does not correspond with [his] experience."

Mackney apparently misunderstood (!) my reference to 'popular leftist anti-racism causes' by interpreting it as if I had written that anti-racism brought its exponents 'popularity and much publicity.' Did he think I was so ignorant as to believe that? If anti-racism did bring such popularity there would be no need for anti-racist committees, platforms or action because anti-racism on such a significant scale in people's lives would render racism virtually non-existent. Racism would be confined to a few insignificant individuals on the periphery of socio-political life. The comment I actually made was about "popular leftist anti-racist causes...consistent with individual political aspirations as encompassed by the Broad Left slate." Mackney had reconstructed comments in two separate paragraphs of my letter to create an entirely different statement.

This re-construction consisted of Mackney combining my paragraph 3 dealing with Mackney's comments in a newspaper on 'confidential racism' and my intimation to him that "perhaps [he] will now take a position of not being a party to NATFHE's confidential institutionalised racially discriminatory practices"; with my paragraph 5 asking if he only

* During the Fernandes issue, NATFHE West Midlands had opposed the actions of NATFHE officials.
** The Broad Left members had rallied around Gates by standing on the same electoral platform for election to the National Council, which clearly showed the side of the fence they were standing on.
Not even *Freire neutrality* [34]

addressed himself "to the popular leftist anti-racist causes…consistent with individual political aspirations…" These two paragraphs dealt with two separate issues in which the reference to 'publicised statement' concerned his letter to the Birmingham Evening Mail in February 1987. It was incidental to the main point (in paragraph 3) and not in any way connected to my comment on 'leftist anti-racist causes' in paragraph 5. * This is what might be described as Mackney "denying what is fact, and explaining what is not."[35]

The comment I had made in paragraph 5 was about "popular leftist anti-racist causes" with the emphasis on 'leftist', which Mackney had chosen to write-up as 'anti-racism causes' while omitting 'leftist'. He would be well aware that in many union activities the vast majority of trade unionists were uninvolved and delegates were elected by a show of hands. To get elected to influential posts in the union, it was necessary to win over the delegates by supporting political causes to which many of them were attached either with a real commitment or by merely paying lip service. Proposing 'popular leftist causes', of which anti-racism was one, was essential to gain credibility with the various leftist political parties, groups and sects, who comprised a significant section of the 'hand-raising' electorate. It was popularity with the leftist activists, who attended meetings and voted, that was sought by candidates seeking office not popularity with the majority of members, most of whom did not attend or rarely attended meetings.

Mackney had referred to my paragraph drawing attention to 'confidential racism', (para 3) which had given him the opportunity, for the second time, to address my 15th February letter. Our June letter sought support for those rallying against *McCarthyite* tactics and for him to show that his position was one of not being a "party to confidential racism" as he had previously advocated, but, yet again, he avoided taking up the option of being involved in anti-racist action.

Mackney included with the two comments relating to Paragraphs 3 and 5 another point that might be expected to make Mackney appreciate the position taken up by the BLG but which it obviously had not. Not finished with the topic of publicity and having misinterpreted my reference to publicity as having a positive effect for anti-racists, he said that "We need an approach to challenge racism that recognises that quite the contrary is the case." He followed this up by expressing the view that "we need to recognise that people

* Why did Mackney elide two different points and then comment on the reconstruction. The answer to that can be seen from his 8th April 1986 letter to Evans, copied to Bis Weaver, where this ploy was used to avoid answering straight-forward questions posed to him by Bis Weaver. Triesman's approach had been to ignore questions that he did not want to answer, whereas Mackney reconstructed them and answered the reconstruction

develop in their appreciation of the issue. (Indeed many of us now hold quite different views from those espoused back in the days of the WMCARF.)" * This 'appreciation of the issue' was something the Black Lecturer's Group (and Bis Weaver and I) would agree with but he failed to match his rhetoric with an appreciation of how this development takes place. This 'appreciation' was one of the BLG's reasons for wanting Black members to have a more significant role in combatting racism in NATFHE since their 'appreciation' was arrived at through a lifetime of experience beyond that of the vast majority of members of the REC/BLC.

Another glaring omission in Mackney's response was the item included in the Evans letter (point 6) that Mackney had the option to address. This was the monitoring issue - an extremely significant issue that a senior office could be expected to take up, irrespective of whether or not the victim was a member of a vulnerable group. The monitoring issue was not even within the false characterisation used to define the 'rights issue' and the *Frew Report* as an 'on-going dispute', but his *NATFHEesque* interpretation was sufficient to enable him to render it *ultra vires*?

Mackney did answer a question posed to him, in his concluding point, concerning his future intention. His answer was "to await the outcome of the Rule 8 Tribunal who [she had] entrusted with the investigation of the allegations." Nonetheless, despite waiting for that outcome, he was, however, as in the 'Birmingham NATFHE Six's' letter, "prepared to discuss with anyone how…to involve members in furthering anti-racism strategies, [and] some of the decisions taken at regional council today – particularly the official recognition of the Black Lecturer's Group, assist this process in NATFHE." **[36] This 'success' was of little practical use bearing in mind that any BLG proposal would need to go through two road blocks to even be considered by the regional council.

Despite the rights issue, the *Frew Report* and the monitoring of her movements not being covered by a Rule 8, was Bis Weaver expected to feel relieved that at some indeterminate time in the future or until head office forgot all about it, Mackney might take the trouble of discussing issues that he feels it inappropriate to discuss with her now because

* WMCARF was the West Midlands Campaign Against Racism and Fascism, which he may or may not have known Bis Weaver and I were at the founding meeting of that organisation and became founder members

** The BLG's existence had been recognised for over a year. Its first meeting had taken place in June 1986. Mackney must have been referring to the council's agreement for a BLG conference to take place funded by the region

of Rule 8? Mackney had no reason to sit this out unless he really did not want to involve himself in any way that might assist her.

Now that NATFHE had successfully warded off her Tribunal challenge, Mackney had come out into the open after a break of fourteen months and firmly rapped my knuckles, even to the point of underlining the ending of officer and official, no doubt for my benefit. I tended to write 'official' when referring to either lay officers or paid officials and Mackney appeared to be keen on instructing me on the difference. If only he had taken such care when supplying information or answering questions instead of making irrelevant points or reconstructing questions and comments

Mackney's letter had the mark of a skilled bureaucrat whether as a NATFHE officer or official; firmly putting *us* in our places for raising questions about his commitment to anti-racism while, simultaneously, giving his usual impression, of standing aloof to await the completion of procedures. * It came as no surprise to discover Mackney would find some reason to continue to remain 'inactive'.

Mackney had conveniently re-drafted his own time zone for any future discussion on what he intended to do about Bis Weaver's case. His inactivity was being attributed to Bis Weaver's Rule 8 complaint, thereby, giving the impression that October 1986 was the reason (starting point) for his inactivity. There was considerable activity on his part in the early stages of her complaint to the union, which had hardly been of benefit to her. ** This involvement had not been fully dealt with in his April 1986 letter.

Mackney's response came as no surprise because in the few communications Bis Weaver received from him, he provided impressive detail, despite giving the appearance of going through a selection process. Both Bis Weaver and I knew that to expect Mackney to do anything positive now or in the future was as futile as Mackney's recommendation to the REC on the 'rights issue' and the *Frew enquiry*.

Notwithstanding this and while waiting the release of the Industrial Tribunal report,

* Mackney did the same in his letters to Bis Weaver in July 1985; to the regional secretary in April 1986; and as he and his co-signatories did in the 'Birmingham NATFHE Six' letter of April 1987

** Mackney had attended a Bournville governors meeting within days of being made aware of her complaint against another member of staff in their roles as college employees. Although the complaint went to the union it was not over union matters and did not remove Mackney's responsibility for bringing it to the attention of the governors. Governors are appointed with responsibility to look after the interests of the college and its staff, and yet he did not reveal what he himself had described barely three days before, as "not a 'typical end-of-Summer-term tiff.'" Olwen Cupid, a Black woman governor, immediately brought it to the attention of the governors when she heard of Bis Weaver's situation. Mackney had kept quiet on this college employment issue

we decided to send him another letter to see what else might be conjured up in the programme for educating us in NATFHE's code of practice. The main topic remained his failure to involve himself in the Bis Weaver's rights issue.

Mackney's attention was drawn to the fact that no complaint was registered "under Rule 8 concerning the…removal of Bis Weaver's rights." The Rule 8 complaint "concerns...a defamatory statement against Bis Weaver and its distribution amongst Union members, inside and outside of the Bournville Branch, and to non-union members, including Governors, City councillors and City Education Officers, [which she] considered [to be] bringing the Association into disrepute." As no formal complaint on the 'rights issue' had been registered, "radicals and anti-racists in the Union" had been approached "to take up the issue." The point was that "If people, who make decisions on whether or not to act, were to ensure that they were conversant with the facts, and not to rely solely on representations from interests within the Bournville Branch and other NATFHE officers and officials, there would not have been so little action in defence of a Black woman and so much misrepresentation of the facts and motives." We hoped "this clarifies the issues for [him] and clears the way for [him] to take action on behalf of a Black woman who, the reasonable person would consider, was victimised by the Bournville Branch Committee for pursuing a complaint of racial harassment against one of its officers." *

As for Mackney's claim that the regional council had assisted anti-racist strategies by "recognition of the Black Lecturer's Group," we enclosed a copy of our recent letter to

* As mentioned earlier, Mackney, as general Secretary of NATFHE, apologised to Farhad Shahrokni, as per an agreement made between the parties of the 23rd November 1999. Mackney's statement was:

> If the history of the 20th century teaches us one thing, it is that the rights of minorities, or even of less powerful majorities, are an important component in any definition of democracy. Discrimination is by its very nature often against people who cannot obtain a majority of the votes. During the course of the year we will be updating guidelines for branches on race equality in further and higher education. These will stress that branches should not 'fall into the mistake of judging for themselves whether the allegations made by a complainant are true and then acting accordingly by either, for example giving support to the person against whom the complaint is made, or otherwise discouraging the complainant from continuing their allegations. Such action by a branch can lead to the union itself being adjudged to have victimised the complainant.' Branches must respect the rights of the complainant to raise complaints of unlawful discrimination. Passing a hostile or critical motion, seeking to influence a member not to exercise their statutory rights under the Race Relations Act, or refusing to co-operate with union enquiries on a member's behalf cannot play any part in the union's proper role of assisting the complainant.[37]

Mackney had said (20th June 1987) that "people develop in their appreciation of the issue" but in Mackney's case it took a long time, over 12 years, for him to learn the lesson of branches 'passing a hostile or critical motion, seeking to influence a member not to exercise their…rights...", or to do something about it

the new-nominees of the WMARC together with a copy of my letter to the Caribbean Times (22nd May 1987). He was also referred to the report *Union 'closes ranks' to defeat black teacher* in the current edition of the same paper. This provided him with an opportunity to obtain information outside of the jaundiced sources upon which he seemed to rely. We cleared away all the 'procedural' impediments he put forward to rationalise his inaction but we doubted that it would stir him into action. Mackney was thanked for his reply on grounds that "in spite of NATFHE's directives it is possible to get a reply to some of our correspondence."[38] We wondered whether our satisfaction would be repeated with a further reply from Mackney – we had plenty of back-up material if he chose to do so.

In addition to dealing with NATFHE internally, another means to bring attention to NATFHE's discriminatory policy began to take shape while awaiting the release of the Industrial Tribunal report. This route, with a number of offshoots in the future, was set in motion with letters to three women Labour Party MPs and MEPs - Clare Short, MP, Jo Richardson, MP, and Christine Crawley, MEP. The underlying aim of the letters was for them to contact NATFHE so that its officials would realise the Industrial Tribunal hearing did not end the issue. The Parliamentarians were acquainted with the background to the Tribunal case; the orally delivered decision; and the implications of NATFHE's policy on protecting tenure as the main criterion in racist harassment and discrimination cases. We ventured to put forward the premise that if this policy "is standard practice throughout the trade union movement," as NATFHE claimed it to be, "then trade union charters on anti-racism and anti-sexism are unimplementable." This was seen as "a serious detriment and disadvantage to members of racial minorities and women and if the law allows trade unions to discriminate in this way then the law should be changed."[39]

Clare Short replied almost immediately and Christine Crawley a short time later. Clare did not see any possibility of a change in the law but would contact NATFHE.[40] We wondered what kind of reply would materialise from the victorious camp. *

The women's section of the Birmingham Labour Party was also contacted. Each member received a similar message to the one sent to the three MP/MEP's on the background of the case and Tribunal decision and they were also informed about the monitoring issue. Bis Weaver wanted to know if they "are prepared to ensure that every member of this Party are free to pursue their careers with dignity and free from harassment and when they do complain they are not subjected to additional harassment and pressure from people within the Party."[41]

* Clare Short relayed it to us when it surfaced

With the intention of seeking publicity from the Weaver v NATFHE case around forty letters were sent out to national, local, ethnic minority and socialist newspapers in the aftermath of the Industrial Tribunal hearing but only three short features on the case and two of my letters were published in the Birmingham Post, the Caribbean Times and the Voice.

The article in Voice covered Bis Weaver's two-year campaign in NATFHE leading up to the Industrial Tribunal. The Tribunal chair's slating of the "union's investigation procedures" was referred to but in spite of that the Tribunal did not uphold her application. Bis Weaver was also quoted as saying she "will appeal because it's important that women and Black people who are promised the protection of the union get this support in practice." When the paper contacted NATFHE, a "spokesman refused to comment on the union's enforcement of sexism and racism guidelines."[42]

(c)(ii) Focus on Bournville College and the LEA

Matters directly relating to the grievance itself had been left in abeyance while NATFHE occupied centre stage but the LEA had not been forgotten. No time was wasted in drawing the LEA's attention to information gathered from the testimony of NATFHE officials and its documents provided at the Industrial Tribunal hearing. * Within two days of the Tribunal's oral decision the LEA became a target for a paper bombardment. Between the end of the Tribunal hearing and the release of the Tribunal's report several letters went to LEA officers.

The LEA had acted like NATFHE, therefore, it would be treated like NATFHE and a steady procession of letters descended on the LEA. The LEA was made aware that we knew of the 'behind the scenes' dealings between NATFHE and city council officers. From this we raised the spectre of differential treatment meted out to Bis Weaver.

Day's carelessness in including his letter to Jones in NATFHE's bundle provided Bis Weaver with information on the 'plot' to change the procedures for the grievance hearing to benefit of the Bournville 'trio'. The LEA was made aware that she knew of the negotiations without disclosing the source of this knowledge.

Writing as Mrs Weaver's representative, I requested copies of Gates, Cave and Hartland's responses to the grievance to put Mrs Weaver in the same position as the 'trio', as Day, acting as their representative, had access to details of her grievance and other

* I also took copious notes of the Industrial Tribunal hearing

information surrounding the hearing. The LEA was also asked "if, when the LEA took over responsibility" for her grievance: (i) "the procedures for dealing with the complaints were changed [and] (ii) if [Mr Day] was involved in discussions about changing the procedures." Reminding Geoff Hall of his promise on the 3rd October 1986, a request was made for copies of the official notes of the October hearing. Information was also sought on Gates' letter of apology sent to the LEA[43] - another piece of information obtained from NATFHE's bundle of documents.

This was followed up with a letter noting that after the LEA took over the grievance, "alternative procedures were introduced, not in conformity with the established grievance procedures," and consisted of "an intermediate stage...introduced at the request of the representative of Gates, Cave and Hartland, [Mr Day]…to enable further comments to be made by interested parties between the accumulation of evidence and the reaching of conclusions."

I pointed out that "The Grievance Procedures...are quite specific and do not include an intermediate stage…[because], as I understand the Grievance Procedures, if a party disagrees with the...decision...then they have the rights of appeal under [TGP] A2 (iii)." An explanation was asked as to why "these changes were not referred to either [Mrs Weaver or me] for...consideration in the same way as afforded to" Mr Day. A request was made for copies of the correspondence between the LEA and Mr Day, "thereby, affording Mrs B K Weaver the same facilities as the complained against received." This introduced the possibility of Mrs Weaver being discriminated against by the LEA in collaboration with NATFHE.[44]

Another letter was directed at the intermediate stage, namely Day's suggestion that the grievance "procedures be detached from possible disciplinary proceedings." Day's 'reasoning' behind this was: (a) "to ensure [the trio] have confidence in the procedures" as (b) "not to do so would affect [their]…willingness to co-operate fully with the enquiry"; and (c) "only some employees...had their attention drawn to...disciplinary proceedings." My observations on these three points were: (a) "consideration regarding confidence in the procedures was not afforded to Mrs Weaver"; (b) "According to the Teachers Grievance Procedures (A2(ii)) 'Refusal of either party to attend should not invalidate the proceedings,'[45] …[as] These procedures do not depend on the cooperation..[of] anyone;" and (c) "evidence could be taken from any number of employees who would not be the subject of disciplinary measures against them." The question asked was "why changes in grievance procedures and additional conditions...were discussed with [their] representative...without providing Mrs B

Weaver or...her representative, with any information about the negotiations, concerning procedures,…taking place…"[46]

In the next missive, it was revealed that information was now available that "might give the appearance to the reasonable person that Mr Day...was exercising undue influence, with the backing of NATFHE, when suggesting changes to the established Grievance Procedures..." Firstly, Day's recommendations "to those delegated to carry out the procedures...suggest that...if disciplinary proceedings were not separated from the...inquiry, [the 'trio'] might not be willing to co-operate freely with the enquiry..." Day also made this separation "necessary…to encourage [them] to participate fully..." I introduced the ubiquitous reasonable person, who "might see that the co-operation of 'the trio'..., supported by NATFHE, was dependent on the procedures being changed." Secondly, this "suggested intermediate stage...would open the proceedings to the possibility of undue influence being exerted [on the LEA] prior to the conclusions being made [and] this would not be within the interests of Mrs B Weaver in view of the disproportionate degree of influence that could be exerted by [the trio's] representative,...in comparison to that of Mrs B Weaver and her representative." Thirdly, after quoting Day's bargaining device "that he, and NATFHE, were anxious to see an amicable resolution of the problems and that [NATFHE] hope it would be possible for them to assist in the endeavour," I again invoked the reasonable person. This overworked reasonable person, "bearing in mind the implied lack of co-operation stated by Mr Day, might draw the conclusion that undue influence was being exerted on the kind of outcome [Mr Day] would like to see,…[which was] an influence...that would not be proper." Summing up, it was apparent that "undue influence was being exerted on the proceedings and outcome by [Mr Day] which placed Mrs Weaver at a decided disadvantage."[47]

All the points were eventually pulled together: (i) the grievance procedures were changed "as a result of suggestions made by Mr A Day"; (ii) "the amended procedures introduced for dealing with Mrs B Weaver's complaint...were different from the procedures offered to others..."; as (iii) "the procedures offered to Mrs B Weaver, a member of a racial minority, complaining of possible racial harassment, included additional conditions." (iv) "The Industrial Tribunal...stated that Mr A Day showed discriminatory preference when acting as representative [to the 'trio'] placing Mrs Weaver at a disadvantage"; (v) "Mr Day,…when negotiating changes in procedures with the [LEA] Committee was doing so in a discriminatory preferential manner to the…disadvantage of Mrs B Weaver," and (vi) "The reasonable person might consider that this Committee, by responding to Mr Day's discriminatory preference for [the three], was also showing discriminatory preference..."[48]

This implication may have been stretched somewhat but it must now be apparent to the LEA that the previous emphasis on seeking the release of the report for Bis Weaver to submit to the Industrial Tribunal had changed to a more direct objective: the discriminatory implications, in collusion with NATFHE, of the LEA's hearing and its failure to release the conclusions.

In the throes of this one-sided correspondence with the LEA, Bis Weaver met with the Principal over the second grievance she submitted against Cave and Hartland. This came about after she had written to the chair of governors drawing attention to the Teachers Grievance Procedures, specifically A.2 (ii), requiring that a grievance "should be heard 'not less than 15 and not more than 20 working days after the receipt of the formal notice.'" She asked the chair why her grievance had not been acknowledged.[49] Councillor Banting replied immediately and apologised for "inadvertently" filing away the grievance without responding. However, he had "discussed matters with the [Bournville] Principal,...[and] requested her to investigate and to deal with the complaint as appropriate."[50] At every stage in matters relating to Bis Weaver there was always some form of 'inadvertency' or failure to follow procedures. Given the 'fame' of the Weaver case, how could the chair 'inadvertently' file away a grievance?

The chair of governors had erred in delegating responsibility to the Principal as handing over a grievance registered under the statutory grievance procedures was not a course of action available to him. He had also exceeded his authority in taking action without informing the board of governors about the grievance. There was a marked absence of protocol or concern with procedures when it involved Bis Weaver – and this applied whether it was the chair of governors, the LEA or NATFHE; the common denominator seemed to be that the complaint was about racist harassment submitted by a Black woman – a type of complaint that appeared to touch a raw nerve with them all.

It was only too obvious to both of us that anything would be tried to block this grievance by those responsible for the management of Bournville College because of their overall culpability. The second grievance was now of little consequence but it was still worth following up to see just how far they would go to bury not only this grievance but also the first one. Introducing myself as Mrs Weaver's representative, the inappropriateness of the chair's action was picked up on. I referred to the 35 working days that had elapsed since the grievance was registered and "Mrs Weaver is entitled…to have her grievances dealt with…within 20 working days…" A request was then made for "any documentation submitted by Messrs Cave and Hartland or by the Principal" to be made available to Mrs

Weaver. * I signed off by saying "I looked forward to an…early date for the grievance to be heard."[51]

The chair of governors' request for the Principal to deal with the grievance, whenever the request was made, brought a response. The Principal's letter seemed to be an attempt to sink the second formal grievance without trace. "The essence of Bis Weaver's complaint," as described by the Principal, "is that Messrs Cave and Hartland brought…information to the Principal "that contained unfounded and defamatory allegations…about" her. The Principal's argument for not proceeding with the grievance was that: (i) "any member of staff has the right to approach [her] directly"; and (ii) "Cave and Hartland did not appear to be making allegations directly; they were "repeating…a conversation instigated by a prospective visiting teacher." (Principal's underlining) The Principal then explained her "responsibility was to investigate the matter…[and her] finding was that…'on the balance of probabilities' the evidence favoured" Bis Weaver. In the Principal's "view the issue was dealt with promptly, fairly, firmly and decisively."

The Principal reiterated that it was "repetition of comments made by a third party...These comments did not originate from Messrs Cave and Hartland...[and] staff have a right to approach [her] direct." ** (Principal's underlining) On this basis, the Principal found "no grounds for a formal complaint..." Bis Weaver was then invited, as a positive step forward, to meet with the Principal "to review the situation in an informal discussion."[52] 'Informal discussion' had become the new 'vogue' description for saying anything but doing nothing.

Bis Weaver recognised the Principal had acted in the manner described and did have a role in advising members of staff on relevant matters, however, the Principal was in no position to close down the Teachers Grievance Procedures as an option for any member of staff. Nor does repeating a false allegation make it any less false. She produced an *aide memoire* and arranged to see the Principal the same day.

At the meeting, Bis Weaver put her case for a grievance hearing and while recognising staff had a right to approach management on a range of issues, she rejected "the right to make unfounded allegations." The *Beider enquiry* had been carried out to establish whether or not the allegations made or repeated by Cave and Hartland were true. Bis Weaver

* This was another attempt to get access to the verbatim notes of the *Beider affair,* which had been denied to Bis Weaver

** It was no surprise that management did not wish to release the verbatim notes of the *Beider enquiry* to Bis Weaver, since both Cave and Hartland's 'evidence' was riddled with statements making false allegations against Bis Weaver that were not linked in any way to Beider

asked where was their evidence to support their claims made against her and, as there was no evidence, she was making "counter charges using formal procedures." She argued that "to repeat a defamation is as serious as making it when the intent is to defame and discredit." Their previous action, along with Gates, over the HMI's inspection and matters raised in her first grievance, on the balance of probabilities, could be considered sufficient evidence to confirm their intent. The fact that the chair of governors failed to apply the procedures did not negate her right to use them.[53] Bis Weaver's line of reasoning appeared to do the trick because the outcome of the meeting was an assurance from the Principal that she "would establish procedures under the Teachers' Grievance Procedures...to hear [her] complaint." To keep everything on the record, Bis Weaver put the Principal's intention in a letter and sent it to her the same day.[54] This was never implemented because it fell foul of the city council's 'interpretation' of the grievance procedures and was overruled, apparently, by the city solicitor.

The next letter to the LEA moved in the direction of the employer's liability for not applying the appropriate procedures and the delay in releasing the results of the hearing. I drew attention to the fact that: (1) eight months had elapsed since the grievance hearing and "despite a clear indication, in October 1986, that the conclusions would be available in November 1986, the conclusions…have still not been released…"; (2) the 3rd February 1987 meeting between the LEA and Bis Weaver; and then Triesman and Day; must have been the 'intermediate stage' after the conclusions were reached; (3) "The Committee... has failed to comply with established...procedures…[and its] failure...in not producing conclusions after this length of time could be considered unreasonable;" (4) "the Committee's lack of consideration in producing conclusions and advising appropriate action...within a reasonable time limit, left Mrs B Weaver vulnerable to further attempts to discredit and harass her by the parties…in the complaint;" (5) "One such incident occurred in December 1986, *(Beider affair)* and led to a further grievance being submitted to the Governors"; (6/7) The failure of the governors "to deal with the two serious complaints, in accordance with the procedures," one of which had been "inadvertently filed…away," might be considered by the reasonable person as discrimination against Mrs Weaver.[55]

Drawing the noose tighter, the LEA was informed in the next letter that in McGoldrick v Brent (1986) and South London College v Smith (1987) it had been confirmed that only the board of governors could deal with grievances. The LEA was asked: (a) if the LEA Committee was "delegated by the Board of Governors to hear the complaint in accordance with…the Teachers Grievance Procedures"; (b) if so, why had the procedures

initiated under the Teachers Grievance Procedures been changed; and (c) when would the findings arrived at "prior to the intermediate stage discussions...be submitted to the Bournville board of governors for its consideration." Alternatively, "if the Committee...was not a Committee delegated by the Board of Governors" why was Mrs Weaver: (a) not afforded the appropriate procedures" and (b) when will her complaint be heard under the appropriate established procedures – a point thrown in to suggest on-going discrimination against Mrs Weaver and did the board of governors or the LEA intend to rectify that?[56]

These disclosures and interpretations had been sent to the LEA partly in the knowledge of a governors meeting due to meet at the end of the month.

In preparation for this meeting, Bis Weaver contacted a staff governor – the new member who replaced Gates, asking her to raise the matter of her outstanding grievance. When the new governor, a member of another union and who had been put under pressure by the *kernels* for standing for the vacant governor's seat, heard her side of the *Beider affair* and about the monitoring, she was shocked. Recognising that Bis Weaver was asking for "equal treatment and equal opportunity," she agreed to raise it at the governors' meeting.[57]

On the morning of the meeting Bis Weaver approached another staff governor, Richard Downey, asking him to enquire about her right to use the grievance procedures. * He agreed it was her entitlement and would raise it at the meeting.[58] Downey may have had his own agenda when acting in the union but on this matter relating to the governors, his action was professional. All this was to no avail because the governors' meeting was called off as it was inquorate. The postponement was unfortunate – an unusual event in the governors' history, coming as it did after the pressure we put on the LEA for eighteen days and this was the last meeting for this particular board. ** Bis Weaver would have to wait to see how many of the present board with knowledge of the Weaver case would be re-appointed. Nonetheless, Richard Downey approached the chair of governors but the chair would not be drawn into responding.[59]

The chair had received a message from the LEA for him to inform the board that according to the city solicitor, Mrs Weaver was "not eligible to use the grievance procedures... because she is senior to Messrs Cave and Hartland and...the procedures cannot be invoked by Mrs Weaver in this instant." The task of delivering this message verbally to Bis Weaver was assigned to the Principal, who also told her that Geoff Hall wanted to meet

* The day before the governors' meeting, I asked to attend the meeting as an observer on behalf of Mrs Weaver "as issues directly affecting her interests are to be discussed."[60] The request was denied
** The board had served its three year period of office

her "to explain personally [why] she cannot use the Grievance Procedures..."[61] The LEA wanted to conduct everything by word of mouth and it was extremely fortuitous for the LEA that the meeting was inquorate because could it be expected for the board to swallow such a ridiculous excuse as that offered up to Bis Weaver – well some would not. The LEA had obviously learned two things from: (a) the McGoldrick case, by recognising the 'sovereignty' of the governors; and (b) the recent 'paper bombardment' not to put anything in writing. This was not surprising given the contents of the LEA message.

In the wake of this NATFHE-style restriction on the use of the grievance procedures now being attributed to the city solicitor, who, if it did originate with him, needed a refresher course in employee's rights law, a letter was despatched to Geoff Hall. As the conversation between Bis Weaver and the principal concerned the recent grievance against Cave and Hartland, I extended this 'restrictive condition' placed on more senior members of staff, to include the grievance against Gates, Cave and Hartland. Geoff Hall was asked to confirm this restriction and also to advise Bis Weaver of the date and time for his proposed meeting with her.[62]

There was an element of NATFHE draped around this belated and erroneous proposition as it was Triesman who had conjured up a similar interpretation of the statute, on the 8th July 1986 and reproduced in NATFHE's Industrial Tribunal submission, when NATFHE was seeking to extricate itself from a self-imposed debacle. The influence of NATFHE officials was clear as the LEA tried to pick its own chestnuts out of the fire. The LEA's use of Triesman's argument was not well thought out because the use of grievance procedures was a statutory right. If Bis Weaver was not entitled to the Teachers Grievance Procedures, why did the Governors or the LEA not bring this restriction to her attention soon after the 25th June 1986; or at the October 1986 hearing; or in the letter of the 29th January 1987; or on the 3rd February 1987; or at any other time? *

What became increasingly apparent was if the city council would not protect a Black person employed to coordinate its equal opportunities and anti-racism policies in one of its colleges, there was little chance of it protecting any Black employee. The city council's hypocritical stance could be laid directly at the door of the Labour group leadership. The city council's anti-racism policies were as shallow as NATFHE's. Hawks of a feather conspire together.

* Even a NATFHE local officer when he addressed the Bournville branch on the 3rd July 1986 recognised that the teachers grievance procedures had been invoked and could then lead to disciplinary procedures [63]

(d) NATFHE's Industrial Tribunal Submission Enters the Shredder

Tony Rust phoned on the 3rd July to say the Tribunal report had arrived and we set off to collect it from his office. Having read the detailed reasons for the decision, Tony thought an appeal was possible. When we returned home and read the report we were more than satisfied as the report was not restricted to the legal issues but included the rebuttal evidence on NATFHE's spurious claims in its submission. The next step was to examine the report in detail to see how best to use the chair's severe criticism of Day's handling of her complaint; his comments on Triesman's assessment of Gates' behaviour; and any other matter that needed airing. As a public legal document, its contents were covered by absolute privilege and could be quoted anywhere.

The report, twenty-one pages in length, dealt comprehensively with the background detail, upholding the claims against Day and the finding that her complaint against Gates was not without merit, which demolished a significant part of NATFHE's submission to the Office of Tribunals. There was also a detailed legal argument on indirect racial discrimination. *

The Tribunal report opened with a description of Mrs Weaver's case against the union: NATFHE had "acted in a racially discriminatory manner by refusing to provide her, as a member of the union and...of a racial minority, with assistance in pursuing a complaint of racial harassment...against a colleague and co-trade unionist, Mr Gates." (1)(b) NATFHE, "as a trade union, owes a duty to its members under...the Race Relations Act...not to discriminate against a member in the way it affords...access to benefits, facilities and services" (2)(b); had "a clearly defined anti-racist policy [and]...Mr Triesman was substantially responsible for drafting that document,...issued in January 1986, [which] incorporates the union's determination to eliminate racist behaviour in its dealings." (2 (c) NATFHE's rules were "to protect and promote the professional interests of its members;...render legal advice and assistance in professional matters;...protect members...discriminated against on grounds of colour, ethnic origin, sex, disability or sexual orientation;" and the union claimed to have policies aimed at eliminating such behaviour. (2)(d)(i-v) NATFHE's Rule 8, as Mr Triesman pointed out, is a "rule sufficiently broad to cover a complaint of racial discrimination by one member against another, which would be regarded as detrimental to the interests of the

* The numbers in brackets refer to the numbered parts in the report [64]

Association," * (2)(d)(v)

A brief account was given of Mrs Weaver's background at the college. She began lecturing there in 1977 and was now "responsible for Co-ordinating Equal Opportunities and Anti-racist policies within the college." She had also been a member of the union since 1977, and "described herself as a rank and file member,...although" due to the issues with which the Tribunal is involved in "she has been ostracised by other union members." (3 (a - b)

Reference was made to the "substantial amount of evidence and documentation about the events leading up to the specific act of discrimination alleged by the Applicant" and the Tribunal "recognise, as submitted by…counsel for the respondents, that the Applicant is not entitled to rely upon those background events as in themselves forming the basis for a finding of racial discrimination." However, the Tribunal "insisted on receiving that background evidence because it is…essential in any race relations case to look at the totality of the evidence before drawing or declining to draw any relevant inferences." (4) **

The central issue was Mrs Weaver's grievance to the LEA and NATFHE's refusal to provide advice and assistance to pursue that complaint. The grievance was principally against Mr Gates, who taught on the Access course and, like Mr Cave, who also taught on the course, was a union officer. Mr Gates had been both branch and regional chair; an officer of the liaison committee; a member of national council; and a governor at Bournville College. It was pointed out that while "it is not for the Tribunal to consider the merits of those allegations it is clear that these complaints," and several were mentioned, were made consistently "over a long period of time" by the Applicant against Mr Gates. (4)(a - c)

The Tribunal divided the way Mrs Weaver "pursued her complaint within the union...into three phases." The first phase began on the 10th June when she met the branch chair, Cynthia Deeson, whose notes of the meeting showed that the Applicant made "a whole series of allegations...against Mr Gates, which quite plainly included the allegation that in her view the basis of his harassment was racial in origin." (5)(a)(i) "Miss Deeson suggested that the full-time officer Mr Alan Day should be approached and that the Applicant should hand over the resolution of the issue to the union; withdraw any other approaches and abide by the outcome of the union's enquiry." The branch chair "mentioned the possibility of a panel of three resolving the matter, although the Applicant" has stated "that Miss Deeson on an earlier

* Was Triesman unaware of the decision to exclude racial discrimination from Rule 8 at the 1978 Annual Conference?
** A requirement lacking in Day's 'enquiry; and Triesman's 'judgement' in April 1986

occasion had indicated rather more positively that a panel would [be used to] resolve the issue." (5)(a)(ii)

The second phase began with Mr Day's letter of the 2nd July 1985 suggesting "that there should initially be an informal discussion" and this was followed by a meeting between the Applicant and Mr Day on the 29th August 1985. The Applicant gave an account of that meeting by referring to "...her aide-memoire of what she said at the meeting." The Tribunal stated "from the face of that document it is plain that the applicant was saying to Mr Day that the basis of her complaint was one of racism by Mr Gates." As for procedures, "the Applicant... assumed that this was simply an initial stage of the enquiry [as] Mr Day did not tell her what the procedure would be [and] she made it clear that she would accept the initial enquiry but...anticipated the matter would be finally dealt with by a union tribunal." (5)(b)(i) Mr Day then sent "an advance copy of his report in order for her to make comments...[and] the report concluded that Mr Gates had been offensive to the Applicant [and] should apologise..." Mr Day also suggested "the Applicant had been responsible for lack of judgement in the events...[leading up] to the conflict with Mr Gates." (5)(b)(ii)

"The Applicant read the report and…did not accept its content [because] she considered...[Mr Day to have] elided the various incidents" in her complaint; "there was bias in the way [he] had prepared the report"; "he had not told her that Mr Gates had expressed concern...about her conduct;" * she "believed that Mr Day had spoken to Mr Gates at an earlier stage in the enquiry without her knowing about it;" "her side of the matter had been put forward to no avail"; she "was not clear about what Mr Gates was supposed to be apologising for"; "and she saw no reason...[to] express any regret for her conduct." (5)(b)(iii)

The Tribunal referred to Mrs Weaver's extensive correspondence with Mr Day where she "spelt out in considerable detail her objections to the report, including the fact that her allegations of racism had made little impression" on Mr Day. The Applicant "also complained to Mr Dawson, the union General Secretary, complaining that the investigation…was less than adequate and…a reasonable person could consider the investigation…to be…discriminatory." (5)(b)(iv)

The Tribunal then dealt with the evidence of Mr Day, who said "he proposed an informal initial approach because he was not certain how long the enquiry would last and this was a first step to see whether both parties would be prepared to resolve the matter

* Day gave her no chance to respond to any allegations made against her, which demonstrated NATFHE's approach to fair and impartial enquiries

informally. He expected them to take his advice provided he could make reasonable suggestions, and he…thought this informal stage would dispose of the matter." (5)(c)(i)

Mr Day had separate meetings with the parties and said that when he met them "he had no predisposition to reach a decision one way or the other." (5)(c)(ii) He agreed that "the Applicant did raise racism as an allegation on [the] 29th August...but only at the end of the meeting and he only noted it because it was so out of accord with the rest of the Applicant's allegations." He also agreed that she raised "the issue in a vehement way" and he entered "into some discussion with [her],...telling "her that nothing she had said...supported the allegation of racial and sexual discrimination." * (5)(c)(iii) Day also conceded that his report "did not touch on racism at all. [The report] explored the background, including, as he saw it, the lack of sensitivity by the Applicant as Course Co-ordinator because of [her] request that the reason for Mr Gates conduct be investigated." (5)(c)(iv)

After assessing Day's evidence, the Tribunal was "unanimous in its criticism of Mr Day. Notwithstanding the fact that the applicant on the 29th August 1985 made clear to him with some vehemence that she was alleging a racial element in her harassment by Mr Gates, he did not deal with it at all in his report; nor did he attach sufficient importance to it in his various communications with senior trade union officers." The Tribunal thought that "as an experienced union officer, he should have realised the importance of properly investigating and ventilating serious allegations of racial discrimination by a member, particularly when levelled at a lay official of the union."(5)(d)

The next stage dealt with Triesman's involvement. The Tribunal began with the 13th January 1986 "letter from Mr Triesman,...emphasising that he was Secretary of the Race Relations and Anti-racism National Panel of the trade union. He said that he was prepared to conduct an investigation [and]…presented the Applicant with three options." ** The three options were: "pursuing a formal Rule 8 complaint;...accepting the informal procedure of investigation suggested by him; or…abandoning her complaint." ((5)(e)(i) "The applicant replied...saying that she would either like the case to be referred to the anti-racist panel or for a procedure whereby Mr Triesman would consider the matter with two members from an ethnic minority [as she] could not accept his offer unequivocally" as there was "no point in a further investigation along the same lines as previously."(5)(e)(ii) The Tribunal referred to

* According to Day, this highly charged discussion had taken place as he was about to leave the house - on the doorstep!

** The Tribunal obviously accepted that Triesman intended to pass the investigation off as being under the auspices of the ARNP even though Triesman, in his evidence, had tried to claim this was not the case

the "lengthy correspondence between them" in which Mr Triesman, on the 8th [18th] February, "said that there was no provision in the Rules to extend the composition of the investigatory panel, although she could still invoke Rule 8…otherwise he could not help her further." The Applicant replied to say if "there was no provision in the rules for the informal investigation he had proposed,...why therefore had he offered such an investigation; and if such an investigation was viable why could it not be extended to two black members?" The Applicant then "accused the union of trying to use a technicality to prevent an aggrieved black member from bringing a legitimate complaint." (5)(e)(iii)

"In March 1986 Mr Triesman reiterated that the union takes seriously allegations of racial discrimination and urged the Applicant to consider Rule 8" but the Applicant, partly on the views "expressed by a former regional Chairman, Mr Paul Mackney," and the union's President, Nan Whitbread, "thought that Rule 8 proceedings were not open to her." In April 1986, "Mr Triesman said that there was nothing he could do…[and] he imagined that the Local Authority must have a grievance procedure but…Rule 8 was open to her still." (5)(e)(iv)

The Applicant had also become aware, in May 1986, "that the Regional Branch..., and in particular the Regional Secretary, Mr David Evans, was suggesting that an enquiry be held to investigate the issue (which by then was deeply dividing the union at Bournville College…) and that such an enquiry should consist of 50% black members." (5)(e)(v)

The Tribunal then considered Triesman's evidence. Mr Triesman made several points in his evidence, which the chair went through: (i) "that he was willing to conduct an informal investigation" and the Chairman of the ARNP "would be available to advise him. However, he would be acting as a full-time officer within the scope of Rules 2.8 and 24." (5)(f)(i)); "When he urged the applicant to...[use] Rule 8, he considered...this course open to her under the constitution in that an allegation of racism against a senior union member is an allegation of conduct detrimental to the union [but] he felt that Rule 8 proceedings would be time consuming and less efficient than his proposed informal investigation." (5)(f)(ii)); the applicant's "proposal that there should be black members of the panel was not acceptable [as] He had no power to set up a panel under the rules; and if a panel was to be constituted under Rule 8, that would be drawn from" NEC members, "who did not include people from ethnic minorities." (5)(f)(iii) although "aware of the regional suggestion [for] a national enquiry…made up of black members" he was "resolved to advise the General Secretary against such an enquiry [as] Only the National Executive could set up such an enquiry; and

not a full time officer [and] such an enquiry would...render it well-nigh impossible...to select an impartial Rule 8 panel." * (5)(f)(iv)

Triesman's performance, in some way, impressed the Tribunal, which was "satisfied that in all these communications Mr Triesman acted in good faith and without discriminating against the applicant racially or otherwise."** (5)(f)(v)

Mr Triesman's meeting with Mrs Weaver on the 12th June 1986 introduced conflict in the evidence "between the applicant and her witness Mr Dhesi on the one hand and Mr Triesman on the other…" The Tribunal thought "Mr Dhesi was confused in his recollection [and] The applicant does not through her counsel or otherwise attack the honesty of Mr Triesman's evidence. Mr Triesman did keep a detailed contemporaneous note of that meeting...Accordingly insofar as there is a conflict we prefer the evidence of Mr Triesman about the conduct of that meeting." *** (5)(g)(i) Mr Triesman convened that meeting at the request of the Bournville branch secretary, who "asked him to do anything to affect a reconciliation [as] The branch was seriously divided by the dispute." **** (5)(g)(ii) Triesman had "decided to see the parties separately…and if there was any progress to bring them together." ***** (5)(g)(ii)) On two occasions, in that meeting, Mr Triesman had tried "to ascertain if Mr Gates had made remarks which contained racist sentiments or had previously expressed racist views" which would have "very serious implications for his employment…and Mr Weaver's response, on behalf of his wife, was that Mr Gates had not made overtly racist comments but he had been abusive to…a Black person, and Mr Triesman should draw his own conclusions about that." (5)(g)(iv))

Mr Triesman also "asked the applicant if it was her view that Mr Gates was a racist and…had harassed her on that basis…[if so that] must be evidence of serious professional

* This was additional confirmation of Triesman's offer not being an enquiry into her complaints as officials had no authority to set up an enquiry. This applied to Day's enquiry, which was also *ultra vires*

** This assessment appeared somewhat generous especially when compared with NATFHE's submission and Triesman's performance – first arguing that merit determined NATFHE's policy on tenure and then at the eleventh hour, when it became apparent Mrs Weaver's allegations were meritorious, switching to a blanket policy excluding merit as an 'extraordinary reason'

*** Bis Weaver had relied on Dhesi's notes, which never surfaced, to deal with any possible conflict of evidence. My contemporaneous notes had not been submitted to act as rebuttal evidence as it was thought Dhesi's notes would be sufficient

**** In his letter to the branch secretary, Triesman mentioned it was the branch chair, Ms Pattinson, Gates' partner, who made this request [65]

***** Triesman knew when he came to Birmingham that this had already been vetoed by Bis Weaver so his visit was obviously for another purpose

misconduct, and if the allegation was true, was she not saying that he was unfit to hold his job?...The applicant agreed that Gates was unfit to hold his job, saying 'He is a disgrace; the work relationship is unacceptable…For the sake of all women and blacks he should go, don't you think so?" * (5)(g)(v) Mr Triesman told the Tribunal "that the Weavers were alleging the Applicant had been subjected to defamation both in Mr Day's report and in another document…circulating in the branch [and asked] for union support in a defamation claim." In response, Mr Triesman said "if you really want to do that I suppose you could discuss the matter with the Law Centre or the CRE in Birmingham." He said his advice for this course of action was "because firstly…those were sources of free advice; and secondly he did appreciate the essence of the applicant's complaint was that she was being subjected to racial discrimination." In order for the Applicant to seek external advice "he undertook...to...waive the constraints of Rule 24." (5)(g)(vi) Mr Triesman warned her at the end of the meeting that "if there was a conflict between two employees, the LEA could conclude they could not work together and dismiss one or both of them [and] in such a case the union would defend the tenure of whichever the employer sought to dismiss." ** (5)(g)(vii) The Applicant, unhappy "about what had occurred", then wrote "to Mr Dawson on the 16th and 25th June… complaining about the limited democracy in the trade union" and when Mr Dawson rejected "the region's suggestion of a National Enquiry made up of 50% blacks, she assumed (perhaps rightly) that that was a result of Mr Triesman's recommendation." (5)(h)

The Tribunal considered the evidence upon which Mr Triesman formed his view on "the allegations of racism against Mr Gates." Mr Triesman had said "Mr Gates had written to him in April [1986] expressing his hostility to racism"; his membership of the Anti-Apartheid Movement since aged fourteen years of age; his recent Chairmanship of the movement in Birmingham; "had spent his time working in the College fostering anti-racism courses"; and mentioned his close friendship with the Weaver's since 1980. From this letter "Mr Triesman drew the inference that if Mr Gates had been a racist, the Weavers would have detected it during that time." *** (5)(i)(i))

* This was apparently Triesman's contemporaneous note of the remarks actually made by Gil Butchere – he could not even get that right or could it be that by assigning those comments to Bis Weaver it served NATFHE's purpose?

** According to the branch secretary, Triesman made this statement to the branch committee. He did not make it to Bis Weaver

*** If Gates had mentioned a so-called friendship in April 1986 why did Triesman not raise this with Bis Weaver when the opportunity was available on the 12th June. Triesman, like Day, accepted anything Gates told him. Perhaps, Triesman should have taken into account the copy of a letter sent by Mackney to head office disclosing that he publicly accused Gates of lying

Mr Triesman, during cross-examination, claimed to have “tried to make a common-sense judgement on Mr Gates” and his attention was drawn to his letter to the Applicant on the 18th February 1986. In the letter he said “that he did not feel competent to comment on motivation among the parties…” His reply was that “by April 1986 he had changed his attitude [and]…felt…able to reach a tentative view about the allegations of racism in the light of Mr Gates' letter [and]…concluded that Mr Gates had evidence that he was committed to anti-racism.” Mr Triesman conceded that “Mr Gates had in the past been exceedingly rude to other people including [himself]; but [he] did not conclude that that rudeness had racist overtones.” (5)(i)(ii)

The Tribunal accepted, “as indeed the applicant appears to accept, that Mr Triesman proceeded upon a basis of good faith and completely free of any racial bias. We do consider it unfortunate, however, that Mr Triesman should have reached a conclusion (albeit tentative) about Mr Gates' lack of racism in the light of the limited information at his disposal." (5(i)(iii)

The Tribunal turned to "the central issue in the case, namely the respondent's refusal to represent the applicant in her grievance complaint to the Local Authority against Mr Gates," in which she considered “Mr D Gates’s behaviour towards [her] is tantamount to gross professional misconduct and…not unconnected with [her] racial origins and…may be construed as racial harassment.” (6)(a)(i)) The grievance was then taken over by the LEA “either because of its seriousness or because Mr Gates was a Governor.” (6)(a)(ii))

The correspondence between Mr Triesman and Mrs Weaver following the submission of Mrs Weaver’s grievance was addressed. In his letter of the 30th June, Mr Triesman “confirmed that the trade union…[had] the strongest views on any evidence of racism and...an allegation of racism would also always be taken with the utmost seriousness.” Mr Triesman had also produced NATFHE’s policy on tenure in this letter. (6)(b)(i) The applicant’s reply on the 4th July complained about the union’s “failure to give her the advice which she had sought over a period of time”; and she referred to “Mr Triesman’s suggestion on the 17th April...to refer the matter to the Local Authority through the Grievance Procedures.” (6)(b)(ii)) On the 6th July, she made a formal request for “legal advice and assistance under Rules 2.8 in her complaint to the Local Authority [and] considered that, as a fully paid up member of the union, she was entitled to that advice.” (6)(b)(iii) Mr Triesman replied on the 8th July making “it plain firstly that it was very rare indeed for a member of NATFHE to take a grievance against another lecturer more junior to themselves”; the grievance procedure “is intended to provide means of settling issues with more senior

lecturers or administrators or with the employer." * Secondly, the union "do not generally represent staff in the Grievance procedures and he knew of no case where the union had represented more senior staff against their juniors." ** Thirdly, which the Tribunal considered to be most important, Mr Triesman said that "if we were to represent you it would have the effect of joining you in seeking the dismissal of Mr Gates from employment [and] That would be unacceptable." In conclusion, Mr Triesman said "I repeat what must be the bottom line in this matter. We will seek to defend the tenure of whichever member finds their tenure under threat from the employer." (6)(b)(iv)

The Tribunal pointed out that the Applicant "expected the employers and the union to take...allegations [of racism] seriously [and] concedes that might lead to a consideration of dismissal; but on the facts of this case it did not cross her mind...[as management]…had been aware for a long time of the actions by Mr Gates and had not acted upon it. Her intention was to take steps to avoid abuse and harassment of staff in the future and also 'to ensure that those who are guilty have action taken against them.'" (6)(c)(i) The applicant wrote to Mr Triesman (10th July) "setting out her objection to the union's refusal to act on her behalf [and]…concluded that, if the union policy were generally accepted, NATFHE would never be able to act in defence of the victims of, for example, racism, sexism and defamation; and hence NATFHE's policies on anti-racism and anti-sexism would be unimplementable." (6)(d))

The Tribunal had certainly aired Mrs Weaver's correspondence and given full rein to the implications of NATFHE's policy. As a result of the actions of NATFHE's own officials and officers, the union's veiled policy had been unveiled. What she had sought for a considerable period of time within NATFHE itself was achieved because information on NATFHE's approach to racial harassment/discrimination was freely available in the public domain care of an Industrial Tribunal report. This was one of the reasons for NATFHE's counsel trying to shut the door on the presentation of background information when it became apparent early on in the hearing that NATFHE's proposed defence of its actions was untenable.

The issue of representation at the LEA grievance hearing was the next item in the Tribunal's report. When the Applicant attended the LEA hearing, represented by her husband, "she was led to believe that Mr Gates…had been represented by Mr Day." (6)(e)

* There is nothing in the statute that could lead to that conclusion
** If this had been NATFHE's policy, Bis Weaver, I and most of the West Midlands region knew that NATFHE did not follow that policy – the Telford case was evidence for that

However, “Mr Day insists…that he did not represent Mr Gates, Mr Cave and Mr Hartland, against whom a complaint had also been made, at the enquiry.” (6)(f))

The Tribunal listed three reasons put forward by Day when attempting to justify the claim of non-representation of the Bournville ‘trio’. Firstly, he felt “precluded from representing them because of his involvement in the preparation of the report and he recognised that would give rise to a conflict of interests.” * (6)(f)(i)) Secondly, Mr Day explained “that his attendance at the meeting was purely as an observer” because of his concern “that, for the first time.., the Local Education Authority was conducting a preliminary investigation prior to a possible disciplinary hearing”, which Mr Day regarded “as potentially detrimental to his members in general.” However, Mr Day had “not given…any convincing explanation of why, on that basis, he did not attend…when the Applicant and her husband were present.” (6)(f)(ii) Thirdly, when Mr Day told Messrs Hartland, Cave and Gates, that "he could not represent them he left it to them to make application to the General Secretary of the union for representation [and] did not make alternative arrangements for their representation." The Tribunal found “that extraordinary; particularly as at least two of them were lay officers of the union against whom serious allegations of gross professional misconduct had been made.” The Tribunal drew “the inference that alternative arrangements were not made because Mr Day regarded himself as representing, at least to some extent, the interests of those three members." (6)(f)(iii)

Rejecting “the evidence of Mr Day about his status at that disciplinary meeting,” the Tribunal concluded, “on a balance of probabilities...Mr Day was representing the interests of Mr Gates, Mr Cave and Mr Hartland, at a time when the applicant had not been offered assistance (albeit that they had asked for assistance and she had not).” ** (6)(f)(iv))

The Tribunal asked what relevance should be attached to this and responded by citing three factors. Firstly, “just as his failure to investigate the initial allegation of racism,” Mr Day’s role in representing the three “is not the act of discrimination upon which the Applicant relies [and] of itself it cannot ground a finding of racial discrimination.” However, the Tribunal considered it to be “part of the background to the case upon which we…place

* Day’s recognition of a conflict of interests had not entered his reasoning when he advised Gates in June 1985 and then chose to investigate the original complaint against him

** Mrs Weaver had not asked Day directly for assistance but had applied for assistance through Mr Triesman. NATFHE had found it necessary to claim it had not represented Gates, Cave and Hartland after admitting it would advise and assist only those members whose tenure was at risk, as were the tenures of the ‘trio’. This showed the ineffective muddle NATFHE officialdom had got itself into as it tried to cobble together a defence after the main claims in its initial defence had been stripped of credibility

reliance." (6)(g)(i)) Secondly, "Mr Day was not a party to the central act…of…withholding of support to the Applicant…The officer responsible for that was Mr Triesman [who] would [not] have allowed himself to be influenced by Mr Day in that matter." * (6)(g)(ii)) Thirdly, it was still open to the Tribunal "to draw the inference that…Mr Day acted less favourably to the applicant…on the grounds of racial discrimination." However, the Tribunal considered that it was "far more likely that he acted as he did because Mr Gates and Mr Cave were trade union lay officials, whereas the applicant was only a rank and file member of the union. Deplorable as that may be, that would not in itself ground a finding of racial discrimination." (6)(g)(iii)

The Tribunal then considered "the reasons tendered by Mr Triesman for his refusal to offer the Applicant support from the union." (6)(h) Mr Triesman "pointed out that tenure of union members can be at risk in many circumstances regarded by the employers as gross misconduct including…, sexual discrimination and racial discrimination, theft, taking drugs and taking drink, using abuse and fighting," and the union's general policy was to "attempt to defend the tenure of members. It would be open to a union official…to consider if that member had a viable or appropriate defence. [However,] In no circumstances would the union assist the employer to attack the members' contract of employment; but, in deciding whether to represent a member, the union would not seek to defend conduct which the member acknowledged to be unlawful, including breaches of the Race Relations Act." ** (6)(h)(i))

By the time of the 12th June meeting, "it was plain to Mr Triesman…that the applicant was asking the union to assist her in making criticisms of Mr Gates to the employers which must place his job at considerable jeopardy." According to Triesman, she "had said on the 12 June that he ought to go, *** [and] in her letter to the Board of Governors she expressly used the expression that Mr Gates was guilty of 'gross professional misconduct', [therefore] Mr Triesman was entitled to make the assessment...that the Applicant wanted Mr Gates' dismissal…" (6)(h)(ii) Mr Triesman "concluded that the union

* The Tribunal did not have access to Day's letter to Triesman of the 30th June 1986, nor did Bis Weaver at the time. This letter showed the influence that Day seemed to exercise over head office officials in the Weaver case

** The point about a member acknowledging his behaviour to be unlawful carried little weight since when would a member, whose tenure was at risk, admit that his conduct was racist or otherwise unlawful. Not only that, Day, a union official and not an employer, had sought to attack Bis Weaver's contract of employment in his 'report'

*** As already mentioned, this was another of Triesman's 'errors' that found its way into the report. It was Gil Butchere who made this comment

could not represent her" because "it was extraordinary to assist an employer in attacking the contract and security of tenure of a member (6)(h)(iii) [and] although he had no doubts that Gates could be very rude and had been to him many times in the past, he could not draw the conclusion that he was rude to anybody because of their race. He (Gates) was in effect rude to everybody [and Triesman] concluded that the greatest possibility was that Gates was not racially motivated." * Triesman said that "if he was to support the applicant...he had to exercise his judgements on the merits of the course she wished to pursue…[as] that was and is the general policy of the union." (6)(h)(iv)

Triesman had claimed that in the event of the union deciding "that there is no merit in a course which is proposed, it generally tells people directly" of its conclusion. However, Mr Triesman "did not do so directly in this case" because of the "embattled situation" at Bournville branch and "was hopeful he could conciliate the parties," which "was the only reason…he did not drop the matter completely." Triesman also said on the 12th June "that Gates was very abrasive in style but that was not tantamount to racism." He "concedes that he did not say to the applicant in terms then (the 12th June) or in his letter,...that they were not supporting her because they saw no merit in her claim [and]…in retrospect, he concedes, that was misjudged but it arose from his anxiety to conciliate."(6)(h)(v)) But "in any event, even if he had believed that there was merit in the allegation of racism", Mr Triesman said "they would not have pursued the applicant's complaint because it could have led to the loss of tenure for another union member."(6)(h)(vi)) This policy, said Triesman, would also apply "if a White member of staff wanted to make allegations against a Black member of racist behaviour", but the union "would equally not defend a person who acknowledged their action was manifestly racist." (6)(h)(vii) Mr Triesman also told the Tribunal "that he did consider that potentially the applicant's job was at risk if the LEA had come to the conclusion that her persistent allegations of racism were unfounded" and if the Authority "attacked her contract the trade union would equally have offered to defend her." ** (6)(h)(viii) Mr Triesman further conceded "that the union policy is not expressly stated in the rules; but this is the way

* Triesman was apparently unaware that being rude to everybody did not exclude racism or sexism as a motive for his behaviour to Black people or women. Admittedly, in that situation, it becomes more difficult to assess the motives but Triesman could have overcome that difficulty by a *bona fide* investigation with a specialist in race relations on the panel and not, as he claimed, rely solely on a self-exonerating letter from Gates

** Triesman mentioned 'persistent allegations', which gave the impression, inadvertently or otherwise, that she was constantly making allegations of racism when in fact it was one allegation covering many incidents that she had to continually repeat because of the union's determination to ignore them

that the union's officers have conducted their duties over a period of time. It is the general understanding within trades unions that unions will not attack the tenure of one of their members and that must be known to members of the respondent trade union" – NATFHE. * (6)(h)(ix)

Triesman was claiming that NATFHE members knew of the policy but if it was not in the rules and never once mentioned in the *NATFHE Journal* since NATFHE's inception nor included in the Anti-racism Pack, how would NATFHE members come to know of it? Nonetheless, the Tribunal accepted "Mr Triesman's evidence on all these matters as being honest and in good faith." ** (6)(h)(x))

Having dealt with the facts, the Tribunal turned to "the question of whether racial discrimination had been established…[and] for the applicant to succeed in either an allegation of direct or indirect racial discrimination she must first show that she had been discriminated against within Section 11."

The suggestion made by NATFHE's counsel that "there can be no possibility of discrimination in law because the trade union has a general policy of not providing this particular kind of service to anybody," was considered "to be an unduly narrow interpretation" and the Tribunal rejected it on the grounds that "the trade union quite plainly has an obligation (…under Rule 2.8) to render legal advice and assistance in professional matters to members whenever possible and desirable. The Applicant was denied that advice and assistance, [which] potentially was the refusal of a service under section 11(3)(a)…[and] alternatively by refusing to support her complaint, the union was subjecting her to a detriment under s11(3)(c)". *** Did this amount "to either direct or indirect discrimination?" (7)(b & c)

* Triesman was attributing to trades unions a policy that was shown not to be the case in some trades unions and Triesman was *en route* to saddling the trade union movement with a strict policy on protecting tenure."

** NATFHE's policy appeared to have been constructed in the wake of the grievance to the LEA; introduced in NATFHE's submissions with a qualifying condition of 'merit'; and then manipulatively rearranged following Bis Weaver's Tribunal evidence. Other evidence would become available after the Tribunal hearing to show the policy on tenure described by Triesman was not NATFHE's policy and 'good faith' might not be a description that could be applied to Triesman's performance. Triesman was unlikely to be unaware that NATFHE assisted and represented victims of sexist harassment. Any reasonable person listening to Triesman's evidence and then seeing the later evidence showing the policy outlined by Triesman was not the union's policy might come to a different conclusion. An alternative interpretation by the reasonable person might be that Triesman misinformed the Tribunal to get himself and the union off a charge of direct racial discrimination when the 'no merit' codicil had fallen by the wayside

*** s11 (3)(a) the union has not afforded her access to benefits, facilities and services; or has refused or deliberately omitted to afford her such access; and s11 (3)(c) the union has subjected her to some other detriment

The Tribunal began by looking at direct discrimination for which “the applicant must show that on racial grounds she was treated less favourably than the respondents treat or would treat other people.” (8) Mr Triesman’s evidence claimed “it is the general policy of the union applied across the board that they will not support union members in grievance or other complaints to the LEA which may put the tenure of another union member at jeopardy…; a policy…applied to the applicant just as it was applied to all other people. Accordingly it is argued that the applicant was not treated less favourably than were other people. (8)(a) It is [further] argued that Mr Triesman, as an officer of the union, on the totality of the evidence did not act on racial grounds to the detriment of the applicant.” (8)(b) The Tribunal was prepared to accept “both of those submissions.” (8)(c) However, the Tribunal added that "Were we to find that that was not a policy applied across the board in good faith, that would certainly give rise to a strong inference of racial discrimination." (8)(c)(i)

It was also “noted that at no stage was Mr Triesman cross examined on the basis that the policy was spurious; nor was that contended for in the Originating Application. However, in her evidence the applicant did leave open the suggestion that the policy might have been contrived, so we have thought it appropriate to examine this issue." (8)(c)(ii) After examining the evidence of one of the applicant’s witnesses, against whom Mr Gates “had made an informal complaint to the [College Principal], the Tribunal drew the conclusion that this was not “the sort of dispute which would put Mr Gates tenure at jeopardy.” The Tribunal considered “these circumstances...wholly exceptional” and the reason for its conclusion was that “Mr Gates was represented by Mr Cave and a” REC member, whereas the witness had been represented by the Bournville branch chairperson, “Miss Pattinson, [who] it transpired, was living with Mr Gates at the time…and she [could] hardly have agreed” to act as representative “if it had been thought…that this was a dispute which would put Mr Gates’ tenure at jeopardy.” *

Two other internal Bournville issues were also mentioned: Mr Cave’s response to Mr Weaver’s anti-racism letter; and Mr Cave’s and Mr Hartland’s allegations about being called, allegedly, ‘racist bastards’ ** but like the previous example nobody’s tenure was at risk and these “instances” were distinguished. (8)(c)(vi) On the issue of direct racial discrimination the Tribunal was satisfied that "on the totality of the evidence…the policy propounded by the

* This was the same Miss Pattinson to whom Day gave responsibility for selecting witnesses for the enquiry into Bis Weaver’s complaint against Gates; and who was said to have asked Triesman to visit Bournville branch to ‘resolve’ the issues involving Bis Weaver and Gates [66]
** The *Beider affair*

respondents was applied bona fide across the board and that there was no direct racial discrimination in this case." (8)(d)

The Tribunal addressed what it described as “of much greater complexity, [which was] the allegation of indirect discrimination.” (9) Did the respondents apply “a requirement or condition which they apply or would apply equally to persons not of the applicant's racial group?” (9)(a) The Tribunal considered as unduly narrow the argument put forward by NATFHE’s counsel that “no condition was applied to the applicant as a person. The only condition which may have been applied related to the nature of the complaint or the course of action which she wanted the union to take.” * (9)(a)(i & ii)

The Tribunal accepted “that one of two conditions or requirements could be inferred from this case” as submitted by the Applicant’s counsel. (9)(a)(ii) The two alternatives could be put in these terms. The first was "To be given assistance by the union in pursuing a complaint or a grievance to the Local Education Authority you must fulfil the condition that this is not a complaint which puts the tenure of another member at risk" – a broader requirement. (9)(a)(iii) The second - a narrower requirement favoured by the Applicant’s Counsel, was that "To be given assistance by the union in pursuing a complaint or grievance to the Local Education Authority, you must fulfil the condition that this is not a complaint of racial discrimination which puts the tenure of another member at risk." (9)(a)(iv) In assessing the two alternatives, the Tribunal preferred the broader formulation, which it acknowledged was “entirely consistent with the evidence of Mr Triesman that, if a complaint is made which puts tenure at risk, the union will not support that complaint.” (9)(a)(iii & iv)) Mr Triesman had said ‘If a complaint is based on race against a worker; the trade union would not offer the facility of assistance; and that was a rule across the board.’ “However, that evidence could only be understood in the context of…the broader policy…not to put to tenure at risk. There is no evidence…that the union imposed the condition in race cases any differently than in cases of assault or theft or sexual harassment [therefore] The unanimous decision of the tribunal is that the reality and common sense of this case points to the adoption of the broader condition.” (9)(a)(iv)

Accepting the broader condition had not yet resolved the matter in favour of NATFHE because the Tribunal had to decide if it “created a detriment for the applicant...[as] She wished the union to support her claim which put Mr Gates’ tenure at risk...[and] she

* This appeared to be arguing that the complaint was separate and detachable from the person making the complaint

could not comply with the condition imposed on union assistance." The Tribunal had "no hesitation in holding that there was a detriment to the applicant." (9)(b) However, the applicant was required to show if the condition applied "is such that the proportion of persons of the same racial group as her who can comply with it is smaller than the proportion of persons not of that racial group" (9)(c) – did it impose a disproportionate effect on people of her racial group? The Tribunal recognised "that persons from a non-white ethnic minority group...would have greater difficulty in complying with the condition than would people from the majority white ethnic group [because] Although...allegations of racial discrimination by...whites against non-whites, those (as Mr Triesman conceded...), are very much the exception rather than the rule" and had the narrower formulation favoured by the applicant's counsel been accepted, the Tribunal "would have found for the applicant." (9)(c)(i)

Dealing with the broader condition, the Tribunal had to define the pool of staff of which she was a member and proceeded on the basis that the applicant was one of three non-whites amongst 130 members at Bournville College. The Applicant's counsel, recognised "that misconduct...which puts tenure at risk covers a range of offences such as theft, drunkenness and drugs, fighting and discrimination [and]...that all 130 staff would be precluded from seeking union support in general terms; but...for racial discrimination cases [the policy] affects detrimentally...people in her ethnic minority group far more detrimentally than it affects other members of staff...[and] there is an area of the wider range of conduct from which they are precluded from remedy which does not affect people in the wider 'white' pool." The Tribunal acknowledged that to be so but "the reality is that the condition...defined in its broader terms cannot be complied with by any of the union members within the pool of 130 staff at Bournville College who wish to pursue against a co-unionist, be it for assault, abuse, theft, sexual harassment, racial harassment or whatever." In adopting the broader formulation, the Tribunal concluded that the Applicant has not established "on a balance of probabilities that the condition imposed by the respondents" had a disproportionate effect on "persons of her racial group." (9)(c)(iii)

The Tribunal was left to consider "whether the respondents have discharged the burden of showing the condition or requirement to be justifiable irrespective of the colour, race, nationality, or ethnic origins of the person to whom it is applied." (9)(d) To establish justification the onus was on the union to "show that the condition or requirement corresponds to the real need of the union;...is appropriate...to achieving the objects the union pursues; and that it is necessary to that end," (9)(d)(i) which involved assessing "the discriminatory impact of the condition or requirement." (9)(d)(ii)

The Tribunal found "on the facts of this case...there is a limited racial impact, [which] would have a far more serious and offensive racial impact if the narrower condition were adopted;" and had the Tribunal adopted the narrower condition it "would not have found justification to be established." (9)(d)(iii) But, as "Mr Triesman points out...it is not fatal for a union member not to be supported by the union in these circumstances [since] It is still open to him or her to pursue the grievance procedure in person (as indeed the applicant did); or internally to seek redress within the union by proceeding under Rule 8." (9)(d)(iv)

The Tribunal analysed in three ways the discriminatory impact of the union's policy in relation to "the purported benefits to the trade union of the condition or requirement." (9)(d)(v) Firstly, it accepted as "valid and important factors...[the] duty of a trade union to protect the tenure of its members, to avoid conflict in its representation of members; and to avoid breaches of obligations to members whose tenure is at risk." (9)(d)(vi) Secondly, the union "said that a condition or requirement of this sort is common to trade union practice," which the Tribunal did not "attach great importance [as] The whole object of the legislation on indirect discrimination is to challenge established industrial practices [and] The mere fact that a practice is general and well established does not prevent it from being subjected to close and critical scrutiny." (9)(d)(vii) Thirdly, the union claim "that the condition is justified in that their policy preserves the right to scrutinise claims and only to support those members who wish their assistance in meritorious claims." The tribunal considered "As a general proposition we would accept...[it] as valid..." for a union to "weigh the merits in resolving whether to support...an allegation of racial discrimination. However, on the particular facts of this case we do not consider that that argument is open to the respondents. As already indicated...we are critical of Mr Triesman in forming an opinion in April 1986 that Mr Gates was not a racist. Through no fault of his [Triesman's] that conclusion was not reached after full investigation. He should have recognised the limitations of Mr Day's report (omitting as it did any proper analysis of the allegation of racism). Before concluding that the applicant's grievance had no merits, he should in our view have gone further and given her an opportunity to deal with his tentative view that it had not." * (9)(d)(viii)

While dismissing NATFHE's claim put forward in its submission of no merit in the applicant's complaint, the Tribunal accepted the reconstructed policy on tenure and decided that "if a prima facie case of indirect discrimination had been established, the union would,

* The Tribunal appeared to be implying that Triesman could have offered an investigation that included racism as a motive – all that was needed was to extend the provisions of his second option of January 1986

on a balancing process...have been entitled to rely on the justification defence. It has a legitimate duty to protect the tenure of its members, to avoid conflict in its representation of members and to avoid breaches of obligations to members which outweigh the limited discriminatory effect of the condition imposed." (9)(d)(ix)

The Industrial Tribunal rejected NATFHE's claim of not representing the 'trio' at the grievance hearing; and that racism was never mentioned by the Applicant until after Day's 'enquiry'. Nor did it accept that there was no merit in her grievance to the governors. However, it accepted NATFHE's policy on tenure after its reinvention when NATFHE realised its original defence of 'no merit' was shown to be untenable and discarded it in favour of a blanket policy. The Tribunal did comment that "at no stage was Mr Triesman cross-examined on the basis that the policy was spurious." (8)(c)(ii) However, presentation of evidence to rebut NATFHE's conjured up policy was problematic. NATFHE's legal argument in its submission was that merit determined whether or not support was available, therefore, rebuttal evidence on this limb of NATFHE's defence required Bis Weaver to show that her complaint against the 'trio' had merit, which she had done. There was no requirement to provide rebuttal evidence against a 'broad policy' that was not put forward as a defence by NATFHE prior to the Tribunal hearing.

NATFHE's policy of protecting tenure as put forward by Triesman now reigned supreme, applying right across the board and preventing any member from obtaining union advice, assistance or representation when bringing complaints putting another member's job at risk, even though a racially discriminatory impact was a corollary to this policy. NATFHE's new policy of protecting tenure across the board brought into existence in the confines of an Industrial Tribunal hearing North of Watford had not been put to NATFHE's National Council for consideration. For NATFHE's ethnic/racial minorities and/or women members, this legal recognition of NATFHE's policy was of considerable concern since they would be denied facilities, benefits and services when a complaint threatened another member's tenure except in circumstances when the harasser admits to having harassed the victim – an implausible proposition put forward by Triesman. NATFHE was virtually unable to take action against a racist since any accused person would probably be a NATFHE member and likely to deny racism as a factor in any complaint because otherwise it could lead to loss of tenure. Consequently, the harasser would be the only party eligible for NATFHE assistance. This was almost an open invitation for racists to join NATFHE for protection.

Also implausible was Triesman's suggestion that complainants could use alternative procedures. The Tribunal had concurred with Triesman's claim that these were viable options available for members. However, the use of a Rule 8 procedure was not a valid option bearing in mind the 1978 Annual Conference decision. * Did NATFHE officials, and officers, forget that decision or were they as ignorant of that outcome as they seemed to be about identifying harassment and discrimination? However, Triesman should be expected to know as he was secretary of the rules committee and the ARNP. Notwithstanding this beneficial lapse in memory, Triesman recognised Rule 8 procedures were laborious and time consuming, which officers and officials seemed to remember. This would leave complainants with no protection during the lengthy period before the complaint was heard. The Bournville branch, the regional executive, head office and the Broad Left Coalition had demonstrated only too clearly how vulnerable a victim could be to unmitigated and unalleviated pressures and false allegations while awaiting NATFHE's form of justice.

A serious problem also faced any complainant using the Local Authority's grievance procedures whether representing themselves or having a "friend" as representative. Bis Weaver's experience showed that a single individual, with or without a friend, could not exercise the kind of influence over the employers that a trade union could, especially when in union officials were able to subvert a complainant's entitlement to statutory procedures order to favour the party/parties represented by the union.

The Tribunal's decision depended on NATFHE actually applying the policy across the board as it was pointed out that if the union did not apply it universally it might well be discriminatory. Triesman's formulation of policy had surpassed those put forward by both counsels and Triesman's evidence on this crucial point would eventually establish the precedent for cases of racist and sexist harassment in the trade union movement for at least a quarter of a century. This was quite an achievement bearing in mind that Triesman's declaration of trade union policy did not conform to what he was claiming it to be nor was it NATFHE's policy. Information acquired later showed conclusively the policy was not applied in sex discrimination cases dealt with by the union, which made NATFHE's policy applicable only to complaints involving racism and was, therefore, direct racial discrimination. Was NATFHE's policy presented to the Tribunal spurious and contrived?

Triesman may have impressed the Tribunal with his evidence but it would not bring

* The Tribunal, like both Bis Weaver and I at the time, was unaware of the union specifically precluding Rule 8 from performing this function in 1978

the same response from important figures in the trade union movement. *

Evidence available after the Tribunal hearing would clearly show that NATFHE's policy was contrary to that presented to the Tribunal and showed NATFHE did represent victims of harassment/discrimination and, when necessary, provided assistance to both parties. As the officer with responsibility for casework, and secretary of both the ARNP and the rules committee, Triesman could be expected to have known about NATFHE's actual policy. Nonetheless, this ignorance of policy won the case for NATFHE but it saddled the union with a policy that had a discriminatory impact against Black people and women and would tie the trade union movement to a legal requirement of assisting only the accused and withholding assistance from the victim in order to avoid conflicts of interests. **

NATFHE's contribution to establishing the primacy of protection of tenure in cases of racist and sexist discrimination/harassment had limited any effective action in the union against racists and sexists and in some sense returned the union to an instrument for wage bargaining and conditions of service - a position much preferred by old time hacks and some newcomers. Those genuinely seeking new guidelines for dealing with the new demands in the work situation: equality for women, ethnic minorities and gay people; and protection against various forms of harassment and discrimination; would unlikely to be appreciative of NATFHE's latest contribution. The development of strategies for dealing with changing relationships and aspirations within the workplace had been set back and NATFHE officialdom could claim the credit.

Policies concerning discrimination against vulnerable groups had, in effect, only been tacked-on – an adjunct to traditional trade unionism, and, like a chameleon's tail, they were easily discarded when the interests of trade union bureaucrats and fellow travelling dinosaurs were threatened. The union's active role, such as it was, rather than its rhetorical one, had been further diminished and adjudication on these matters could only effectively take place under the statutory created employers' grievance procedures, or in Industrial Tribunals, with the union's function to offer representation to the accused harasser/discriminator. Given Bis

* The TGWU had already decided not to support members sexually harassing other workers"[67]
** Conflict of interests did not seem to trouble Triesman, however, because when general secretary of the AUT he involved himself in a conflict of interests to the detriment of another complainant of racial discrimination. In Deman v AUT, the EAT stated that "Dr. Triesman should not have stayed behind after the Applicant was asked to leave [the hearing] nor should he have made any submission in the Applicant's absence, given that he was a Legal Aid Committee member, and, in the light of the immediate past history and the fact that he was clearly going to recommend that Legal Aid should not be granted to the Applicant. The presence of both Dr De Groot and Dr Triesman, the two most powerful office-bearers in AUT, would have inhibited the other Executive Committee members"[68]

Weaver's experiences, at the hands of NATFHE, Black and/or women members would be better served in by-passing the union and going direct to the employers or the Courts and, as a consequence, open up union issues to public scrutiny. Was this another first for Triesman and his fellow officials? NATFHE never had the inclination to assist Black complainants now it did not have the means. NATFHE's hot air balloon of anti-racist and anti-sexist rhetoric was well and truly pricked. NATFHE certainly knew how to win! However, NATFHE, apparently, did not have a 'victory' celebration and this was unlikely to have been on 'compassionate grounds' for inflicting on a Black woman member the travails she had been put under. The future would more than confirm this when Triesman continued to pump out the discredited account contained in NATFHE's Tribunal submission to all and sundry as if NATFHE's version had not been exposed as untenable at the Industrial Tribunal hearing. Nor was there a squeak from NATFHE's NEC, national council, Broad Left Coalition and feminists about NATFHE's policy on tenure; nor did anyone contest Triesman's description of NATFHE policy on sexist harassment; nor criticise Triesman for making policy off the cuff without any reference to union procedures. *

Bis Weaver had a public document, indirectly provided for her by NATFHE's intransigence, containing independent judgements on matters that she had been pursuing over a long period of time: justifying her meritorious complaint against Gates; and providing severe criticisms of Day's 'enquiry' and 'report'. Not a bad set of benefits for Bis Weaver arising from 'defeat'.

NATFHE was shown not to have a policy on anti-racism or racist harassment, therefore, there was little point in real anti-racists associating themselves with NATFHE or its so-called 'anti-racist' endeavours following the Tribunal decision. The policy NATFHE did have pertaining to racist harassment was one that discriminated against members of ethnic/racial minorities. As a consequence of the Tribunal decision, NATFHE officials and officers spent some of their time running around trying to deny that the Tribunal criticised its actions or that its policy denied assistance to victims of racial discrimination even after the judgement became publicly available. At national and local level they tried to defend NATFHE's discriminatory policy by ignoring its existence, while Black activists both inside and outside of NATFHE took a different route by doing everything possible to expose the NATFHE myth of being an anti-racist union and did so with some success.

* Eventually Inner London members passed a motion against the policy and some members in Yorkshire tried to raise the issue but without success

[1] BW to PD 14 Jun 1985 BW IT Bundle 161
[2] BP to BW 4 Jan 1986 File B 3
[3] Conv HS & BW 12 Jun 1986 File Q 46 - 49
[4] AD to RJ 11 Aug 1986 NATFHE IT Bundle 185
[5] GW to AR 11 Feb 1987 File F 38
[6] DES to BW 23 Jun 1987 File P 22
[7] NJ April 1985
[8] LM to AR 26 Oct 1987 File J 22 - 25
[9] Liaison Observer to SD 10 Jun 1987; related by SD to GW 11 Jun 1987 File Y 11
[10] See NJ from 1976 onwards
[11] Notes REC Mtg; Conv KS & GW 17 Jun 1987 File Z 33
[12] BEM 11 Jun 1987
[13] Gleaner 16 Jun 1987
[14] BW to DE 17 May 1986 App 2 File C 64 - 65
[15] DE to BW 16 Apr 1986 File C 18
[16] AD to RJ 11 Aug 1986 NATFHE IT Bundle 185
[17] AD to DTr 30 Jun 1986 File D 37 - 38
[18] Mins B/V Br Mtg 17 Nov 1987 File P 63
[19] Mins & Notes WMARC Mtg 17 June 1987 File U 71 - 75; GW to DE 18 Jun 1987 File H 12 - 16
[20] GW to DE 18 Jun 1987 File H 12 - 16
[21] 'What Kind of Ism is this', undated, GW to Reg Cl 20 Jun 1986 File H 18 - 19
[22] REC Rept of Annual Conference 1987, 20 Jun 1987, pts 11 – 12 File H 22
[23] Notes Reg Coun Mtg 20 Jun 1987 File H 23 - 24 ; BW/GW to WMARC 22 Jun 1987 File H 28 - 29
[24] GW to DE 18 Jun 1987 File H 12 – 16
[25] GW to PMc 18 Jun 1987 File H 17
[26] PMc to DE & others 8 April 1986 Sec 4.8 BW IT Bundle 55
[27] GW to WMARC 21 June 1987 File H 26 - 27
[28] BW/GW to WMARC 22 Jun 1987 File H 28 - 29
[29] PMc to DE & others 8th April 1986 BW IT Bundle 55
[30] Ibid
[31] Mackney P, The Lecturer, (NATFHE's in-house journal) Feb 2000, Shahrokni v NATFHE – IT/EAT cases 11880/96; 44988/96; 2203069/97 and 2205178/97
[32] Conv BW & PMc, Fund Raiser for Viraj Mendes, Handsworth, July 1986
[33] HM Parliamentary Debates, 18 Jan 1989.
[34] Freire P [1984] The Politics of Education: Culture, Power and Liberation, Begin & Garvey, Massachusets, USA
[35] Rousseau, J J [1997] Julie, or the New Heloise, eds Stewart P & Vache J, Dartmouth College press - "de nier ce qui est, est d'expliquer ce qui n'est pas."
[36] PMc to BW /GW 20 Jun 1987 File H 25
[37] Mackney P, The Lecturer, Feb 2000, Shahrokni v NATFHE - IT/EAT cases 11880/96 and 44988/96, 2203069/97 and 2205178/97
[38] BW/GW to PMc 27 June 1987 File H 30
[39] BW to CS, JR & CC 27 Jun 1987 File H 33 - 38
[40] CS to BW 4 Jul 1987 File H 39
[41] BW to LPWS 27 Jun 1987 File H 31 - 32
[42] Voice 30 Jun 1987
[43] GW to GH 12 Jun 1987 Rec'd Del J 632271 File P 6
[44] GW to JC 17 June 1987 File P 11 - 12
[45] TGP A2 (ii)
[46] GW to JC 20 Jun 1987 File P 13 - 14
[47] GW to JC 22 Jun 1987 File P 15 - 16
[48] GW to JC 23 Jun 1987 File P 20 - 21
[49] BW to SB 14 Jun 1987 File P 7
[50] SB to BW 15 Jun 1987 File P 10
[51] GW to SB 16 Jun 1987 File P 8
[52] PMT to BW 22 Jun 1987 File P 18 - 19
[53] BW aide-memoire 22 Jun 1987 File Z 35
[54] BW to PMT 22 June 1987 File P 17; See also BW/GW to PMT 4 Feb 1988 Letter A paras 4, 6 & 7, File O 25 – 29; BW/GW to PMT 4 Feb 1988 Letter C paras 2 & 6, File O 32 - 36

[55] GW to JC 24 Jun 1987 File P 23 - 24
[56] GW to JC 25 Jun 1987 File P 25
[57] Conv BW & JB 17 Jun 1987 File Z 34
[58] Conv BW & RDwy 30 Jun 1987 File Z 36
[59] T/p conv RDwy & BW 30 Jun 1987 File Z 36
[60] GW to Sec of B/V Govs 29 Jun 1987 File P 26
[61] PMT to BW 30 Jun 1987; noted and sent GW to GH 30 Jun 1987 File P 31
[62] GW to GH 30 Jun 1987 File P 31
[63] BL, B/V Special Br Mtg 3 Jul 1986 File R 15
[64] Industrial Tribunal Report, Weaver v NATFHE no 4/297/225, 8 – 10 June 1987, Birmingham
[65] DTr to BSec 4 Jun 1986 BW IT Bundle 70
[66] Ibid
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[68] Deman v AUT, EAT/746/99, 5 Feb 2002