Report of the Commission of Inquiry on
—— Allegations relating to ——
The Hong Kong Institute of Education

YEUNG Chun Kuen
LEE Jark Pui

June 2007

與香港教育學院有關的指控調查委員會
Commission of Inquiry on Allegations relating to The Hong Kong Institute of Education

Our Ref: CSO/CIHKIE/Conf/11

20 June 2007

The Honourable Donald Tsang, GBM
The Chief Executive
Hong Kong Special Administrative Region
People's Republic of China
Government House
Hong Kong

Dear Sir,

Commission of Inquiry on Allegations relating to The Hong Kong Institute of Education

As Commissioners of the above Commission, we have pleasure in submitting two copies of a report on our findings and conclusions.

Yours sincerely,

(Yeung Chun-kuen)　　(Lee Jark-pui)

Encl.: Report

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APPENDICES

ABBREVIATIONS USED

A

ACTEQ	Advisory Committee on Teacher Education and Qualifications
AOB	Any Other Business

B

B Ed	Bachelor of Education

C

CE	Chief Executive, Hong Kong Special Administrative Region
C (ECE)	Certificate (Early Childhood Education)
City U	City University of Hong Kong
CLASP	Centre for Learning-study And School Partnership
CRS	Compulsory Retirement Scheme
CUHK	Chinese University of Hong Kong

D

DCA	Deep Collaboration Agreement
DCIA	Director of Communications and Institutional Advancement

E

EC	Education Commission
ECE	Early Childhood Education
ED	Education Department
EMB	Education and Manpower Bureau
ExCo	Executive Council

F

ftes	Full-time equivalents
FYFD	First Year First Degree

G

GBS	Gold Bauhinia Star
GDP	Gross Domestic Product

H

HEIs	Higher Education Institutions
HKBU	Hong Kong Baptist University
HKIEd	Hong Kong Institute of Education
HKU	University of Hong Kong
HKUST	Hong Kong University of Science and Technology
HUCOM	Heads of Universities Committee

I

IAU	International Association of Universities
IAUP	International Association of University Presidents
ICAC	Independent Commission Against Corruption
IR	Institutional Review
IVE	Hong Kong Institute of Vocational Education

J

JP	Justice of Peace

K

KLA	Key Learning Area
KLAs	Key Learning Areas

L

LegCo	Legislative Council
LIFO	Last in, First out
LPAT	Language Proficiency Assessment for Teachers

M

MIRS	Management-Initiated Retirement Scheme

P

PAP	Priority Appointment Period
PAS	Principal Assistant Secretary
PhD	Doctor of Philosophy
PE	Physical Education
PGDE	Postgraduate Diploma in Education
Poly U	Hong Kong Polytechnic University
PTU	Hong Kong Professional Teachers' Union

PSEM	Permanent Secretary for Education and Manpower
PUC	Professional Upgrading Course
PUCs	Professional Upgrading Courses

Q

QKT	Qualified Kindergarten Teacher
QKTs	Qualified Kindergarten Teachers

R

RAE	Research Assessment Exercise
RPGs	Research Postgraduate Places

S

SARS	Severe Acute Respiratory Syndrome
SBS	Silver Bauhinia Star
SC	Senior Counsel
SCMP	South China Morning Post
SCT	Small Class Teaching
SEM	Secretary for Education and Manpower

T

TEIs	Teacher Education Institutions

U

UGC	University Grants Committee
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
US	United States

V

VC	Vice-Chancellor
VDS	Voluntary Departure Scheme
VITAL	Variation for the Improvement of Teaching and Learning
VP	Vice President
VTC	Vocational Training Council

DRAMATIS PERSONAE

NAME	POSITION	NOMENCLATURE USED IN THIS REPORT
Chan, Alfred Wing-kin (Mr)	Former Deputy Council Chairman, HKIEd	Mr Chan
Cheng, Doreen Siu-fong (Ms)	Senior Personal Secretary to President, HKIEd	Ms Cheng
Cheng, Edgar Wai-kin (Dr)	Council Chairman, CUHK	Dr Cheng
Cheng, Yin-cheong (Professor)	Professor, Centre for Institutional Research and Development, HKIEd	Professor Cheng
Cheung Wong, Angela Wan-yiu (Dr)	Former Council Member, HKIEd	Dr Cheung
Cheung, Francis Wing-ming (Dr)	Former Registrar, HKIEd	Dr F Cheung
Cheung Man-kwong (Hon)	LegCo Member, President, PTU	Hon Mr Cheung
Cheung, Susanna Sau-man (Ms)	Retired, Former PAS for Education and Manpower (Professional Development and Training), EMB	Ms Cheung
Grossman, David (Professor)	Dean, Faculty of Languages, Arts and Sciences, HKIEd	Professor Grossman
Ip, Simon Sik-on (Dr)	Founding Council Chairman, HKIEd	Dr Ip

NAME	POSITION	NOMENCLATURE USED IN THIS REPORT
Heung, Vivian Woon-king (Dr)	Associate Professor, Department of Educational Psychology, Counselling and Learning Needs, HKIEd	Dr Heung
Ip, Kin-yuen (Mr)	Former Lecturer, HKIEd	Mr Ip
Lai, Kwok-chan (Dr)	Head of Strategic and Academic Planning, HKIEd	Dr Lai
Lo, Mun-ling (Professor)	Head, Centre for Learning-study And School Partnership, HKIEd	Professor Lo
King, Ambrose (Professor)	Former VC, CUHK	Professor King
Lam Lee, Alice Kiu-yue (Dr)	Former Chairman, UGC	Dr Lam
Lam, Louisa Suk-wah (Professor)	Associate VP (Learning Enhancement and Development), HKIEd	Professor Lam
Lau, Lawrence J (Professor)	VC, CUHK	Professor Lau
Law Fan, Fanny Chiu-fun (Mrs)	Commissioner, ICAC, Former PSEM	Mrs Law
Lee, Wing-on (Professor)	VP (Academic), Former Dean, HKIEd	Professor Lee

NAME	POSITION	NOMENCLATURE USED IN THIS REPORT
Leung, Thomas Kwok-fai (Dr)	Council Chairman, HKIEd	Dr Leung
Li, Arthur Kwok-cheung (Professor)	SEM, Former VC, CUHK	Professor Li
Luk, Bernard Hung-kay (Professor)	Former VP (Academic), HKIEd	Professor Luk
Ma, Katherine Miu-wah (Ms)	Former DCIA, HKIEd	Ms Ma
Mok, Magdalena Mo-ching (Professor)	Professor, Department of Educational Psychology, Counselling and Learning Needs, HKIEd	Professor Mok
Mak, Grace Chiu-ling (Dr)	Principal Lecturer, Department of Educational Policy and Administration, HKIEd	Dr Mak
Moore, Phillip J (Professor)	Associate VP (Curriculum and Quality Assurance), HKIEd	Professor Moore
Morris, Paul (Professor)	President, HKIEd	Professor Morris
Ng, Eddie Hak-kim (Mr)	Deputy Council Chairman, HKIEd	Mr Ng

NAME	POSITION	NOMENCLATURE USED IN THIS REPORT
Ng, Shun-wing (Dr)	Assistant Professor, Department of Educational Policy and Administration, HKIEd Former Executive Committee Member, PTU	Dr Ng
Pang, Yiu-kai (Mr)	Council Treasurer, HKIEd	Mr Pang
Poon, Andrew Chung-shing (Mr)	Retired, Former PAS for Education and Manpower (Quality Assurance), EMB	Mr Poon
Sankey, Derek (Dr)	Former Senior Lecturer, HKIEd	Dr Sankey
Stone, Michael (Mr)	Secretary General, UGC	Mr Stone
Tsang, Donald (Mr)	The CE	Mr Tsang
Tung, Chee-hwa (Mr)	The Former CE	Mr Tung
Wong, Ada Ying-kay (Ms)	Council Member, HKIEd	Ms Wong
Wong, Charmaine Hoi-wan (Miss)	Former Deputy Secretary General, UGC	Miss Wong
Wong, Ping-man (Dr)	Head, Department of Educational Policy and Administration, HKIEd	Dr Wong
Wu, Anthony Ting-yuk (Mr)	Former Council Treasurer, HKIEd	Mr Wu

NAME	POSITION	NOMENCLATURE USED IN THIS REPORT
Young, Kenneth (Professor)	Pro-VC, CUHK	Professor Young

SUMMARY OF FINDINGS AND CONCLUSIONS

The Commission makes the following findings on the Three Allegations:

(1) The First Allegation, as set out in the Gazette Notice, is not established. There was no concerted effort to force HKIEd to agree to a merger with CUHK by improperly reducing the student numbers of HKIEd in order to render it "unviable".

(2) The Second Allegation, in relation to Mr Ip and Professor Cheng, is partially established, but not established in relation to Dr Lai and Dr Wong.

(3) Mrs Law complained, on unspecified occasions, to Professor Morris against Mr Ip and Professor Cheng because the seminar organised by Mr Ip, and the contents of Mr Ip's and Professor Cheng's newspaper articles obstructed the smooth implementation of the Education Reforms and education policy. Mrs Law requested that Professor Morris try to curb Mr Ip's and Professor Cheng's criticisms, although she did not demand their dismissal.

(4) Mrs Law's complaints, even if well-intended, were improper and constituted an improper interference with Mr Ip's and Professor Cheng's academic freedom.

(5) The Third Allegation, as set out in the Gazette Notice, is not established.

(6) There was insufficient evidence to show any improper interference by SEM or other Government officials with the institutional autonomy of HKIEd.

2. The Commission suggests the establishment of a board independent of the Government, separately or as part of EC, consisting only of individuals trusted and respected by HEIs, and moderated by UGC, to serve the following purposes:

(1) To advise the Government on policies and development plans regarding TEIs;

(2) To resolve disputes between EMB and TEIs in case of a deadlock; and

(3) To hear appeals from TEIs on UGC funding arrangements.

3. Under the existing arrangement, EMB and UGC are entitled to encourage, steer or direct HKIEd in particular ways in order to achieve certain outcomes necessary for the improvement of teacher education, with the necessary funding arrangements if there are sound supportive policies. The Commission considers it important for EMB's messages to be given formally and with proper documentation.

4. The Commission believes that ACTEQ, with representatives from all TEIs until 2002, should be reactivated in order to provide a forum for all TEIs and the Government to reflect their views to one another. EMB should consult TEIs on teacher education and training issues, including manpower planning and requirements, before advising UGC for the purpose of triennium planning or roll-over arrangements.

5. The Commission considers that the public officers appointed to be members of the HKIEd Council should pro-actively explain Government policies on HKIEd's development. Such participation should not be viewed as an attempt to interfere with its institutional autonomy.

6. The Commission hopes that improved facilities of communication between EMB and TEIs would reduce their mutual misunderstanding and distrust, and would enable them more effectively to serve the education sector and the public at large.

* * * * *

THE REPORT

The Report is written in English, with a Chinese translation.

CHAPTER 1

INTRODUCTION AND ACKNOWLEDGEMENT

1.1 On 25 January 2007, the Council of HKIEd ("the Council") resolved not to renew the contract of Professor Morris as President of HKIEd upon the expiry of his current term in September 2007.

1.2 On 5 February 2007, Professor Luk's undated letter ("the Letter", "Professor Luk's Letter" or "his Letter") was published on the internet website of Ming Pao News (www.mpinews.com). The website stated that the Letter had been issued by Professor Luk, via the intranet of HKIEd, to its teaching staff and students.

1.3 In the Letter, Professor Luk enumerated the difficulties experienced by HKIEd since 2001 by the Government's education reforms, the unfavourable terms of employment for its staff members, the reduction of funds from UGC, and in particular, the calls for HKIEd to be merged with other HEIs. Such difficulties and the associated pressure resulted in the lowering of morale, an acrimonious atmosphere in HKIEd, disagreements between its management and Government officials and disputes in the Council, which was chaired by Dr Leung.

1.4 Professor Luk related to what he understood as Professor Li's personal wish to merge HKIEd with CUHK. According to Professor Luk, Professor Li expressed that wish in 2001 when Professor Li was still VC of CUHK, even though such a merger was against the Government's declared policy.

1.5 He referred to a telephone conversation that he heard in January 2004 between Professors Morris and Li. Professor Morris later said Professor Li tried to persuade him to initiate a merger with CUHK, in part by suggesting that otherwise Mrs Law would be given a free hand in cutting the number of students of HKIEd ("The First Allegation").

1.6 Professor Luk suggested that between March and September 2006, there were nine occasions on which Professor Li and/or Dr Leung repeated the merger requests to Professor Morris, who then related those requests to some senior staff members of HKIEd. Professor Luk suggested that Professor Morris's steadfast and staunch resistance to merge with CUHK led to the Council's decision on 25 January 2007 not to re-appoint him as President.

1.7 Professor Luk's contract was extended only for one year, which he further cut short to eight months for an expiry date of April 2007. He attributed the short extension to the perception that he was supportive of Professor Morris.

1.8 In addition, Professor Luk alleged that in the past few years, often his colleagues published newspaper articles that were critical of the education reforms or education policy. Professor Morris would invariably receive telephone calls from senior Government official(s) requesting that those colleagues be fired (Professor Luk subsequently identified the senior Government official(s) as Mrs Law) ("The Second Allegation").

1.9 In late June 2004, a group of surplus teachers, supported by PTU, protested against the Government's refusal to implement additional measures to assist them in securing employment, and planned to stage a hunger strike in early July 2004. According to Professor Luk, Professor Li demanded in a telephone conversation that he issue a statement condemning the protesting teachers and PTU. When Professor Luk refused, Professor Li said, "You're not willing to issue the statement? Fine! (你唔肯出吖嗎? 好!) I'll remember this. You will pay!" ("The Third Allegation").

1.10 Professor Luk concluded the Letter by a literary line, "I know, Mr Secretary (referring to Professor Li), it's now 'time to pay'!".

1.11 Subsequent to the publication of the Letter, Professor Luk gave radio and press interviews on the same subject, leading to widespread media coverage, public attention and the LegCo's concern.

1.12 The alleged conduct of Professor Li and Mrs Law, if true, could constitute interference with academic freedom and/or institutional autonomy.

1.13 Our society treasures academic freedom and institutional autonomy, which are vital mechanisms for the preservation and advancement of knowledge. They must be jealously guarded and allowed to flourish in order to ensure that there is no restriction on the furtherance and dissemination of knowledge. Professor Luk's allegations must be thoroughly and rigorously investigated.

1.14 The CE in Council, by a Gazette Notice dated 15 February 2007 ("the Gazette Notice"), appointed the Honourable Mr Justice Woo, GBS, Vice-President of the Court of Appeal of the High Court ("Mr Justice Woo"), as Commissioner and Chairman, and Mr Lee Jark-pui, SBS, JP, as the other Commissioner of a Commission of Inquiry ("the Commission") under section 2 of the Commissions of Inquiry Ordinance (Cap 86) ("the Ordinance") to inquire into Professor Luk's allegations. The Commission was given four months from the date of the Gazette Notice to submit a report on the findings and conclusions to the CE. On 5 June 2007, the CE in Council granted an extension of time for the Commission to submit its report on or before 20 June 2007.

1.15 The Terms of Reference of the Commission (set out in **Appendix I**) are (a) to ascertain the facts relevant to the Three Allegations; (b) to ascertain, on the facts as found, if there has been any improper interference by SEM or other Government officials with the academic freedom or the institutional autonomy of HKIEd; and (c) on the basis of the findings in (a) and (b), to make recommendations, if any, as to the ways and manner in which any advice by the Government to HKIEd, with respect to the exercise of HKIEd's powers or the achievement of its objects, might be given in future.

1.16 HKIEd is the major provider of teacher training for the public education sector, funded by the Government through UGC, and it is the duty of the relevant Government officials to liaise with and give

advice to HKIEd from time to time. Hence Part (c) of the Terms of Reference has been included so that EMB and its officials can be guided in the discharge of their duties.

1.17 On 16 March 2007, after preliminary hearing on 6 and 14 March 2007, the Commission decided that in the interests of justice, Mr Justice Woo should recuse himself.

1.18 On 20 March 2007, the CE in Council, in exercise of the powers conferred by section 2 of the Ordinance, appointed the Honourable Mr Justice Yeung, Justice of Appeal ("Mr Justice Yeung"), in place of Mr Justice Woo.

1.19 The Commission's Secretary, Mr Esmond Lee, and his supporting staff, together with Mr Benjamin Yu SC and Ms Yvonne Cheng instructed by Mr Keith Ho of Messrs Wilkinson & Grist, Solicitors, assisted the Commission.

1.20 The Commission, composed of Mr Justice Yeung, as Commissioner and Chairman, and Mr Lee Jark-pui, SBS, JP, as the other Commissioner, having made further procedural orders and directions relating to the further conduct of the proceedings on 22 March 2007, began hearing the evidence on 29 March 2007. The hearing, including submissions, concluded on 6 June 2007 after a total of 35 days.

1.21 The Commission has allowed the parties listed in **Appendix II** as implicated or concerned parties at the Inquiry and their legal representatives are listed in **Appendix III**.

1.22 The Commission wishes to thank the parties, their legal representatives, and individuals who have supplied witness statements and information or presented oral testimonies at the hearing. This report could not have been concluded promptly without their help. Further, the Commission deeply appreciates the contribution of the media whose extensive coverage of the Inquiry assisted the Commission in identifying the issues and sometimes the relevant parties, and kept the public informed of the progress of the hearing and the evidence presented

therein.

1.23 Due to time constraints, the Commission had to sit long hours and often on Saturdays. Without the dedication, diligence and co-operation of Mr Esmond Lee, his staff in the Secretariat, and all legal representatives, the Commission's work would not have been possible. The Commission is most grateful to each and every one of them.

CHAPTER 2

APPROACH, METHODOLOGY, CRITERIA AND TREATMENT OF EVIDENCE

Section 1 : Approach

2.1 The Commission, though appointed by the CE in Council, is completely independent of the Government. Under section 11 of the Ordinance, the Inquiry shall be deemed a judicial proceeding, except that it is inquisitorial in nature. The rules of procedure and evidence would, as necessarily modified, be applied. The Commission would consider all relevant evidence and apportion such weight thereto as it saw fit.

2.2 The Commission has taken the allegations seriously. Academic freedom and institutional autonomy are core values of our society that must not be allowed to be eroded. The allegations presented to the Commission are matters of great public importance that deserve thorough investigation. The Commission bore in mind that the Inquiry was undertaken in the public interest and must be conducted accordingly. Public interest also dictated that the Inquiry should be as expeditious and cost-effective as possible.

Section 2 : Methodology

2.3 When hearing evidence and submissions in the Inquiry, the Commission did not consider them in a vacuum, but rather against the background of relevant events. To identify the issues, the Commission first requested from the concerned parties through correspondence information and then witness statements. The Commission then set up the hearing for oral testimony to be received so as to enable any person who might be implicated by the allegations to put forward his or her case and refute any such allegations. The hearing was conducted in public, and the process of how the Commission arrived at its findings and conclusions was transparent. All resources were available to members of the public to

form their own judgment on the independence, impartiality and correctness of the Commission.

2.4 With the above approach in mind, the Commission set in motion the following steps:

(a) Appoint counsel and solicitors to assist the Commission, particularly the preparations for the hearing of evidence;

(b) Gather from media reports as much information as possible that was relevant to the issues delineated by the Terms of Reference; and

(c) Secure a venue for the hearing of evidence by the Commission.

2.5 The media coverage of the allegations was a good starting point for the Commission's operation. The issues identified with the help of media reports enabled the Commission to commence paper inquiries with the persons who might be involved.

2.6 A first batch of inquiry letters was sent out to seek information relevant to the issues. When answers were received, inquiry letters were sent to other persons who might be involved, to give them a chance to respond and to obtain further information. This process continued well into the hearing.

2.7 The importance of having an open hearing cannot be over-emphasized. The persons against whom allegations were made must be given an opportunity to answer such allegations and to put forward their cases. The hearing was conducted in public to ensure that justice must not only be done but also seen to be done.

2.8 The hearing was conducted in English but interpretation service was provided when necessary. Witnesses gave evidence in Chinese or English, and were cross-examined by any party who took any issue with them or sought to establish anything favourable to him/her, and

by counsel for the Commission to enable the Commission to clarify the facts and raise matters of concern.

2.9 The duties of counsel for the Commission were onerous. Not only did they prepare the inquiry letters and make further inquiries arising from the responses, but they also prepared for the examination of the witnesses at the open hearing. Although the Commission arrived at its findings and conclusions after considering all the views and representations received during the Inquiry, it must be stated clearly and unequivocally that counsel for the Commission were not involved in the decision-making process of the Commission, and that the Commission reached its findings and conclusions independently.

2.10 The Commission was required to report to the CE within four months of its appointment or such time as the CE in Council might allow. The Commission has taken the view that unless there are very cogent reasons, it should adhere to the said time limit, given the public's concern about the subject of the Inquiry, and its interest that the Commission's findings and conclusions be made available within a reasonable time.

2.11 The hearing of evidence and submissions was only completed on 6 June 2007, less than 10 days before the deadline for reporting to the CE on 14 June 2007. To allow time to prepare the report, the Commission sought from, and was granted by, the CE in Council an extension of the deadline for the report's submission to 20 June 2007.

2.12 Many points and arguments were raised by the parties, their counsel and counsel for the Commission in the parties' interests and to assist the Commission in reaching fair and reasonable findings and conclusions. The Commission may not have expressly mentioned all the points and arguments raised, but they had all been taken into consideration by the Commission. Unlike a court judgment, this report has been prepared primarily to inform the public of the Commission's findings and conclusions, and does not seek to deal expressly with all the points and arguments raised by counsel; otherwise, the public might find the report difficult to understand and too legalistic.

Section 3 : Resolution of Issues

2.13 To ascertain whether the allegations were true, the Commission would have to determine the issues raised during the Inquiry by way of representations to the Commission, in the oral testimonies of the witnesses, and in the examination of those testimonies.

2.14 Parties and non-parties who were implicated by any allegations were given the opportunity to answer such allegations and present their cases. Although many issues were identified at the early stage of the Inquiry, others only became apparent during the oral testimonies of witnesses or in the answers to the inquiry letters or other forms of witness statements.

2.15 Despite the tight timeframe, the Commission is satisfied that the Inquiry was conducted such that issues were crystallised through open hearing in which the parties were allowed to call their witnesses. The witnesses were examined thoroughly and conflicting evidence determined.

2.16 Within the ambit of the Terms of Reference, and based on the witnesses' testimonies and witness statements, the Commission has to make findings of fact relevant to the Three Allegations as well as other related allegations. On matters outside the Terms of Reference, the Commission would only make passing references and would not make findings of fact unless it was essential or just and fair to do so.

2.17 In determining primary facts, the Commission considers only the evidence it heard during the Inquiry and the demeanour of each witness in the witness box. In assessing the credibility and reliability of the witnesses, the Commission relies also on the documents from the parties and non-parties. The findings and conclusions the Commission has reached are only those justified by the evidence.

Section 4 : Standard of Proof and Treatment of Evidence

2.18 In an inquiry of this nature, there is generally no onus of proof on any party, but the Commission considers it fair and proper to adopt the basic principle of "he who alleges has the burden of proof", and the Commission also adopts the civil standard of proof on a balance of probabilities, i.e. the "more likely than not" test. The Commission accepts that the civil standard of proof on a balance of probabilities calls for a degree of satisfaction, which varies according to the gravity of the facts to be established [See *HKSAR v Lee Ming Tee & Securities and Futures Commission (Intervener)* (2003) 6 HKCFAR 336 at p 361-362].

2.19 A finding on an issue must be supported by a standard of proof commensurate with the seriousness of the issue. The more serious the nature of the allegation or criticism, the weightier the evidence there must be for the Commission to be satisfied. The Commission bears in mind the gravity of the allegations and the seriousness of the possible consequences arising from the Commission's findings on the allegations.

2.20 When a finding or view of the Commission is based on more cogent evidence, the Commission will state the higher standard by which that finding or view has been reached, by using such language as "beyond all reasonable doubt", "surely", "undoubtedly", "no doubt" and "absolutely".

2.21 During the Inquiry, many documents were supplied by the parties and non-parties. Witness statements of about 70 witnesses were obtained and 24 witnesses gave evidence on oath or affirmation at the hearing. The witness statements of those who were not called were also taken into consideration by the Commission to reach its findings and conclusions. Persons who provided submissions and statements containing information outside the Terms of Reference would not be designated as witnesses.

2.22 Over 300 inquiry letters were sent from time to time to the parties and non-parties to seek as much information on various issues as possible. The witness statements, the answers to the Commission's inquiry letters and a large amount of documents have been examined. Some of the Commission's findings are based on them.

CHAPTER 3

THE HEARING AND CONFIDENTIALITY OF DOCUMENTS

Section 1 : The Hearing

3.1 The Commission began its hearing on 6 March 2007 to deal with preliminary procedural matters. The substantive hearing of testimonies from witnesses began on 29 March 2007. Altogether there were four sittings on preliminary matters and 35 days of substantive hearing. The hearing dates and witnesses appearing at each of those hearing dates are set out in **Appendix IV**.

3.2 The hearing was conducted in public. When witness statements or parts thereof were adopted as evidence-in-chief, copies of those parts of the witness statements were made available to members of the public and the media attending the hearing, and published at the Commission's website afterwards.

3.3 Those implicated in or concerned with the subject of the Inquiry were, at their requests, duly made parties to the proceedings, and were represented by counsel and solicitors. Counsel were allowed to question the witnesses and make submissions as directed by the Commission.

3.4 Hearing bundles of documents were prepared for the use of the parties to the Inquiry to ensure that the hearing would be conducted smoothly and with as little interruption as possible.

3.5 The Commission had done everything possible to ensure fairness to the parties, especially to those who might be implicated by the Commission's findings and conclusions. Members of the public were free to attend the hearing, and the media presence enabled the proceedings to be reported to the general public. The Commission is confident that justice has been done and seen to be done.

Section 2 : Confidentiality of Documents

3.6 Whilst every attempt was made to ensure a high degree of transparency, some documents supplied by the parties and non-parties were kept confidential upon request to ensure that their interests would not be unnecessarily affected. In deciding if a document should be kept confidential, the Commission tried to strike a balance between the public's right to the evidence and the interests of the parties who might be affected by the disclosure of the document.

3.7 At the hearing on 22 March 2007, the Commission allowed the non-disclosure of some documents on legal professional privilege or on the ground that they were not relevant. The Commission also directed that counsel for the Commission and counsel for the parties tried to agree on how to deal with other claims for confidentiality and privilege. Agreement was subsequently reached on how the claims were dealt with. Some documents were allowed to remain confidential and parts of others were redacted accordingly.

3.8 To further protect those who supplied documents and materials to the Commission, the parties to the Inquiry and their legal representatives each gave a written undertaking to the Commission that no document, material, information, or any part thereof, obtained from the Commission or this Inquiry, save the Commission's report to the CE, should be used for any purpose other than for this Inquiry.

CHAPTER 4

THE BACKGROUND FACTS

4.1 Education has always been one of the Government's top priorities. Appropriations on education have accounted for almost one quarter of the Government's annual budget. However, the education system or education policy and its implementation are not free from criticism and there have been repeated calls for reform.

4.2 Mr Tung, since taking office in 1997, has tasked EC, which advises the Government on the overall educational objectives, policies and priorities, to conduct a comprehensive review of the education system in Hong Kong.

4.3 In 2000, after extensive public consultation, EC published a report entitled "Reform Proposals for the Education System in Hong Kong", proposing reforms, to be implemented in stages, in curricula, assessment mechanisms, language education, support for schools, professional development, admission systems, and increases in post-secondary education opportunities ("the Education Reforms").

4.4 The successful implementation of the Education Reforms would depend, *inter alia*, on the co-operation of the teaching profession. Unfortunately, the teaching profession found many facets of the Education Reforms objectionable, particularly in resulting in a very substantial increase in pressure and workload for teachers and principals alike, with no or little discernable benefit for students.

4.5 Previously, EMB was responsible for the formulation of policy and ED was responsible for its implementation. On 1 January 2003, ED merged with EMB to strengthen links between policy formulation and implementation. Professor Li was appointed SEM with effect from 1 August 2002. Mrs Law was the Director of Education from 9 November 1999 to 18 June 2000, and then SEM from 3 July 2000 to 30 June 2002. From 1 July 2002 to 30 October 2006, Mrs Law was PSEM.

4.6 EMB and its officers had to implement the Education Reforms and associated policies in the face of mounting opposition and criticism. Their tasks became more difficult because of budget cuts and the problem of surplus teachers.

4.7 The Government-wide target to restore fiscal balance by 2008/2009 led to budget cuts to all eight UGC-funded HEIs in 2004. The declining population in the 6-11 age group also led to the implementation of the "consolidation policy" since the 2003/04 school year. The effect of the "consolidation policy" was that Government and aided schools which failed to attract a threshold number of students in Primary One Admission would be closed down gradually. An attempt to challenge the legality of the "consolidation policy" was unsuccessful (See *Lam Yuet Mei v Permanent Secretary for Education and Manpower* [2004] 3 HKLRD 524). The declining population of school age children and the "consolidation policy" led to a large number of surplus teachers.

4.8 SCT was considered a possible solution to the problem of surplus teachers. However, the Government did not introduce SCT, possibly due to doubts about the impact of a somewhat small reduction in the teacher-student ratio on teaching effectiveness, and of fiscal considerations.

4.9 HKIEd is one of the eight UGC-funded HEIs. The Government sets a global student target number that would receive funds from the Government through UGC. The level of recurrent grants to the UGC-funded HEIs is primarily based on their respective approved student target numbers and their respective Academic Development Proposals accepted by UGC.

4.10 HKIEd is strong in early childhood and primary teacher training, and many of the surplus teachers were its graduates. Surplus teachers could lead to a reduction in the student numbers of HKIEd with a consequential reduction of recurrent grants from UGC.

4.11 The process to determine the level of grants from UGC commences with a Start Letter, followed by an Allocution Letter and then an Allocation Letter. The First Start Letter to HKIEd for the 2005-08 triennium dated 21 January 2004 indicated that to meet the projected need for teachers from 2009/10 to 2011/12, about 1,330 and 1,030 FYFD places should be allocated at the primary and secondary levels respectively. The part-time C (ECE) places were reduced from 369 in 2004/05 to 200 for each of 2005/06, and 2006/07, but 0 for 2007/08. The number of the PUC places was reduced from 478 ftes to 350 ftes for each of 2005/06, 2006/07 and 2007/08. The Second Start Letter to HKIEd dated 17 February 2004 reduced the FYFD (Primary) places to 1,050 and increased the FYFD (Secondary) places to 1,050.

4.12 HKIEd raised objection, particularly to the reductions in the FYFD (Primary) and part-time C (ECE) places, as HKIEd, being the main provider of primary teacher education and ECE, would be seriously affected by those reductions. In the Allocution Letter dated 7 May 2004 to HKIEd, HKIEd was allocated 468 FYFD places (primary and secondary) for each of 2005/06, 2006/07 and 2007/08. Some of these places were required to support HKIEd's collaborative programmes with other HEIs. The number of PUC places remained unchanged, but the zero provision for part-time C (ECE) for 2007/08 was changed to 200.

4.13 Starting in 2001, the development of higher education in Hong Kong was being reviewed. In March 2002, Lord Sutherland, commissioned to review the development of higher education in Hong Kong, suggested in his report ("the Sutherland Report") that strategic collaborations would be essential to shaping the future of higher education. In particular, the Sutherland Report encouraged HKIEd to develop collaborative links with other UGC-funded HEIs, to create a more diversified set of programmes and a broad range of subjects. The Sutherland Report also suggested changes in the funding strategy of UGC so that performance and role differentiation of UGC-funded HEIs were relevant factors in determining the amount of funds to be granted to them.

4.14 The Task Force set up by HKIEd also recommended collaborations and alliances with other UGC-funded HEIs. HKIEd's official position, however, was that there would be no full merger with other UGC-funded HEIs, but HKIEd could be open to collaboration.

4.15 Meanwhile, HKIEd worked towards obtaining self-accrediting status through an IR which started in 2003. Apparently it was hoped that with self-accrediting status, HKIEd would eventually achieve university status and such status would boost the quality of its student intake, facilitate fund-raising and enhance its image. On 23 March 2004, following the IR and on the recommendation of UGC, HKIEd was granted self-accrediting status.

4.16 According to media reports, Professor Li was strongly in favour of "mergers" of HEIs when he was VC of CUHK. In early October 2002, two months after Professor Li assumed office as SEM, there were press reports quoting him as saying, in connection with "mergers" of HEIs, that "match-making is successful" ("相睇成功"), "the authority is in my hand" ("權在我手") and "starting with diplomacy and following up with the deployment of a troop" ("先禮後兵").

4.17 Despite his failed attempts to merge CUHK with HKUST, and Poly U with City U, Professor Li was said to be openly supportive of a merger between HKIEd and CUHK. It is fair to say, however, that Professor Li did not specify the nature of the "merger" ("合併") he had in mind. He could have been referring to collaboration or other forms of institutional integration.

4.18 In January 2004, UGC published a report entitled "Hong Kong Higher Education: To Make a Difference, To Move with the Times", favouring more active and deeper collaboration among HEIs, within and outside Hong Kong. In March 2004, the Institutional Integration Working Party of UGC published a report entitled "Hong Kong Higher Education – Integration Matters" ("the Niland Report"), suggesting a more productive and closer relationship between HEIs with discussions on different models of collaboration, including the Merger Model, the Federation Model, the Deep Collaboration Model, the Loose Affiliation Model, and the Status Quo Model.

4.19 The Merger Model proposed in the Niland Report is a permanent fusion of the integrating parties into a single entity in all respects or an amalgamation of two or more separate institutions, which then surrender their legally and culturally independent identities in favour of a new joint identity under the control of a single governing body. Under the Federation Model, on

the other hand, universities are drawn closer together while preserving certain autonomy. The Federation Model, moreover, embraces a number of variations, from loose Federation to tight Federation. The Deep Collaboration Model is a less extensive form of integration, in which the partner institutions agree to merge functions in designated areas only.

4.20 Not surprisingly, views on institutional integration were divided. HKIEd held two Retreats in 2004, first in April and then in June, to brainstorm the issue. Dr Leung was said to favour a "merger" and was reported to have said that HKIEd would otherwise suffer "death by a thousand cuts" ("千刀切而死"). Professors Morris and Luk, and others opposed a full merger, as they believed in the need for independence of governance.

4.21 The consensus reached at the Retreats was against merger as defined in the Niland Report, but in favour of deep collaboration. On 9 July 2005, HKIEd and CUHK signed a DCA, which ruled out the possibility of a merger between CUHK and HKIEd for at least two triennia. The agreement had the endorsement of UGC and EMB.

4.22 Despite the signing of the DCA, HKIEd and CUHK had achieved very little by April 2006; only a joint degree programme in English Studies and Education for 20 students from each of the institutions had been established. The discussions between the two institutions with the view to achieving a Federation Model did not yield any results and were suspended in November 2006.

4.23 The First Allegation occurred at or around the time when the Start Letters for the 2005-08 triennium were being prepared. The suggestion, to repeat, was that Professor Li told Professor Morris that he would allow Mrs Law a free hand in cutting the number of students of HKIEd unless Professor Morris consented to initiate a merger with CUHK.

4.24 The problem of surplus teachers led to the adoption, by some schools, of LIFO in engaging teachers as recommended by ED in the 1970s. However, the Director of Audit criticized LIFO, and EMB introduced in 2003 PAP under which all teaching vacancies in aided primary schools would be frozen until July 2003 to allow surplus teachers to be preferentially redeployed.

The expiration date of PAP was extended to early August 2003 because of the continual difficulties of surplus teachers in securing employment.

4.25 New teachers who were mainly HKIEd graduates, and continuing HKIEd students objected to PAP as it prevented new teachers from concluding teaching contracts before PAP ended. They made repeated complaints to EMB and then to the Ombudsman, who, in a report issued in May 2004, criticized PAP as being unfair and contrary to the spirit of school-based management. The Ombudsman suggested that both surplus teachers and new teachers should be given a fair and equal chance to compete for employment, which, in substance, was a call to abolish PAP.

4.26 HKIEd issued a press release on 20 May 2004 supporting and endorsing the Ombudsman's suggestion. By that time, EMB had scheduled PAP for 2004 to end on 30 June 2004. The earlier termination of PAP for 2004 than that for 2003 exacerbated the plight of surplus teachers. They demanded the extension of PAP beyond 30 June 2004. PTU supported the surplus teachers and organised protests, with a planned hunger strike to take place in early July 2004.

4.27 The Third Allegation concerns a telephone conversation between Professors Li and Luk on 29 June 2004 in respect of the protests and the planned hunger strike. The suggestion was that Professor Li said Professor Luk and/or HKIEd would have to "pay" for not agreeing to issue a statement condemning the surplus teachers and PTU. Professor Luk was then the Acting President.

4.28 In late 2002, newspaper articles criticizing the Education Reforms or education policy and its implementation, and the Government for being insensitive to teachers' despair caused by the Education Reforms began to appear. Similar criticisms were repeated in conferences and seminars attended by teachers and principals.

4.29 Two of the most vocal critics against the Education Reforms or education policy and its implementation from HKIEd were Mr Ip and Professor Cheng. Since 2002, Mr Ip had regularly published articles in leading newspapers, criticising the Education Reforms or education policy and its implementation, with an emphasis on the advantages of SCT which the

Government did not implement. Mr Ip organised a seminar on 29 October 2002 to promote SCT.

4.30 Professor Cheng also regularly wrote opinion pieces in newspapers that were critical of the Education Reforms or education policy and its implementation. In particular, between late November and early December 2004, Professor Cheng published a series of articles in Ming Pao Daily, enumerating the faults in the Education Reforms or education policy and its implementation, and suggesting remedies.

4.31 The Second Allegation relates to telephone conversations between Professor Morris and Mrs Law in which Mrs Law was said to have asked Professor Morris to dismiss staff members of HKIEd, including Mr Ip and Professor Cheng, for voicing criticisms against the Education Reforms or education policy and its implementation.

4.32 The re-appointment of Professor Morris as President was discussed in late 2006. At the Council meeting on 25 January 2007, it was resolved, by 10 votes to 3 votes with 3 votes abstained, not to re-appoint Professor Morris as President. It was suggested that the presidential selection was linked to the merger issue. Specifically, Professor Morris alleged that Dr Leung had told him that unless he supported a merger, he would not be re-appointed.

4.33 Between 2001 and 2006, HKIEd in particular and the education sector of Hong Kong in general were in turmoil. Various segments of the teaching profession, including HKIEd, and EMB were at odds over many issues. EMB and its officials were repeatedly and severely criticized for being insensitive to the teachers' plight. The Council, in particular Dr Leung, and management of HKIEd were deeply divided on the merger issue and the presidential selection. Professor Li was accused of improperly exerting his authority in order to achieve a merger between HKIEd and CUHK, of using Dr Leung as his agent to pressure Professor Morris, and of causing Professor Morris not to be re-appointed when the latter refused to comply.

4.34 Professor Luk decided to publish the Letter shortly after the Council's decision not to re-appoint Professor Morris, recounting events that had occurred months and years before. Those events form the subject of this Inquiry.

CHAPTER 5

THE ALLEGATIONS

5.1 The First Allegation alleges that on 21 January 2004 in a telephone conversation, Professor Li attempted to persuade Professor Morris to initiate a merger with CUHK; otherwise he would allow Mrs Law a free hand in cutting the number of students of HKIEd.

5.2 The Second Allegation alleges that Mrs Law requested Professor Morris (on 30 October 2002, in late 2004, in November 2004, on 21 April 2005 and on other unspecified occasions) to dismiss Mr Ip, Professor Cheng, Dr Lai and Dr Wong after they published articles in local newspapers criticising the Education Reforms, or education policy and its implementation.

5.3 The Third Allegation alleges that on 29 June 2004, Professor Li said Professor Luk and/or HKIEd would have to "pay" for not agreeing to issue a statement condemning the surplus teachers and PTU, who protested against EMB's decision not to extend PAP beyond 30 June 2004.

5.4 Apart from the Three Allegations, Professors Morris and Luk also alleged that EMB, led by Professor Li and Mrs Law, acting with UGC and in order to force a merger between HKIEd and CUHK, reduced the student numbers of HKIEd in the 2005-08 triennium and in the 2008/09 roll-over year to such an extent as to cast HKIEd's continual viability in doubt.

5.5 Professors Morris and Luk suggested that the presidential selection of HKIEd in January 2007 was linked to the merger issue and that because Professor Morris refused to support a merger with CUHK, he was not re-appointed as President.

5.6 They further suggested that in attempting to press Professor Morris into consenting to initiate a merger with CUHK, Professor Li often acted through his agent – Dr Leung.

5.7 Professor Li, Mrs Law and Dr Leung denied all the allegations. They claimed that it was a case of defamation, insinuations or character assassinations for a political purpose.

CHAPTER 6

THE TESTIMONIES OF WITNESSES AND THE WITNESS STATEMENTS

Section 1 : The Testimonies of Witnesses

6.1 A total of 24 witnesses gave evidence on oath or affirmation. They were subject to the usual procedure of examination-in-chief, cross-examination and re-examination. A summary of the testimonies of the witnesses is set out in **Appendix V**.

Section 2 : The Witness Statements

6.2 Another 49 people provided the Commission with submissions and witness statements. A summary of those submissions and witness statements is set out in **Appendix VI**.

Section 3 : The Other Statements and Submissions to the Commission

6.3 A list of the other statements and submissions received, but not relied on by the Commission, is set out in **Appendix VII**.

CHAPTER 7

SUBMISSIONS AND ARGUMENTS

(A SUMMARY)

Section 1: The Submissions of Mr Martin Lee SC ("Mr Lee SC"), Mr Hectar Pun and Ms Jocelyn Leung for Professors Morris and Luk (collectively referred to as "Mr Lee SC")

7.1 Mr Lee SC emphasized the importance of academic freedom and institutional autonomy with reference to the Basic Law, The Hong Kong Institute of Education Ordinance (Cap 444), and the "Lima Declaration".

7.2 Mr Lee SC pointed out that HEIs and their members must be protected, in their academic pursuit and management of internal affairs (including the unfettered rights in the selection, promotion, and dismissal of their staff), from repression or other interference from the Government or other sources. Mr Lee SC suggested that the Government must not be allowed to force any education policy on HEIs against their will, and that to do so would constitute an interference with their institutional autonomy.

7.3 Mr Lee SC criticized Mrs Law for providing a distorted meaning of academic freedom at the end of her evidence and suggested that she was wrong to justify her interference with the publication of critical newspaper articles on the basis that those articles were not based on research and that their contents were wrong.

7.4 Mr Lee SC submitted that Professor Li clearly had a personal "dream" of a complete merger of HEIs, as evidenced by the many newspaper reports and radio programmes since 2002. He suggested that the failure to merge HKUST and CUHK led Professor Li to adopt a different tactic – instead of publicly advocating a merger, Professor Li adopted a "carrot and stick" approach to persuade Professor Morris and Dr Leung.

7.5 Mr Lee SC emphasized that the Commission should make findings on the issues of whether Professor Li used the word "rape" at the lunch meeting on 19 July 2002 and whether Professor Mok had correctly described her conversation with Mrs Law in connection with Mr Ip.

7.6 Mr Lee SC suggested that the Commission should have no difficulty in concluding that Professor Li used the word "rape" in connection with the proposed "merger", mirroring the First Allegation of "merger or thousands of cuts", and that Mrs Law asked Professor Mok to dismiss Mr Ip, mirroring the Second Allegation that Mrs Law asked Professor Morris to sack Mr Ip. Mr Lee SC also suggested that Professor Li's assertion that "I will retaliate" in the recorded telephone conversation on 16 November 2005 also mirrored the threat that he made to Professor Luk in the Third Allegation.

7.7 Mr Lee SC suggested that Professor Morris's evidence was far more convincing than that of Professor Li. In particular, he emphasized that the use of the word "rape" at the lunch meeting on 19 July 2002 clearly indicated that Professor Li was infringing the institutional autonomy by forcing upon HKIEd a merger request, be it a full merger or other forms of institutional integration.

7.8 Mr Lee SC suggested that Professor Li's action constituted a blatant infringement of the independence of HKIEd in its internal governance and administration and its establishment of policies of education.

7.9 Mr Lee SC submitted that Professor Li, prior to 21 January 2004, would have been aware of the contents of the Start Letter to HKIEd for the 2005-08 triennium and that it was his intention to coerce Professor Morris into initiating a full merger as Professor Li was not satisfied with the recommendations in the Niland Report, which was to be released in March 2004.

7.10 Mr Lee SC also suggested that Professor Morris was justified, by his previous dealings with Professor Li, to conclude from the conversation he had with Professor Li on 21 January 2004 that unless he agreed to a merger, HKIEd would cease to be viable. Mr Lee SC emphasized Professor Luk's confirmation evidence. Mr Lee SC said and suggested that Professor Morris's

sensitivity would not make him less reliable. Mr Lee SC even suggested that being a sensitive person, Professor Morris would pay more attention to areas he was sensitive to and therefore his evidence would be more reliable.

7.11 Mr Lee SC submitted that Professor Morris was an honest witness and Professor Luk had a better memory, and that the "mutations" of their allegations did not render their evidence less reliable. Mr Lee SC suggested that Professor Morris could have correctly repeated the conversation he had with Professor Li to Professor Luk shortly after the event, but failed to recall the exact details when giving evidence because of the long lapse of time.

7.12 Mr Lee SC submitted that Professor Li's suggestion to Professor Morris that HKIEd would not be viable unless Professor Morris agreed to a merger, constituted an improper interference with the institutional autonomy of HKIEd. In Mr Lee SC's opinion, if Professor Li were to have said that, "If you want this process of cuts to stop, to be reversed, then you need to agree to merge" or that he would allow Mrs Law a free hand to cut down the student numbers, the infringement would have been even more severe.

7.13 Mr Lee SC, heavily relying on Dr Lai's evidence, argued that HKIEd had been unfairly treated by the reduction in FYFD (primary) places and the zero provision in the part-time C (ECE) places for 2007/08. Mr Lee SC emphasized that the use of the savings from reducing HKIEd's ECE programmes to fund tendered programmes and the exclusion of HKIEd from meetings on ECE training should be viewed with the greatest suspicions. Mr Lee SC suggested that the sudden policy changes constituted the parts of the "thousand cuts" promised to be inflicted upon HKIEd for its refusal of a merger.

7.14 Mr Lee SC made reference to the EMB's decisions to close down the B Ed programme in Arts, Music and PE in the 2008/09 roll-over year and to deny university title to HKIEd.

7.15 Mr Lee SC suggested that Dr Leung was not a credible witness and was in fact actively involved in the promotion of a merger. He suggested that if the allegations by Professors Morris and Moore against Dr Leung were correct, Dr Leung was clearly acting as Professor Li's agent in bringing about a merger.

7.16 Mr Lee SC also suggested that Dr Leung's comments to the press at the Graduation Ceremony on 18 November 2005 and at the "heart-to-heart" talk on 28 September 2006 clearly indicated his support for a merger.

7.17 Mr Lee SC argued that Dr Leung was wrong to accuse Professor Luk and his colleagues of conducting discussions with CUHK in late 2006, as Dr Leung had never informed Professor Morris of the suspension of the discussions with CUHK. Mr Lee SC accused Dr Leung of failing his duties in not declaring his conflicting ideas regarding the further development of HKIEd and that of the Council, and in not properly attending to Professor Morris's complaint in his email message on 19 September 2003.

7.18 Mr Lee SC submitted that Dr Leung did not conduct the process of Professor Morris's re-appointment properly because (1) there was a delay; (2) the two staff members were not allowed to take part; and (3) Dr Leung influenced the views of the participants by asking leading questions.

7.19 Mr Lee SC made reference to the meetings between Professor Li and others. The suggestion was that those meetings were held in order to discuss how to facilitate a merger and for Dr Leung to make a report on the lack of progress at the Retreats.

7.20 Mr Lee SC argued that of all those who attended the Hong Kong Club dinner on 17 April 2006, only Professor Morris was honest and reliable as what Professor Morris said was consistent with the relevant documents.

7.21 In connection with the Third Allegation, Mr Lee SC emphasized that Professor Luk, as a historian, was likely to remember what happened clearly and that he was an honest witness. Mr Lee SC suggested that Professor Li's evidence was not credible and that what he did constituted an interference with the institutional autonomy of HKIEd, and a blatant disregard for PTU's and its members' freedom of speech and demonstration.

7.22 In connection with the Second Allegation, Mr Lee SC drew attention to Mrs Law's admission of her habit of telephoning public critics of Government policies on education because she disliked the media's painting of a negative image of the teaching profession. Mr Lee SC pointed out that Mrs

Law conceded that she might have given Professor Morris the impression that she was unhappy about the criticisms voiced in the articles published by HKIEd's teaching staff.

7.23 Mr Lee SC suggested that Mrs Law would have made the telephone calls to try to stop the "negative" comments against EMB and/or to express her dislike of them as Mrs Law admitted to having called Professor Morris at least once to ask him to do something to halt the critical articles by HKIEd staff.

7.24 Mr Lee SC took the Commission to the evidence in relation to the Second Allegation and submitted that the evidence clearly supported the suggestions that Mrs Law was aware of the involvement of Mr Ip and Dr Lai in the SCT seminar on 29 October 2002 and that, because she found such a seminar objectionable, she requested Professor Morris to terminate their employment. Mr Lee SC emphasized that Mr Ip and Professor Mok were both credible witnesses and that their evidence should be preferred over that of Mrs Law.

7.25 Mr Lee SC submitted that Mrs Law's actions constituted blatant interference with institutional autonomy and academic freedom.

7.26 Mr Lee SC emphasized Professor Morris's evidence that Mrs Law also asked him explicitly or by insinuation, to dismiss Professor Cheng and Dr Wong. Mr Lee SC suggested that Professor Cheng's highly critical newspaper articles would have offended Mrs Law. Mr Lee SC also suggested that it was possible for Mrs Law to have confused Dr Wong with Dr Wong Ping-ho, an active member of the staff union who had spoken out against budget cuts and the Education Reforms. Mr Lee SC's suggestion was that the intended target of the complaint by Mrs Law, who had confused their names, was Dr Wong Ping-ho rather than Dr Wong.

7.27 In conclusion, Mr Lee SC submitted that whilst the Government was entitled to bring about changes, it should do so after proper consultation with all the stakeholders and with the public so as to ensure that any changes in policy would be in the best interest of the community.

7.28 Mr Lee SC suggested that Professor Li had not followed the established policy. Instead of doing it through EC or UGC and in an open and transparent manner, Professor Li attempted to force a merger upon HKIEd by stealth and subterfuge.

7.29 Mr Lee SC opined that the future of teacher education must be based on public interest, which could only be ascertained through rational and open debate as well as well-informed professional judgment. However, Professor Li chose to forego the long-established process and attempted to impose his personal will on HKIEd.

Section 2: The Submissions of Mr Patrick Fung SC ("Mr Fung SC") for HKIEd

7.30 Mr Fung SC emphasized the stance of HKIEd and the Council that they would not pursue a full merger in the Niland's sense.

7.31 Mr Fung SC pointed out that neither Professor Morris nor Professor Luk alleged any bias against any Council member except Dr Leung and possibly Mr Ng, in their deliberations in Council meetings, in particular on the question of re-appointment of Professor Morris as President.

7.32 Mr Fung SC referred to the statements of the external Council members who voted on the question of Professor Morris's re-appointment, including Dr Cheung Kwok-wah, Mr Ma Siu-leung, Mr Cheng Pak-hong, Mr Pang, Mr Ng, Mr Cheng Man-yiu, Mr Chan Wing-kwong, Professor Leslie Lo Nai-kwai, Miss Bella Lo Sung-yi, Mr Lee Chien, Ms Wong, Mr Tai Hay-lap and Miss Catherine Yen Kai-shun. Mr Fung SC emphasized that those external Council members all confirmed that they did not receive any communication from Dr Leung or any EMB official on the merger, or on the question of Professor Morris's re-appointment as President, or on any linkage between the two.

7.33 Countering the suggestion of any unfairness or impropriety in the re-appointment procedure, Mr Fung SC pointed out that Professor Morris only confirmed his wish to be re-appointed in June 2006 and that the Review Committee rested during the vacation period between July and September 2006. The delay between June and September 2006, therefore, involved no foul play.

7.34 Mr Fung SC emphasized that the exclusion of Professor Grossman and Dr Wong Ping-ho from interviews with staff members was justified, as it was based on legal advice, and that there was no indication of any leading questions in the records of the interview by Dr Leung and Mr Ng with Professor Luk, Professor Moore and Ms Ma, which were confirmed to be complete and correct. Mr Fung SC therefore submitted that the allegation of unfairness or impropriety was unfounded.

7.35 Mr Fung SC argued that the Council never exerted or attempted to exert any pressure on Professor Morris to agree to a full merger. Mr Fung SC further pointed out that neither Professor Morris nor Professor Luk informed the Council of any of the Three Allegations prior to 1 December 2006 when Professor Morris made reference to the June 2006 breakfast meeting with Dr Leung.

7.36 Mr Fung SC said the attempts by Professors Luk and Morris, in their negotiations with CUHK, to undermine the Council were not acceptable and that HKIEd was still awaiting clarification from Professor Morris on the issue.

7.37 Mr Fung SC tried to refute some of the adverse comments against HKIEd made in the course of the Inquiry with reference to statements by Dr Lai and Professor Moore.

7.38 Mr Fung SC said there had been serious and continued efforts made by HKIEd towards collaboration with other HEIs. Witness statements were adduced to explain public misconceptions about the quality of HKIEd's teaching staff, student intake and programmes. The statement produced by Mr Fung SC indicated that apart from the collaborative programme with CUHK, HKIEd in fact had other collaborative programmes with HKUST, Poly U and Lingnan University.

Section 3: The Submissions of Mr Johnny Mok SC ("Mr Mok SC"), Ms Lisa Wong SC ("Ms Wong SC"), Mr Thomas Au and Mr Hew Yang-wahn for Professor Li and Mrs Law (collectively referred to as "Mr Mok SC")

7.39 Mr Mok SC submitted that the allegations stemmed from Professor Morris's failure to secure a re-appointment as President after the revival of the negotiations with CUHK and the rumours of a link between the merger and the President's re-appointment failed to secure such re-appointment.

7.40 Mr Mok SC emphasized that because the allegations were very serious, the Commission should adopt a "stricter standard of proof" as explained by Ma CJHC in *Dr Wun Hin Ting v Medical Council of Hong Kong* [2004] 2 HKC 367, that "the more serious the charge, the more cogent the evidence must be to prove it. The logic here is that the more serious the allegation, the less likely it is that the event occurred."

7.41 Mr Mok SC submitted that the Commission should only find the allegations or any of them proved if the evidence was so strong and of such high quality as to overcome the stricter standard of proof necessitated by the serious misconduct alleged in this case.

7.42 As to the "mutations" of the First Allegation, from the contents of the Letter to the evidence of Professor Morris, Mr Mok SC suggested that they were clearly the result of embellishment and/or fabrication. Mr Mok SC submitted that the evidence supporting the First Allegation was weak and of poor quality.

7.43 Mr Mok SC said stripped of theories, hindsight and interpretations, what Professor Li told Professor Morris on 21 January 2004 simply was that "the decline in student numbers was going to come in any event and that in order to survive or cope with the difficulties, Professor Morris had to do something 'radical', including the consideration of a merger" – the same as was reported by Professor Li to the Commission.

7.44 Mr Mok SC also attacked the quality of the evidence in support of the Second Allegation. He said that Professor Morris's recollections of the dates and events were seriously faulty, probably due to his admitted poor memory of dates and events.

7.45 Mr Mok SC suggested that Professor Morris tried to re-construct the telephone conversations in question from documents and, in so doing, rendered his evidence untrustworthy.

7.46 Mr Mok SC cited Professor Morris's evidence with regard to Dr Lai. Mr Mok SC suggested that Professor Morris included Dr Lai because he wrongly thought that Dr Lai had featured prominently in the Sing Tao Daily article. Mr Mok SC said when Professor Morris learnt of the mistake, he consulted Professor Luk in the course of his evidence and came up with the wrong theory that Dr Lai was involved in the distribution of pamphlets to promote another SCT seminar.

7.47 Mr Mok SC suggested that Professor Luk, in order to patch up the loophole, suggested that Dr Lai was a collaborator and co-organiser of the SCT seminar, and then suggested that he assumed Dr Lai to be a collaborator from reading a book given to him.

7.48 Mr Mok SC submitted that the 30 October 2002 telephone conversation was indeed a "fabrication".

7.49 Mr Mok SC pointed out Professor Morris's admission that Mrs Law, on 19 November 2004, did not refer to "sacking" and that he was just adding his own interpretations to what Mrs Law said, which could be wrong. Mr Mok SC further attacked Professor Luk for introducing the highly speculative suggestion that Mrs Law could have mistaken Dr Wong for Dr Wong Ping-ho. Mr Mok SC suggested that Dr Wong's name was included simply to be consistent with Professor Luk's RTHK interview when he mentioned four staff members targeted by Mrs Law.

7.50 Mr Mok SC suggested that Professor Morris's allegation in connection with Professor Cheng was again not credible. Mr Mok SC pointed out the inconsistencies between the evidence of Professor Morris and that of Professor Luk; that Mrs Law must have been aware of the need for reasons and proper procedure for the dismissal of HKIEd staff; and that given the large number of submissions received by EMB on the Education Reforms, it was unlikely for Mrs Law to single out Professor Cheng.

7.51 Mr Mok SC suggested that Professor Morris, because of prejudice that he harboured against Mrs Law, "transplanted" another conversation he had with her when she asked him to do something about HKIEd staff's newspaper articles.

7.52 Mr Mok SC suggested that there was nothing wrong for Mrs Law to "adopt the position regarding articles which contained inaccurate information, or materials which were not evidence-based, or which portrayed a very negative image of the teaching profession … by making every effort to ensure that the messages we conveyed are positive and reinforce the vital role of teachers in the development of Hong Kong."

7.53 Mr Mok SC said Mrs Law summoned Professor Morris and others only to express her general concerns that a negative image of the teaching profession would be a disincentive to join the profession. Mr Mok SC said one must not assume that such approach was not welcome or was not frank and open simply because it was made by Mrs Law, PSEM. Mr Mok SC said Mrs Law was not targeting a particular article but was soliciting their views as to "how we could deal with the situation, because given that we have a very slim staff within EMB, whereas we have a huge community of stakeholders out there, communication was the most difficult part as I see it for the Education Reforms."

7.54 Mr Mok SC submitted that since EMB introduced the online column in the EMB website in May 2004, Mrs Law found it a more effective means of communication than telephoning to critics personally, and had since reduced the frequency of the latter.

7.55 Mr Mok SC submitted that Mrs Law had a legitimate purpose to call Professor Morris on 21 April 2005 and that it was unlikely for her to ask the names of Mr Ip and Dr Lai to be included in VDS because (1) the scheme was voluntary; (2) Mrs Law must have been aware that Mr Ip was not eligible; and (3) the deadline had expired on 18 April 2005.

7.56 Mr Mok SC, in his written submissions, beseeched the Commission not to make a finding in relation to Professor Mok's complaint against Mrs Law because it was outside the Terms of Reference. Mr Mok SC did not pursue this position in his oral submission.

7.57 However, Mr Mok SC emphasized that Professor Mok, being a very sensitive and suspicious person, was likely to have interpreted what Mrs Law said to her in the most negative light. Mr Mok SC also invited the Commission not to be unduly influenced by Professor Mok's evidence, which related to a different person, a different event, a different time, and a wholly different relationship. Mr Mok SC suggested that Professor Mok's evidence had no probative value. Mr Mok SC also suggested that Professor Mok was evasive and part of her evidence was unconvincing.

7.58 Mr Mok SC emphasized that Dr Mak only corroborated Professor Mok's evidence in relation to the word "fired" and that only Mrs Law and Professor Mok knew the context in which the word was used. Mr Mok SC suggested that the word "fire" would not have been used in complete seriousness.

7.59 Mr Mok SC explained how Mrs Law came to deny the use of the word "fire" and that such episode should not affect her credibility. Mr Mok SC also pointed out various parts of Mrs Law's evidence to demonstrate that she was a truthful and reliable witness.

7.60 Concerning the Third Allegation, Mr Mok SC suggested that Professor Li's version of the event was more probable. He emphasized that Professor Luk had a political motive to appease PTU and therefore a motive to smear Professor Li. Mr Mok SC also pointed out that Professor Luk had wrongly suggested that Dr F Cheung had been misquoted and that he did not publish Professor Li's threat until the Letter in February 2007. Mr Mok SC

emphasized that if Professor Luk had discussed with Professor Li the "teacher training funds" as Dr Ng suggested in an email message to Hon Mr Cheung, it was highly unlikely that Professor Li would have at the same time uttered the alleged threat to Professor Luk.

7.61 In so far as Professor Luk said he mentioned to Professor Morris only upon his return in July 2004, Mr Mok SC pointed out that in Dr Ng's email message to Hon Mr Cheung, there was already the reference to Professor Luk reaching "a consensus with Paul Morris who was in the UK at the time".

7.62 Mr Mok SC referred to the suspicious circumstances in which Professor Luk brought up the two AOB items at the senior management meeting on 30 June 2004 to support his contention that Professor Luk was trying to appease PTU.

7.63 Mr Mok SC stressed that the across-the-board funding cuts were necessitated by the economic downturn and that there had in fact been extra funding to HKIEd via other means. Mr Mok SC suggested that Professor Li, as SEM, would not have acted so irrationally as to force a merger on HKIEd with capricious funding cuts.

7.64 Mr Mok SC pointed out that the reduction of student numbers, other than ECE, was a UGC decision based on manpower projections and the implementation of Government policies, and that HKIEd had known in advance that those cuts were coming. Mr Mok SC emphasized that on the evidence there was no linkage between funding cuts and merger and in any event, a linkage between merger and funding cuts was inherently improbable.

7.65 Mr Mok SC further emphasized that the initial zero provision for the part-time C (ECE) places in 2007/08 was obviously the result of misunderstanding. Mr Mok SC submitted that the policy with regard to the ECE training courses was necessary and in the interests of Hong Kong, and not as a way to pressure HKIEd.

7.66 Mr Mok SC submitted that academic freedom and institutional autonomy are not absolute rights and that the Government's steering of "merger", with financial means, does not infringe upon the academic freedom and institutional autonomy of HEIs.

7.67 Mr Mok SC pointed out that despite the recommendations in the Sutherland Report, which made special reference to HKIEd, there had been very little progress in institutional integration. Mr Mok SC contended that Professor Li only wished to facilitate strategic alliances between HEIs, not to force a full merger upon any HEI, and had never insisted upon a full merger. Mr Mok SC suggested that it was inherently improbable for Professor Li to force a full merger on HKIEd.

7.68 Mr Mok SC emphasized that Professor Li would use the word "merger" in a "loose sense" both before and after the Niland Report, which must be borne in mind in considering the lunch meeting of 19 July 2002. Mr Mok SC suggested that if Professor Li had used the word "rape", Dr Ip would have recorded it in his notes. Mr Mok SC also pointed out that Dr Ip only introduced the word "rape" at a late stage and that he came up with a completely different expression when asked by Mr Wu. Mr Mok SC invited the Commission to accept Professor Li's evidence as to what happened at the meeting. In any event, Mr Mok SC argued, the word, if indeed used, did not have any significant adverse impact on either Dr Ip or Mr Chan and should be ignored.

7.69 Mr Mok SC emphasized that Professor Li, as SEM, must have the bigger picture of safeguarding public interests in mind. He said vested interests of the institutional sector should not be protected in the name of academic freedom or institutional autonomy.

Section 4: The Submissions of Mr Benjamin Yu SC ("Mr Yu SC") and Ms Yvonne Cheng, Counsel for the Commission (collectively referred to as "Mr Yu SC")

7.70 Mr Yu SC, in his detailed written submissions, set out the factual background and the chronology of the key events, for which the Commission is extremely grateful.

7.71 Mr Yu SC also carefully analyzed the background in relation to the First Allegation, with reference to the subjective mindsets of Professors Li and Morris.

7.72 Mr Yu SC suggested that Professor Morris's sensitivity towards EMB, caused by his perception of Professor Li/Mrs Law/EMB's efforts to undermine HKIEd, could have led him to interpret Professor Li's words less than objectively. Mr Yu SC also pointed out that Professor Morris was prone to confusing dates and events, and could have confused separate conversations or parts thereof.

7.73 Mr Yu SC suggested that the Commission must make a finding as to what was said by Professor Li before deciding whether Professor Li improperly threatened, explicitly or implicitly, Professor Morris on 21 January 2004 in order to persuade him to initiate a merger.

7.74 If Professor Li told Professor Morris that there would be cuts and that Professor Morris should consider doing something radical to take advantage of the restructuring and collaboration fund, Mr Yu SC submitted, then what Professor Li said was only friendly advice.

7.75 If, by contrast, Professor Li said EMB harboured ill feelings towards HKIEd and desired to cut its student numbers, and that the only way to mend the relationship and avoid the cuts was a merger with CUHK, Mr Yu SC submitted, then Professor Li's words would constitute a threat.

7.76 Mr Yu SC listed the points in favour of substantiating the First Allegation as well as the points against it.

7.77 Mr Yu SC noted that as of January 2004, Professor Li had no need and no motive to threaten Professor Morris into initiating a merger because HKIEd was then quite willing to conduct negotiations on collaboration and strategic alliances with other HEIs.

7.78 Mr Yu SC emphasized that in January 2004, the Niland Report had not yet been published and therefore the term "merger" had not yet been defined with precision. Thus, when Professor Li mentioned the term, he was using it in a loose sense, specifically in a sense that did not necessarily entail a loss of institutional independence.

7.79 Mr Yu SC pointed out that there was no indication that between January 2004 and the Allocution Letter in May 2004, Professor Morris had informed Professor Li of any discussions regarding deep collaboration. Mr Yu SC said that Professor Morris's failure to respond to Professor Li's supposed threat disproved the existence of such a threat.

7.80 Whilst noting that the cuts in student numbers were questionable, Mr Yu SC argued that there was insufficient evidence to conclude that they were deliberate measures to disadvantage HKIEd or to pressure HKIEd into agreeing to a merger.

7.81 Mr Yu SC suggested that it was uncertain whether Professor Luk had correctly remembered what he was told by Professor Morris, and that on the other hand, Professor Morris was unable to remember the details when giving evidence. Mr Yu SC pointed out that Professor Morris did not allege that, in the 21 January 2004 conversation, Professor Li had referred to Mrs Law or that he would allow Mrs Law to cut the student numbers.

7.82 Mr Yu SC suggested that there was insufficient cogent evidence regarding the telephone conversation on 21 January 2004 to conclude that Professor Li had interfered with the institutional autonomy of HKIEd.

7.83 On the other hand, Mr Yu SC suggested that there was no doubt that Professor Li did say to Dr Ip that HKIEd would be "raped" if it did not agree to a merger, meaning a merger would be imposed on it irrespective of its wishes.

7.84 Mr Yu SC suggested that Professor Li, as SEM, was entitled to persuade the HKIEd Council of the benefits of a merger; but to force HKIEd into a merger would be an infringement of its institutional autonomy. Mr Yu SC emphasized that a full merger or a tight federation would involve the alteration

of HKIEd's governance, which could only be achieved through legislation. Professor Li, who had not yet assumed the office of SEM in July 2002, should not have tried to force a merger upon HKIEd against the will of its Council.

7.85 On the Second Allegation, Mr Yu SC submitted that Professor Mok's evidence against Mrs Law should be accepted and that Professor Mok's evidence was not only relevant to Mrs Law's credibility, but also supported the Second Allegation.

7.86 Nevertheless, Mr Yu SC suggested that Professor Morris was mistaken about the dates of the four instances in which Mrs Law allegedly demanded from Professor Morris the dismissal of HKIEd staff. Mr Yu SC submitted that Professor Morris could have transposed events and conversations between different dates.

7.87 Mr Yu SC suggested that Professors Morris and Luk's attempts to impute knowledge on Mrs Law of Dr Lai's involvement in the SCT seminar were unconvincing. Mr Yu SC suggested that as Mrs Law and Mr Ip were on friendly terms until December 2003, it was unlikely that Mrs Law would ask Professor Morris to dismiss him in October 2002.

7.88 Mr Yu SC emphasized that up to the Graduation Ceremony in November 2004, Dr Wong had not published any newspaper article critical of the Education Reforms or education policy and its implementation, and that Professor Morris accepted that he might have misinterpreted Mrs Law's comments.

7.89 Mr Yu SC also suggested that the evidence was insufficient to prove that Mrs Law asked Professor Morris to dismiss Professor Cheng although it was likely that in a telephone conversation with Professor Morris, Mrs Law repeated her "recurrent theme," i.e. that HKIEd should curb the negative image of the teaching profession, and vented her anger over Professor Cheng's newspaper articles.

7.90 Mr Yu SC endorsed Mr Mok SC's suggestion that Mrs Law had no reason to ask Professor Morris to include the names of Mr Ip and Professor Cheng in the VDS/CRS because they were not entitled to be in the schemes and

because the deadline had already passed. Mr Yu SC further pointed out the undisputed fact that Mrs Law had good reasons to telephone Professor Morris.

7.91 Mr Yu SC suggested that the evidence was insufficient to establish the four specified instances of the Second Allegation against Mrs Law. However, Mr Yu SC suggested that the evidence clearly demonstrated that Mrs Law, on more than one occasion, called up Professor Morris seeking to stop the publication of newspaper articles contributing to a negative image of the teaching profession or of EMB and its policies.

7.92 Despite the insufficiency of Professor Luk's evidence to substantiate the Third Allegation, Mr Yu SC suggested there was reason for Professor Li to be angry at and frustrated by PTU, and for him to be angry at Professor Luk's refusal to issue the statement. Mr Yu SC suggested that as a "straight" and outspoken person, Professor Li was likely to have said the offending sentences related by Professor Luk, in which case Professor Li would have made an improper threat.

7.93 Mr Yu SC pointed out the contemporaneous documents showing that Professor Luk did turn down Professor Li's request for a statement. Mr Yu SC also pointed out that it was never suggested to Professor Morris that Professor Luk did not mention the threat to him in July 2004.

7.94 However, Mr Yu SC reminded the Commission of the danger of relying on Professor Luk's evidence alone to find the Third Allegation proved.

CHAPTER 8

ANALYSIS AND CONCLUSIONS

(AN OVERALL VIEW)

Section 1: Introduction

8.1 Although the issues arising from the allegations are straightforward and confined, the Commission's fact-finding task was extremely difficult, not because of the large number of witnesses and their detailed evidence covering a period of over four years or the elaborate questioning of those witnesses by counsel, but because of the following factors:

(1) The witnesses were all highly educated and very intelligent individuals holding important positions in society. Yet their evidence varied significantly in ways that could not be entirely the result of misunderstanding, mistakes, and/or lapse of memory. There were so many different versions of the events and conversations that it is doubtful if the Commission had been presented with the whole truth.

(2) In respect of each of the allegations, it was essentially one person's words against those of another with few supportive contemporaneous records or documents, and no independent corroboration. Despite the massive documentary material on other issues, there was not a single document directly relevant to the Three Allegations.

(3) The allegations were made only after the Council had decided not to re-appoint Professor Morris as President of HKIEd, three to four years from the original events. Vengefulness and other negative emotions were likely to have factored into the allegations.

(4) The evidence of many witnesses was based on hearsay, occasionally repeated emotionally, and possibly influenced by prejudice.

(5) Throughout the relevant time span, the parties had a strained and sensitive relationship marred by mutual suspicion and distrust, leading to possible unfair interpretations of what had been expressed and unjustified inferences thereof.

(6) A listener may perceive an unintended meaning in what is said, particularly in casual conversations, in which even highly educated and intelligent people do not always articulate their ideas with care and precision. In the context of the present case, the terms of the different models of institutional integration, particularly their Chinese translations, could have been confusing.

(7) The witnesses described events that had occurred over a long period of time and long after their occurrence. Their descriptions of a particular event could in fact be conflations of memories and interpretations of a number of events. Their memories could be distorted and their interpretations influenced by prejudice. Different witnesses could also give different interpretations of what they saw and heard for the same encounter.

(8) In a group discussion, with each member contributing his or her views, the conclusion reached could be distorted, particularly when individual views are coloured by prejudice and the lack of trust.

(9) Some of the witnesses might have ulterior purposes that would bias their evidence. A number of witnesses were highly selective in their recollections.

8.2 The Commission has to make findings of fact, however difficult and unpleasant the task is. The Commission intends to limit its findings to disputes relevant to the issues set out in the Terms of Reference only unless it is essential or just and fair to do otherwise. However, in determining the ambit of the Terms of Reference, the Commission bears in the mind the comments of Findlay CJ in *Goodman International v Mr Justice Hamilton* 2 I.R. 542 at 588:

> "The applicant asked the Court to consider certain specific words of the terms of reference which are in the past tense and construe them so as to interpret the whole terms of reference accordingly. I am not satisfied that such an approach is appropriate. It is clear, as stated previously, that the Tribunal was given broad terms of reference. The purpose of the Tribunal's inquiries and report is to restore public confidence in our democratic institution. A technical or legalistic approach to interpreting the terms of reference may give rise to the view that inquiry has not been made into all the relevant transactions."

8.3 Without an oracle, the Commission, in its search for the truth, can only rely on the evidence presented in the Inquiry and on logic, common sense, and its experience of human nature and behaviour.

8.4 The Commission will have regard to inherent probabilities, and will draw the necessary inferences when it is reasonable and permissible to do so. The Commission is greatly assisted by counsel's submissions, both orally and in written form.

Section 2 : Dr Leung as a witness

8.5 Dr Leung was in a difficult situation. As Chairman of the HKIEd Council, he was naturally concerned about the future development of HKIEd. Dr Leung knew it would not be feasible for HKIEd to maintain its *status quo* and probably sensed that the Government was pushing for a deeper institutional collaboration and alliance between HKIEd and CUHK, which in any event would be necessary for the continuous development of HKIEd. Dr Leung probably also realized that the unfavourable demographic statistics would lead to serious financial difficulties for HKIEd.

8.6 Senior management of HKIEd under the leadership of Professor Morris could have been more sensitive and flexible to the need for change and could have done more to achieve what was necessary for HKIEd to survive in the evolving but difficult environment.

8.7 The DCA of 2005 provided for further development of institutional collaboration with CUHK, yet the only achievement after a prolonged period of discussion was a joint programme involving 20 students from HKIEd. There was no other successful attempt to further implement the DCA.

8.8 Professor Morris's idea of a loose Federation Model was not acceptable to CUHK and CUHK's proposal of a tight Federation Model, to Professor Morris, was synonymous to a full merger and therefore rejected. In any event, the tight Federation Model was not what the Council or Dr Leung would approve.

8.9 The DCA did not progress far enough to alleviate the problems that HKIEd faced and no solution was in sight. The prolonged discussions with CUHK, for one reason or another, were not yielding positive results.

8.10 Professor Morris and his senior management, because of their fixation on the merger issue, had engaged EMB in futile arguments, always suggesting that HKIEd was being deliberately disadvantaged.

8.11 When Dr Leung expressed his view on merger as the way for the further development of HKIEd, which he genuinely believed to be beneficial to HKIEd, he was accused of being an agent, carrying Professor Li's message. Dr Leung was accused of admitting a linkage between the presidential selection and the merger issue and such rumours persisted, however hard he tried to dispel them.

8.12 The Commission saw no evidence for Dr Leung to have made the admission as alleged. The Commission agreed to Mr Yu SC's suggestion that the attacks on Dr Leung's credibility in the evidence of some witnesses, when considered in their proper contexts, were not quite justified.

Section 3: Professors Morris and Luk as witnesses

8.13 Despite the large number of witnesses who either gave evidence or provided statements to support the allegations against Professor Li and Mrs Law, the only direct evidence in support of the First and Second Allegations was the testimony of Professor Morris, and the only direct evidence in support of the Third Allegation was that of Professor Luk. It is therefore crucial to examine the credibility and reliability of Professors Morris and Luk.

8.14 Whilst it can be argued that the evidence of Professor Moore, Ms Cheng, Professor Grossman and Ms Ma, who also supplied her notes, supported some of Professor Morris's allegations, it has to be remembered that such "supporting evidence" was not independently proffered, but originated from Professor Morris and from him only over a period of time. There were

indications that the repetitions of the events by Professor Morris had sometimes been seriously exaggerated or distorted.

8.15 Professor Morris, as President of HKIEd, dealt with EMB direct. In his absence, Professor Luk would take his place. Professors Morris and Luk were close partners, sharing the same aspirations for HKIEd and possibly viewing anyone who interfered with such aspirations as their enemy.

8.16 At one stage, Professor Morris envisioned all TEIs grouped under HKIEd to form a centre of teacher education headed by himself. He also aimed at incorporating the Faculty of Education of CUHK in federation with CUHK. At the same time, Professor Morris was anxious to maintain HKIEd's autonomy, describing it as his "first option", in the hope that it would achieve university status.

8.17 Professors Morris and Luk believed that Professor Li desired to "merge" HKIEd with CUHK i.e. to become part of CUHK, a desire that they resented. They also believed that Mrs Law was taking every possible action to disadvantage HKIEd.

8.18 Professor Morris's worry began around August 2002, almost immediately after Professor Li assumed office as SEM, when Dr Ip intimated to him Professor Li's comments that unless there was a "merger", HKIEd would be "raped".

8.19 To quote part of Mr Yu SC's submissions, "Professor Li's comments when relayed to Professor Morris had a 'monumental effect' resulting in Professor Morris operating under a 'siege mentality'. It could not be wiped out and it haunted Professor Morris ever since".

8.20 Professor Morris clearly became fixated on what he perceived to be "vicious" attempts by Professor Li/Mrs Law to disadvantage HKIEd, including the imposition of a full merger.

8.21 Both Professors Morris and Luk appeared to have very negative views about EMB senior officials, and Professor Li and Mrs Law in particular. They also had a lot of grievances, whether real or imagined, against Professor Li and Mrs Law.

8.22 Professor Morris himself admitted that since Dr Ip relayed to him Professor Li's comments on "merger" or "rape", he became highly cautious about and suspicious of Professor Li, and saw Professor Li's every action and EMB's every step as part of a larger plan to "rape" HKIEd and to make it "unviable".

8.23 Professor Morris's suspicion and distrust of Professor Li grew to such an extent that he found it necessary to take the unusual step, for a person of his background and stature, of secretly recording a private telephone conversation between him and Professor Li on 16 November 2005.

8.24 Professor Luk shared Professor Morris's sensitivity, as suggested by Mr Yu SC. Dr Leung's testimony indicated that Professor Luk, in his first meeting with Professor Li in early 2004, was already expressing a contemptuous attitude towards Professor Li.

8.25 Dr Sankey, in his statements to the Commission, suggested that Professor Luk was antagonistic towards the Government.

8.26 Whatever the reasons, Professor Luk's sentiment towards Professor Li could best be illustrated by the last sentence in his Letter, "I know, Mr Secretary, it's now time to pay!".

8.27 The Commission does not find it difficult to discern the suspecting mindset and guarded attitude of Professors Morris and Luk towards Professor Li/Mrs Law, and their grievances against them.

8.28 Since its inception as an HEI, the Government has invested large amounts of money in the nurture of HKIEd. However, the economic downturn and the negative demographic statistics in 2003 and 2004 led to significant funding cuts and unprecedented difficulties for HKIEd. Exacerbating its predicament were the imminent withdrawal of the front-end loading after HKIEd obtained self-accrediting status in 2004, the downsizing and/or the elimination of programmes that were HKIEd's strength as a result of decisions made by EMB, the civil service salary cuts to restore fiscal balance, and the problem of surplus teachers.

8.29 Instead of introducing measures such as SCT to minimize HKIEd's difficulties, Mrs Law decided to tender programmes that used to be HKIEd's virtual monopoly in order to achieve better quality and lower costs. When Mrs Law met other TEIs to introduce the expanded ECE training services, HKIEd was excluded because Mrs Law wanted diversity and competition, and to push the 2 + 2 programme. Professor Li decided to take student numbers away from HKIEd to be redistributed to CUHK, or "if not feasible, to the education faculties of other universities". Despite its self-accrediting status, HKIEd did not receive university status, which Shue Yan College was granted in 2006. The method of planning manpower requirements of teachers only helped to further misunderstanding. The final straw was of course Professor Morris's failure to be re-appointed as President.

8.30 In the meantime, Professor Morris and his senior management were receiving a lot of negative comments about HKIEd attributable to Mrs Law/EMB. They believed that EMB deliberately released the LPAT results in such a way as to maximize attention to the negativities of HKIEd's graduates. Mrs Law was alleged to have deliberately delayed the IR process, and made negative comments about HKIEd's in an interview with SCMP.

8.31 Mrs Law would telephone Professor Morris to complain about seminars organised and comments by HKIEd academic staff critical of the Education Reforms or education policy and its implementation, and to indicate her wish for such articles and negative comments to be stopped, which, to Professor Morris, constituted demands to "basically get rid of" those staff.

8.32 Mrs Law was also alleged to have asked Professor Mok to dismiss Mr Ip for criticizing the Education Reforms or education policy and its implementation in his newspaper articles. Mrs Law indiscreetly encouraged successful projects to be removed from HKIEd and invited HKIEd staff to leave after openly remarking that HKIEd had no future. The objective evidence shows that Mrs Law harboured quite negative sentiments about HKIEd and would express them from time to time.

8.33 Given the circumstances, Professors Morris and Luk could legitimately conclude that there was a concerted effort by Professor Li, Mrs Law and EMB to undermine HKIEd. Clearly, Professors Morris and Luk firmly believed that the concerted effort was part of a scheme to make HKIEd unviable, as indicated by Professor Li back in July 2002.

8.34 Professor Morris said he would share regularly issues affecting HKIEd with senior management, including Professor Luk, Professor Moore, Ms Ma and Ms Cheng. They would undoubtedly discuss the "perceived attempts" by Professor Li/Mrs Law to surreptitiously try to undermine HKIEd which could reinforce one another's belief in such attempts.

8.35 The conclusion they reached would be based not only purely on rational analysis of objective facts, but also on suspicions, interpretations, and rumours. Professor Morris himself admitted to "the increasing emergence of a siege mentality at HKIEd".

8.36 Examples of undue prejudice against Professor Li and Mrs Law were frequent in the evidence of Professors Morris and Luk. When Professor Li mentioned the reduction of student numbers and "merger" on 21 January 2004, Professor Morris assumed that Professor Li was implying that unless he initiated a merger in the Chung Chi model, Mrs Law would be given a free hand to cut the student numbers. Professor Li, however, did not expressly connect the two issues and did not even mention Mrs Law's name.

8.37 Similarly, Professor Morris understood Mrs Law's question about why HKIEd employed Dr Wong as a suggestion to dismiss Dr Wong.

8.38 Professor Morris would not accept any innocent explanation for the way in which the LPAT results were announced, insisting that it was part of a plan to undermine HKIEd. Professor Morris's chief complaint was that EMB should have distinguished between candidates who were sub-degree holders and others, and the failure to do so allowed the subsequent negative media portrayal. Professor Morris described it as "undoubtedly the most damaging incident for HKIEd".

8.39 As Mr Yu SC suggested, the release of the LPAT results could not be considered as an attempt to target HKIEd. LPAT was designed to assess the suitability of candidates to teach English. Candidates who failed LPAT should not be teaching English whether they were degree holders or sub-degree holders. That was what EMB was concerned about and it should not be blamed for not having collected data on whether the candidates were degree holders or sub-degree holders. There was no indication that EMB had the relevant data.

8.40 Despite the evidence of its principal, Ms Doris Au, that Mrs Law was one of the staunchest supporters of the HKIEd Jockey Club Primary School, Professor Morris felt that Mrs Law was negative towards it. Professor Morris linked his non-re-appointment to the merger issue when he himself admitted that there was no objective or independent evidence to support his conclusion. Professor Morris alleged that Dr Leung was Professor Li's agent on the merger issue with no factual foundation.

8.41 When Professor Lo repeated to Professor Morris Mrs Law's suggestion to her that HKIEd had no future and that she should seek appointment with other institutions, his reaction was such that even Professor Lo found surprising.

8.42 Professor Luk put forward the hypothesis that there was a conspiracy to replace a non-compliant President with a more compliant one, who together with the Council Chairman would successfully push for a merger. This hypothesis rested purely on suspicions, and assumed it was possible to control how external Council members voted in the presidential re-appointment process. Moreover, there was no complaint against any of the ten voting members in voting against the re-appointment of Professor Morris.

8.43 The Commission had examined the evidence relating to the zero provision for the part-time C (ECE) places in 2007/08 in the First Start Letter. The Commission was persuaded that such provision was the result of mistake and/or miscommunication, and was in no way attributable to Professor Li or Mrs Law. Yet it was fixated upon and continuously relied on to substantiate Professor Li's and Mrs Law's supposed attempts to disadvantage HKIEd, despite the additional considerations that neither Professor Li nor Mrs Law was directly involved in the calculation of student numbers and that the mistake was rectified after objection was raised.

8.44 Professors Morris and Luk were partial witnesses who would cast Professor Li's and Mrs Law's every move in a bad light.

8.45 The Commission agreed to Mr Yu SC's suggestion that with his poor memory and sensitivity, there was a high probability that Professor Morris, whilst being generally an honest witness, transposed events and/or conversations to the prejudice of Professor Li and Mrs Law. Professor Luk shared some of Professor Morris's sensitivity and in a number of areas, his credibility was "open to question". The evidence of Professors Morris and Luk must be approached with due care.

8.46 Could Professor Morris have been over-sensitive and still suffering from the "monumental effect" resulting from what Dr Ip told him in August 2002?

8.47 Could Professor Morris have completely distorted the conversations he had with Professor Li and/or Mrs Law deliberately or subconsciously?

8.48 Did Professor Luk harbour such deep prejudice against Professor Li that he would fabricate the Third Allegation against Professor Li? In any event, is Professor Luk a reliable witness?

8.49 Could there be mistakes and/or misunderstanding?

Section 4: Professor Li and Mrs Law as witnesses

8.50 Professor Li has been a vocal and staunch supporter of institutional integration. When he was VC of CUHK, he was openly supporting institutional merger. In a radio interview on 30 March 2002, shortly after the publication of the Sutherland Report, Professor Li endorsed its recommendations, and at the same time suggested that it might not have gone far enough on the merger issue. Professor Li talked about the advantages of institutional merger and questioned if Hong Kong required as many as eight HEIs.

8.51 At the lunch meeting on 19 July 2002, before he became SEM, Professor Li indicated that a decision to "merge" HKIEd with CUHK had been made and that HKIEd should co-operate, or else it would be "raped".

8.52 The lunch meeting, arranged to ascertain Professor Li's "merger plan", involving Professor Li, Dr Ip, Mr Chan and Mr Wu, may not directly affect the Commission's finding on any of the allegations, but the facts thereto are certainly relevant and must be ascertained, quite apart from the general public concern involved.

8.53 Dr Ip was adamant that Professor Li said a merger would happen because Mr Tung was in favour of it. This was wholly consistent with Professor Li's mindset in 2002. Dr Ip made a note of what he believed was Professor Li's message at the lunch meeting. Dr Ip was positive that Professor Li used the word "rape" although he did not record it in his notes. In the opinion of the Commission, Dr Ip was an impressive witness.

8.54 Mr Chan told the Commission that at the meeting, Professor Li emphasized the Government's intention to have institutional collaborations. Mr Chan's evidence was consistent with that of Dr Ip. Clearly in July 2002, terms such as "merger", "collaboration" and "institutional integration" were being used quite loosely. Mr Chan also remembered that Professor Li used the word "rape", although not in a threatening way.

8.55 The Commission noted the care with which Mr Chan presented his statements and his evidence. When Mr Chan learnt that there might be minor discrepancies in his first statement, possibly to the disadvantage of Professor Li, he took the trouble to correct them. Mr Chan was also very careful in his evidence to ensure that his evidence would not unfairly prejudice Professor Li.

8.56 It was most unlikely that Mr Chan would give untruthful evidence against Professor Li. The Commission is satisfied that Mr Chan would not give any unfavourable evidence against Professor Li unless he was sure of it.

8.57 Mr Chan was adamant that Professor Li used the word "rape", and did so impolitely but casually and not threateningly. Given the striking impropriety of the word in the circumstances in which it was allegedly used, Mr Chan was unlikely to have remembered it incorrectly.

8.58 Mr Wu, who was also present at the meeting, said he had no recollection of Professor Li saying that HKIEd must merge with another HEI or of hearing the word "rape".

8.59 According to Mr Wu, Dr Ip, on a subsequent occasion, said that the words used by Professor Li at the lunch meeting were "俾人閹" [would be castrated] instead of "rape".

8.60 However, the Commission accepted that the discrepancy was the result of carelessness and would not undermine the veracity of the evidence of Dr Ip and Mr Chan.

8.61 The suggestion that Dr Ip would make the allegation against Professor Li because of Professor Li's negative comments about HKIEd was unconvincing. The suggestion was never put to Dr Ip or Mr Chan and there was no indication that they could have been offended by any negative comments about HKIEd from Professor Li.

8.62 The Commission rejected Mr Mok SC's submission that Professor Li's evidence should be preferred over that of Dr Ip and Mr Chan.

8.63 The Commission concluded that it was more likely than not that Professor Li used the word "rape" in connection with the proposed "merger" of HKIEd with CUHK.

8.64 In the opinion of the Commission, before Professor Li assumed the office as SEM, he sought enthusiastically to achieve mergers of HEIs, including one between HKIEd with CUHK.

8.65 The Commission also agreed to Mr Yu SC's observation that it was more likely than not that Professor Li offered privately to Professor Morris the opportunity of heading a centre of teacher education so that Professor Morris would find his merger plan more acceptable. The email message from Mrs Law to her Deputy Secretary on 10 July 2002, in which she wrote "Apparently he has made a personal offer to Paul Morris who is now less resistant about a merger in three years. I am not sure what position Simon Ip will take", clearly supported such an observation more strongly than Professor Li's explanation otherwise.

8.66 Such conclusion was consistent with Professor Li's mindset at that time. Professor Li was enthusiastic to promote merger of HEIs, firmly believing that it was good for the tertiary education and for Hong Kong, as demonstrated in the interview he had with RTHK on 30 March 2002 when he was still VC of CUHK.

8.67 After assuming office as SEM in August 2002, Professor Li continued his merger plan and that explained why he would be saying in early October 2002, in connection with mergers of HEIs, that "match making is successful" ("相睇成功"), "the authority is in my hand" ("權在我手") and "starting with diplomacy and following up with the deployment of a troop" ("先禮後兵").

8.68 However, Professor Li's initial vision appeared not to have been well received by students and staff of HEIs. In October 2002, Professor Li, as the newly appointed SEM, announced a merger between CUHK and HKUST without first notifying the President of HKUST. His plan backfired, and the only two HEIs that had indicated a wish to merge, namely CUHK and HKUST, had to call off their merger plan. Professor Li was criticized for his "imposing style" and his disregard for institutional autonomy.

8.69 It was possible that after the CUHK and HKUST merger episode, Professor Li became less ambitious about his merger plan. Although he initially believed that the Sutherland Report had not gone far enough, he had to accept that the Sutherland Report had not made any recommendation of full mergers of HEIs.

8.70 Professor Li probably could not ignore the fact that the CE in Council had adopted the recommendations in the Sutherland Report in November 2002 as the long-term education policy and that he could not openly go against the recommendations in the Sutherland Report and the declared Government policy, even though the Niland Report subsequently provided different forms and degrees of institutional collaboration.

8.71 There was no indication that Professor Li still openly insisted on a full merger of HEIs after the CUHK and HKUST merger episode. Professor Li emphasized in his evidence that he had no fixed idea of what form of institutional integration that HEIs should pursue, as his aim was to improve quality, and other forms of institutional integration would have served the purpose. This was consistent with what he did subsequent to October 2002.

8.72 At the Council meeting on 28 November 2002, Professor Li said it was up to HKIEd to consider and decide on the partner, and the form of any future collaboration.

8.73 At a meeting with Dr Leung and Dr Cheng in August 2004, Professor Li indicated that he would support "which institution with, + which model" as recorded in Ms Ma's notes of 12 August 2004.

8.74 In Mr Stone's draft brief to EMB for Mr Tsang recounting the Hong Kong Club dinner, it was stated, "some form of merger or federation was in practice the only way to guarantee a long term viable future for HKIEd".

8.75 Did Professor Li genuinely accept that he could not force a merger on HEIs or did he, having had his "fingers burnt" in the CUHK and HKUST merger episode, decide to adopt a more subtle approach to achieve what he had always wanted, including the "stick and carrot" approach as suggested by Mr Lee SC?

8.76 Did Professor Li, having failed to persuade Professor Morris to initiate a merger, decide to replace him with another more compliant President

so as to facilitate his plan for a merger between HKIEd and CUHK?

8.77 Given the episodes and the evidence, the Commission agrees to Mr Yu SC's suggestion that there were a number of areas in which Professor Li's evidence was found wanting in terms of credibility.

8.78 Mrs Law, the second most senior Government official in charge of education, was clearly annoyed by the continuous criticisms against the Education Reforms or education policy and its implementation. She probably took the view that those criticisms were unfounded and would unnecessarily aggravate the negative public perception of the teaching profession.

8.79 It appears that Mrs Law did harbour quite negative views about HKIEd as demonstrated in the evidence of Professor Lo and the statement of Dr Heung. Could such views have compounded her already negative impression against members of HKIEd's staff who published criticisms against the Education Reforms or education policy and its implementation?

8.80 Mrs Law admitted to being a forthright person; others called her impetuous and intolerant of dissenting views. In any case, she did not shy from or hesitate to make complaints. She said she would take proactive steps to clarify obvious and significant inaccuracies in media articles and reports. She was prepared to contact the writers personally if they held serious misunderstandings of Government policy or significant differences of opinions.

8.81 Mrs Law said she did telephone Mr Ip to complain about his published criticisms of the Education Reforms or education policy and its implementation. Mrs Law also admitted to having called Professor Morris concerning the SCT seminar and the critical newspaper articles published by HKIEd's teaching staff, hoping that he could do something about them. There was evidence showing that Mrs Law was agitated and angry when she made the complaints.

8.82 Professor Mok told the Commission that Mrs Law also complained to her about Mr Ip and asked her to dismiss him. Mrs Law and Professor Mok were classmates in secondary school, between 1965 and 1972, and had remained in contact since then. The Commission was surprised, given their long friendship, that Professor Mok would come forward on her own initiative to testify against Mrs Law in the manner as she did.

8.83 However, the Commission accepted that Professor Mok was likely to be telling the truth. She had no motivation to lie about Mrs Law and there was no room for misunderstanding. The Commission agreed to Mr Yu SC's observation that Professor Mok's evidence was clear and cogent, and that she was unshaken during cross-examination. Mr Mok SC's arguments on her evidence were not convincing.

8.84 Mrs Law initially said she could not remember whether she had used the word "fire", but when pressed by Mr Yu SC, she denied having said it and alleged that it was a fabrication. Mrs Law might have been forced to make the allegation as a result of the questions put to her by Mr Yu SC. However, she did make the allegation of fabrication against Professor Mok and that certainly had an adverse impact on her credibility when her evidence mutated from not being able to remember to a positive assertion of fabrication.

8.85 Mrs Law might have complained to Professor Mok about Mr Ip in anger and frustration, such that she did not choose her words as judiciously as she might have wanted and that she could no longer remember them exactly. She might have regretted and wanted to forget them. Nonetheless, the Commission accepted Professor Mok's evidence which was supported by Dr Mak. The Commission accepted that Mrs Law did ask Professor Mok to "fire' Mr Ip and further suggested that "at least he should not be promoted".

8.86 On the other hand, the Commission believed that Mrs Law, in her conversation with Professor Mok, would have been less guarded and more ready to speak her mind because of their long-standing friendship. That Mrs Law made adverse comments about Mr Ip to Professor Mok in anger and frustration does not necessarily mean that she would have repeated the same to Professor Morris. Nor does it mean that Mrs Law intended her comments to be taken seriously either, as she must have realized that her request was simply infeasible.

8.87 Despite the shortcoming of Mrs Law's evidence, the Commission reminded itself not to be unduly influenced by the findings based on Professor Mok's evidence. Indeed, the Commission reminded itself of the possibility that Professor Morris might have embellished his evidence based on what he learned about Mrs Law's request to Professor Mok.

8.88 Did Mrs Law do or say more than what she was prepared to admit? Did Professor Morris exaggerate and/or distort what Mrs Law said? Or could the truth be somewhere in-between?

8.89 It is with those cautions and questions in mind that the Commission proceeds to analyse the evidence in support of each of the allegations in order to make the necessary findings.

CHAPTER 9

ANALYSIS AND CONCLUSIONS

(THE FIRST ALLEGATION)

9.1 The First Allegation depends principally on the credibility and reliability of Professor Morris, although the evidence of Professor Luk, Professor Moore, Ms Ma and Ms Cheng is also relevant.

9.2 The Commission accepts that Professor Li had on many occasions impressed upon Professor Morris the need for HKIEd to have deeper institutional integration with other HEIs, particularly CUHK. Further, the Commission accepts that it is likely that on many of those occasions, the term "merger" was used, as Professor Li himself had conceded that he found the term "merger" much easier to pronounce than the terms such as "institutional integration" or "institutional collaboration". It is also likely that his dream of merger had mutated from the time he had lunch with Professor Morris in June 2002 to the time of the telephone conversation on 21 January 2004.

9.3 Mr Yu SC suggested in his written submissions that Professor Li admitted to having wanted to "push" HKIEd to merge in his telephone conversation with Professor Morris on 21 January 2004. Mr Yu SC's suggestion was technically correct, but Professor Li was clearly not referring to a full merger when he made the admission.

9.4 Professor Li qualified his concession by saying "… since the Sutherland Report, I have advocated that institutions should work closely together. ... So I am not trying to say that they should not. …, Mr Lee, because you told me to use the word "merger" is a sort of general term … but I have never stopped wanting them to merge."

9.5 Professor Li no doubt wished HKIEd to follow the recommendations in the Sutherland Report and was hoping that HKIEd would go even further. Professor Li said he believed Professor Morris should "think out of the box and really take HKIEd to a different level, by deep collaboration, joint programmes, joint degrees etc.". It was in such a context that Professor Li admitted that he had wanted to "push" HKIEd to merge, although he would not

rule out full merger as a possibility.

9.6 Whatever was Professor Li's intention, the issue is whether he uttered any threat to push for a "merger" in his telephone conversation with Professor Morris on 21 January 2004.

9.7 There were common features in Professors Li and Morris's descriptions of the conversation on 21 January 2004, namely (1) that there would be funding cuts in the Start Letter, "therefore bad news for HKIEd"; (2) that Professor Li was a friend of HKIEd; (3) that HKIEd should do something "radical"; and (4) that Professor Li could help and there would be funds available if HKIEd were to do something "radical".

9.8 Professor Li's evidence was that the funding/student cuts were a fait accompli due to the demographic reason and if Professor Morris wanted to salvage the situation, he had to consider doing something "radical" to enable HKIEd to take advantage of the $200 million restructuring and collaboration fund. Professor Li further said he was offering the advice to Professor Morris as a friend of HKIEd.

9.9 Professor Morris accepted that Professor Li did not make any express threat, but insisted that Professor Li did not just offer a piece of friendly advice either. Of course, Professor Morris knew the "fait accompli" cuts, but would not know at the time any new cuts in the coming triennium.

9.10 Professor Morris pointed out Professor Li's emphasis that he was the only friend of HKIEd as others in EMB all harboured an anti-HKIEd feeling, and that the only way to avoid the problem was to go for a "merger".

9.11 In other words, Professor Morris understood Professor Li to say that if HKIEd did not go for a "merger", there would be nothing to protect it from the anti-HKIEd feeling in EMB.

9.12 Professor Morris interpreted what Professor Li said to mean that if HKIEd agreed to a "merger", it would be protected from the anti-HKIEd feeling in EMB and the process of funding/student cuts could be stopped or reversed, otherwise Professor Li would just wash his hands of the matter, and the anti-HKIEd feeling in EMB would perpetuate to its disadvantage.

9.13 The threat, according to Professor Morris, was the causal link between a "merger" and the funding/student cuts. Mr Lee SC's submission was that based on Professor Morris's previous dealings with Professor Li, Professor Morris was right to make such a connection.

9.14 It is right that the evidence of Professor Moore, Ms Ma and Ms Cheng, to whom Professor Morris relayed the conversation, all suggested a causal link between a "merger" and the funding/student cuts.

9.15 When recounting what Professor Morris told them shortly after the conversation in question, Professor Moore said his impression was "If we don't merge, there will be cuts".

9.16 Similarly Ms Ma said her impression was, "SEM proposed that Professor Morris should initiate merger-related discussions with other institutions or else he would allow the then PSEM to have a free hand in cutting the number of students of the Institute", and Ms Cheng said her impression was, "Arthur said that we have to do something radical and he asked me to initiate a merger with CUHK, otherwise our student numbers would be squeezed".

9.17 The evidence of Professor Moore, Ms Ma and Ms Cheng was an interpretation of what Professor Morris told them, which was itself an interpretation of what Professor Li had said.

9.18 The effect of such "double interpretations", bearing in mind the strained and sensitive relationship, marred with suspicion and mistrust, is not something that can be safely relied on.

9.19 Mr Lee SC sought to rely on Professor Luk's evidence and suggested that there was in fact an explicit threat from Professor Li in the following term, "Otherwise, he (Professor Li) would allow the Permanent Secretary, Mrs Law, to cut away (down) the student numbers as was already indicated in the Start Letter or may be worse."

9.20 Mr Lee SC suggested that although Professor Morris did not give such evidence to the Commission, it did not mean Professor Li did not say it. Mr Lee SC put forward a rather astonishing suggestion, namely that Professor Luk remembered what Professor Morris told him as he was a historian, and therefore had a good memory whereas Professor Morris had forgotten about it after repeating to Professor Luk what Professor Li had said.

9.21 Mr Yu SC quite rightly did not associate himself with the submission of Mr Lee SC and in the opinion of the Commission, Mr Lee SC simply had no foundation for making such a submission.

9.22 Professor Morris did not say he had difficulties in remembering the conversation he had with Professor Li. In fact he was able to describe in detail what according to him was said although he also put in a lot of his own interpretation. Even if Professor Morris had forgotten what Professor Li had said, Professor Luk's Letter would have reminded him if its contents were correct.

9.23 The Commission notes the striking similarities in Ms Ma's impression of what Professor Li was alleged to have said and what Professor Luk put in his Letter.

9.24 Professor Luk's description of the event in relation to the First Allegation in his Letter, namely "SEM … attempted to persuade Professor Morris to take the initiative to propose a merger of the Institute with CUHK. SEM indicated that otherwise he would allow the then PSEM to have a free hand in cutting the number of students of the Institute", was almost identical to Ms Ma's impression of what Professor Morris told her, namely "SEM proposed that Professor Paul Morris should initiate merger-related discussions with other institutions or else he would allow the then PSEM to have a free hand in cutting the number of students of the Institute".

9.25 On the other hand, what Professor Morris described in his witness statement of the event, namely, "There would be a reduction in the overall student numbers for HKIEd … Mrs Law wanted the Institute squeezed and this would happen if HKIEd did not do something 'radical'" also bore striking similarity with Ms Cheng's impression of what Professor Morris told her, namely "Arthur said that we have to do something radical and he asked me to initiate a merger with CUHK, otherwise our student numbers would be squeezed".

9.26 However, Professor Morris did not say in his evidence that Professor Li threatened him in such an explicit manner. Instead, Professor Morris tried to postulate a veiled threat by Professor Li, namely, that if HKIEd did not agree to a merger, it would not be protected from the anti-HKIEd feeling in EMB. It is clear from the evidence of all five witnesses that "merger" and "cuts" are somehow linked, not necessarily a casual link.

9.27 One can perhaps argue that whatever were the exact words used by Professor Li on 21 January 2004, what he said conveyed the message of a causal link between a "merger" and funding cuts to Professor Morris, and when Professor Morris repeated what he heard to Professor Luk, Professor Moore, Ms Ma and Ms Cheng, they all had the impression of such a causal link. Therefore it was safe to assume that a causal link between a "merger" and funding cuts was the message that Professor Li intended to convey and therefore the "veiled threat" as understood by Professor Morris was justified.

9.28 Such an approach, in the opinion of the Commission, is both dangerous and unfair.

9.29 Professors Morris and Luk, and their confidants were interpreting Professor Li's words and each was feeding on the others' interpretations when they all had suspicion and distrust of Professor Li.

9.30 As mentioned in the earlier part of this report, the conclusions reached by Professors Morris and Luk, and their confidants, could well be the conflations of distorted memories, prejudicial interpretations, if not totally biased views, of what could be innocent representations in a casual conversation.

9.31 It is true that Professor Morris could have given his evidence in relation to the conversation on 21 January 2004 in line with the Letter and he did not. Indeed Professor Morris somehow disassociated himself from at least part of the contents of the Letter. This is certainly a factor showing that Professor Morris was a truthful witness.

9.32 On the other hand and as Mr Yu SC quite rightly pointed out, objectively as at January 2004, there was nothing to suggest that Professor Li had to "threaten" Professor Morris to initiate a "merger".

9.33 Professor Morris, probably encouraged by the prospect of his leading an education centre of all TEIs, had raised the merger issue on a number of occasions. In response to the Sutherland Report and Professor Li's presentation to the HKIEd Council in November 2002, HKIEd set up a Task Force, which recommended collaborations and alliances with other HEIs subject to certain pre-conditions.

9.34 If the "threat" allegedly made by Professor Li was intended to be a serious threat, HKIEd would have to do something positive towards institutional collaborations and alliances before the issue of the Allocution Letter in May 2004. However, there was no indication that HKIEd did anything towards institutional collaborations in response to the "threat" and there was nothing to show that such failure had an impact on the Allocution Letter issued in May 2004. Professor Morris also did not inform the Council of the alleged "threat".

9.35 There could be no doubt that starting from 2003, Professor Morris was under substantial pressure arising from the civil service salary cuts, the imminent withdrawal of the front-end loading because of the granting of self-accrediting status in March 2004, the negative demographic factor, the redundancy and the problem of surplus teachers.

9.36 Whatever pressure Professor Morris faced at the time did not originate solely from the merger issue or from Professor Li, but was a combination of all the "unfortunate circumstances". However, as Professor Young suggested, Professor Morris not only exaggerated his perception of the pressure, but also tried to put much of the blame on Professor Li/Mrs Law/EMB.

9.37 Professor Morris said he preferred HKIEd to remain an autonomous institution and institutional federation would be the second best. The prospects of the education centre or HKIEd's incorporation of CUHK's Faculty of Education did not work out. Professor Morris reverted to maintaining independence of HKIEd, and then with self-accrediting status, to pursuing the status of an autonomous university.

9.38 The views of HKIEd's staff and students could also have influenced Professor Morris. In his email message to Dr Leung and Mr Pang in March 2006, Professor Morris stated that "the option of a federal arrangement was discussed about two years ago and the sentiment was broadly positive, but since then and largely in response to the position of EMB, the Council, the staff and students have taken a position much more supportive of an independent HKIEd".

9.39 However, given the recommendations of the Sutherland Report, the Niland Report, the Government's attitude, and the negative opinions against HKIEd, Professor Morris had no alternative but to explore possibilities for collaboration with CUHK.

9.40 Professor Morris's dealings with CUHK were unpleasant. Lamenting CUHK's "perceived superiority" over HKIEd, Professor Morris described a meeting in January 2003 with the VC and three Pro-VCs of CUHK as "one of the most patronizing meetings I have ever been to in my academic life".

9.41 To Professor Morris, even the DCA and the move towards a deeper collaboration arrangement with CUHK would probably be the imposition of an unfair and inconvenient option. *A fortiori*, a full merger leading to a complete loss of identity for HKIEd, was to Professor Morris, a "monster" (to adopt Dr Leung's metaphor) that had to be avoided at all costs. The Council's position was against a full merger and to that extent Professor Morris had the Council's support.

9.42 Professor Morris admitted the two issues that preoccupied him at the time, and indeed preoccupied throughout his tenure as President of HKIEd: (1) an undesired merger, and (2) the difficulties arising out of a feared reduction of student numbers.

9.43 However, institutional integration and financial difficulties facing HKIEd, as well as issues relating thereto, were a legitimate subject that Professor Li was entitled to bring up in his conversations with Professor Morris.

9.44 Professor Morris would probably regard any "merger" suggestion to be in conflict with his vision for HKIEd to be an autonomous institution. He probably felt compelled even to take part in any discussion on collaboration with CUHK because it was a step leading towards a full merger.

9.45 Professor Morris's invidious and unenviable situation was further aggravated by Professor Li's faith in merger, his overpowering personality and position.

9.46 When Professor Li expressed his strong preference for further institutional integration between HKIEd and CUHK, using such terms as "merger" and "radical" and at the same time referring to HKIEd's financial difficulties, he could easily have created an impression on the already suspicious and prejudiced Professor Morris, of trying again to force a merger upon HKIEd by threatening cuts in the student numbers. As Professor Morris himself admitted, the connection between the "cuts" and a "merger" was an interpretation.

9.47 It was again his interpretation that Professor Morris subsequently reported to his senior staff when he told them of Professor Li's supposed threat of cuts in the student numbers unless he agreed to initiate a "merger", thus giving them the impression of a casual link between a "merger" and the funding cuts.

9.48 The Commission notes the different versions of what Professor Li was alleged to have said, forming the subject of the First Allegation. The first version appeared in the Letter and its repetition in the Gazette Notice, namely "unless Professor Morris agreed to take the initiative to propose a merger of HKIEd with CUHK, Professor Li would allow Mrs Law a free hand in cutting the number of students of HKIEd".

9.49 A second and slightly toned-down version appeared in Professor Luk's presentation to the LegCo Panel on Education on 28 February 2007: "SEM Arthur Li asserting that HKIEd needed to do something 'radical' if it was to be saved from the severe cuts which were about to be inflicted on it in the forthcoming triennium planning exercise."

9.50 Professor Morris's witness statement provided yet another formulation: "There would be a reduction in the overall student numbers for HKIEd … Mrs Law wanted the Institute squeezed and this would happen if HKIEd did not do something 'radical'."

9.51 In his evidence to the Commission, Professor Morris described the gist of what Professor Li said as "the Start Letter was bad news and he was HKIEd's only friend to render help, and the only way to address this significant problem was for HKIEd to do something radical such as to merge with CUHK."

9.52 Professor Morris's evidence to the Commission made no mention of Professor Li's threat to allow Mrs Law a free hand to reduce HKIEd's student numbers. It made no suggestion of Mrs Law's desire to "squeeze" HKIEd. What Professor Morris described to the Commission was nowhere near what was set out in the Letter and repeated in the Gazette Notice.

9.53 In the opinion of the Commission, the "mutation" of the allegation in relation to the First Allegation reflects badly on the reliability of Professor Morris's testimony and the accuracy of Professor Luk's statements.

9.54 There was no acceptable explanation relating to the difference between Professor Luk's description of the First Allegation in the Letter and his description of the same event in his presentation to the LegCo Panel on Education on 28 February 2007.

9.55 On the evidence, the Commission is not satisfied that Professor Morris's interpretation of what Professor Li said over the telephone on 21 January 2004 was correct.

9.56 If the evidence of senior management was correct, Professor Morris had distorted or had lost memory of in part what Professor Li had said when he repeated it to them.

9.57 The First Allegation could be the result of the construction of an event, based partly on facts and mostly on suspicions and prejudices many years after its occurrence.

9.58 The Commission finds it difficult to infer even the milder threat by Professor Li to Professor Morris that Mr Yu SC postulated, namely that unless HKIEd agreed to initiate a merger, it would not be protected from the hostility of EMB. The evidence is just too tenuous to make such a connection.

9.59 On the other hand, in daily conversations with others, there is almost always the opportunity, if not the need, to interpret what others say. That is why there could be misunderstanding, and people have to read between lines. Interpretation is part of the communication process. Whether or not the interpretation of the listener is correct will depend on what the speaker will honestly admit. In the absence of such, it cannot be said the listener's understanding or interpretation is inaccurate. In the present case, there is every reason for Professor Li to deny the causal link between "merger" and cuts.

9.60 What would be Professor Li's motivation to call Professor Morris? Mr Yu SC says that there was no direct linking of HKIEd's failure to merge with a cut in its student numbers, but there was a suggestion that a failure to merge would leave HKIEd with no protection against the anti-HKIEd feeling in EMB.

9.61 Professor Li claimed to be a friend of Professor Morris. By the time of January 2004, he was aware that HKIEd would obtain self-accrediting status. Since Professor Morris had argued previously that obtaining self-accrediting status could facilitate HKIEd in its negotiations with other HEIs on institutional integration, Professor Li would wish to give a reminder to and

push Professor Morris towards a merger, with the advent of the next triennium.

9.62 Pointing out the restructuring and collaboration fund, and warning and harbingering that cuts in student numbers would be unavoidable given the anti-HKIEd feeling in EMB, Professor Li could just be warning Professor Morris that maintaining the s*tatus quo* was not an option, as it was time and again stressed.

9.63 Professor Li could have tried to give Professor Morris a warning, hoping that Professor Morris would live up to what he had indicated when HKIEd would soon be given self-accrediting status. But the Commission does not find what Professor Li said to be a threat, although Professor Morris said it was not a piece of friendly advice either.

9.64 The Commission finds that the First Allegation in the Terms of Reference, as it stands, is not established.

CHAPTER 10

ANALYSIS AND CONCLUSIONS

(FUNDING CUTS USED TO FORCE A MERGER)

10.1 Professors Morris and Luk emphasized that their opposition to a "merger" resulted in severe reductions in HKIEd's student numbers and resources. The reductions in the 2005-08 triennium, they suggested, had no logical foundation, were unjustified and were implemented for the purpose of punishing HKIEd and making it unviable. Further, they said that the cancellation of all FYFD places for "non-core" subjects in the 2008/09 roll-over year was a continuation of the pattern to deliberately disadvantage HKIEd.

10.2 Professors Morris and Luk alleged a concerted effort by EMB and UGC, the two most important bodies governing Hong Kong's tertiary education, to harm HKIEd, a HEI devoted to the training of teachers, the possible and probable consequences of which would affect a very large proportion of our student population. They were extremely serious allegations, involving dishonesty, dereliction of duty, and interference with academic freedom and institutional autonomy by both EMB and UGC.

10.3 The funding cuts in the 2005-08 triennium to all UGC-funded HEIs were significant. The unprecedented economic downturn, along with the SARS epidemic, resulted in serious financial deficits in the Government. The Government-wide initiative to restore fiscal balance by the 2008/09 fiscal year necessitated budget cuts to the Government and Government-aided organisations, including all HEIs. Budget cuts to HEIs other than HKIEd ranged from 20% to over 30%.

10.4 The budget cuts imposed on HKIEd were deeper than those on all other HEIs, but they had justifiable reasons. First, there was the withdrawal of the front-end loading upon HKIEd being granted self-accrediting status. The declining children population also affected HKIEd, as a "mono-technic" HEI providing teacher education. A further aggravation was the problem of surplus teachers, which was particularly serious in 2003 and 2004.

10.5 The policy that all teachers should be graduates had significantly reduced the demand for some of HKIEd's courses. The need for graduate teachers had also rendered obsolete some of the programmes that were traditionally the strength of HKIEd. In the meantime, EMB was encouraging competition among other HEIs for the extended ECE courses with the objectives of satisfying increased demand, improving quality of instruction and reducing costs.

10.6 It is not difficult to understand why the budget cuts to HKIEd were more serious than those to other HEIs.

10.7 Originally, one of Professors Morris and Luk's main complaints was the reduction of the B Ed (primary) places from 1,330 to 1,030 between the First and Second Start Letters. The suggestion was that the reduction could not be justified by demographic reasons and it could not be a fine-tuning, as the size of the reduction was significant.

10.8 The Commission has to point out that the reduction was in fact made at the request of UGC and that the decision to reduce the number was made before 21 January 2004. The reduction in question did not support the First Allegation and the complaint was not pursued in the cross-examination of Mrs Law.

10.9 In any event, compared with the figures for the 2004/05 roll-over year, there was in fact a substantial increase in the number of B Ed (primary) places for the 2005-08 triennium.

10.10 The reduction of 25 FYFD places, with a corresponding gain of 10 FYFD places by HKU and 15 FYFD places by Lingnan University, was again due to decisions made by UGC on the recommendation of its Institutional Development Sub-Committee to support the new initiatives of HKU and Lingnan University in teacher education programmes.

10.11 As the total FYFD places were capped at 14,500, the increase in FYFD places for teacher education required a corresponding reduction in FYFD places in the other disciplines. The reduction in FYFD places was not unjustified.

10.12 HKIEd was not the only HEI to suffer an overall reduction in FYFD places for teacher training. The cuts to Poly U and HKUST were even more severe than that of HKIEd in terms of percentage. In any event, the cuts were also a decision of UGC.

10.13 Mr Lee SC emphasized that the Government had used the savings from the reduction of C (ECE) courses run by HKIEd to fund tendered programmes in ECE courses.

10.14 It could be suggested that the policy of creating competition and diversity and not allowing ECE training to be monopolized by HKIEd was not a good policy, and certainly not good for HKIEd.

10.15 It could also be suggested that the Government could have introduced other measures to assist HKIEd, such as the introduction of SCT, to try to solve or minimize the problem of surplus teachers.

10.16 It is not within the Commission's Terms of Reference to discuss the merits and demerits of a particular policy, which are, in most cases, matters of opinions. There was evidence that the ECE courses offered by HKIEd were less competitive in terms of cost effectiveness than those offered by other TEIs. EMB was entitled to put the ECE courses to open tender in order to reduce costs and to improve quality. Further, EMB must consider not only the interests of HKIEd, but those of other TEIs and the general public as well.

10.17 There was a good policy reason to involve other TEIs in ECE training, in the light of the increased demand arising from the new education policy on kindergarten education, which demand in fact exceeded the capacity of any TEI, including HKIEd.

10.18 HKIEd was excluded from the meeting to introduce the extended ECE training arrangements, but so were some other TEIs because the meeting mainly served to introduce newcomers to ECE training arrangements. HKIEd was of course entitled to participate in the tendering of the ECE courses, although they might lose out in the head start as a result of the meetings from which they were precluded to attend, on how to broaden or develop ECE.

10.19 Whether certain policy should be introduced depends on the needs and interests of society as a whole, and not on whether a particular problem faced by an HEI could be solved. To do otherwise would be, to quote Professor Young, to "put the cart before the horse".

10.20 As Mr Yu SC pointed out, the provision of 200 part-time C (ECE) places for each of the first two years in the 2005-08 triennium, whilst lower than the provision in 2004/05, was based on an internal piece of advice given on 22 August 2003, which in turn was based on a policy objective set some years ago regarding the training of kindergarten principals, teachers, and child care supervisors. The 200 places in the final year, an increase from the suggested figure of 150, was based on Mrs Law's anticipation of the demand and on UGC's urge to level the provision across the triennium.

10.21 The zero provision for part-time C (ECE) places for 2007/08, albeit suspicious and pointing to serious problems with the communication and manpower planning projections in EMB, did not indicate that it had anything to do with either Mrs Law or Professor Li.

10.22 The reduction in PUC places was due to declining needs. The courses, a legacy from the former teachers' colleges, became less appropriate as HKIEd upgraded itself.

10.23 A number of the cuts were the decision of UGC, and the suggestion that UGC was just a rubber stamp was totally unjustified. The cuts in senior year (articulated) places, RPGs, and part time PGDE places were not objected to nor pursued by Mr Lee SC in his cross-examination of EMB witnesses. Professor Morris, in his evidence, agreed that there were logical foundations for those cuts.

10.24 It may be neither necessary nor desirable to deal with each of the cuts here. EMB provided an explanation for each of cuts in the 2005-08 triennium, as conceded by Dr Lai. Dr Lai's main complaint was that all the cuts occurred in the same triennium, resulting in serious funding difficulties to HKIEd, but the reasons for those cuts had been clearly identified as a host of simultaneously occurring circumstances.

10.25 UGC and EMB might not have paid special attention to HKIEd's mono-technic character or its converging difficulties and it could also be said that EMB had not taken sufficiently the interest of HKIEd to heart although HKIEd was set up by the Government for the dedicated purpose of teacher education and training.

10.26 However, the Commission could not find sufficient cogent evidence to support the allegation that HKIEd had been deliberately and unjustifiably targeted by indiscriminate decisions to make it "unviable", let alone to force it into a merger agreement.

10.27 The Commission wishes to point out that additional funds would have been available to HKIEd had it achieved collaborative arrangements with other HEIs. This negated the suggestion of any attempt to render HKIEd unviable.

10.28 The Commission also wishes to emphasize that the budget cuts to HKIEd in the 2005-08 triennium were hardly the decisions of a few, but were matters of public records. They were recommendations made by UGC, sometimes with inputs from EMB. The CE in Council and the Finance Committee of the LegCo endorsed those recommendations after careful and detailed examinations.

10.29 On 11 January 2005, Professor Morris made the following submission before the LegCo Panel on Education:

> "We are aware that cuts need to be made and that the reduction in student numbers, as a result of the population decline, has to be mainly absorbed by HKIEd. We are also not in a position to argue the accuracy of UGC's calculation of the formula. However, that formula is made up of five factors. These include: front-end loading, student unit costs and reduction in student numbers. What has happened in this situation is quite unique in the history of higher education in Hong Kong. Each of the factors is declining rapidly and the sum total is a reduction of 47% in our funding over a four-year period. In the past when front-end loading was withdrawn from other institutions, other factors such as student numbers or student unit costs were constant or increasing. In our case, all factors are negative to create a situation that would do both damage to the Institute and to your own stated policy of upgrading and improving teacher education and professionalism in Hong Kong."

10.30 Professor Morris's submission to the LegCo Panel on Education clearly had a different emphasis when compared with the complaints he made to the Commission.

10.31 The LegCo Panel on Education accepted UGC's explanations on its recommendations; the HKIEd eventually did likewise. The suggestion that those recommendations were the result of a concerted surreptitious effort to undermine the very existence of HKIEd was not supported by sufficient cogent evidence.

10.32 Mr Lee SC's suggestion that the CE in Council and the LegCo Panel on Education might not have sufficient time to study the issue was not a valid argument acceptable to the Commission.

10.33 Having considered all the relevant evidence carefully, the Commission finds it insufficient to substantiate the grave allegation of a concerted effort by EMB and UGC to harm HKIEd for the purpose of forcing it into an unwanted merger.

CHAPTER 11

ANALYSIS AND CONCLUSIONS

(THE SECOND ALLEGATION)

11.1 Whether Mrs Law had asked Professor Morris to dismiss Mr Ip, Dr Lai, Dr Wong and Professor Cheng, the subject of the Second Allegation, and the facts relevant thereto, depend primarily on Professor Morris's credibility and reliability.

11.2 The Commission must state at the outset that it finds the Second Allegation surprising.

11.3 Mrs Law, a senior civil servant with over 30 years of experience in the Administration, was doubtless aware that established procedures must be followed in the dismissal of a civil servant or an employee in any Government-aided organization. More particularly, she must have known that a proper basis is needed before the dismissal procedure could even begin.

11.4 How was it possible that Mrs Law would repeatedly ask Professor Morris to dismiss HKIEd staff members with no proper basis? How could she make such blatantly improper demands?

11.5 Mrs Law bluntly stated that she would not have repeatedly made such demands to Professor Morris unless she was insane. While understanding her sentiment, the Commission also recognizes that a person, regardless of cultivation and experience, may not act sensibly all the time. Mrs Law could have made those demands in a fit of anger and frustration, without intending them truthfully or expecting them to be carried out.

11.6 Professor Morris did not say that Mrs Law used the word "dismiss" every time. In fact, Professor Morris made it clear that only during their conversation on 30 October 2002 did she use the word expressly. In relation to Professor Cheng, Mrs Law's demand was less explicit. Professor Morris said Mrs Law asked why HKIEd allowed his articles to be published and suggested that HKIEd should not employ him.

11.7 Professor Morris did not say that Mrs Law suggested, whether overtly or by insinuation, that he should dismiss Dr Wong. Instead Professor Morris said he was left with the impression of such a suggestion based on his previous conversations with Mrs Law. The Commission notes Professor Morris's careful wording.

11.8 Mrs Law admitted to being a forthright person and to having called Professor Morris and other HKIEd academic staff to discuss current issues and to urge them and their colleagues to be more positive in their writings so as to counter the negative image of the teaching profession.

11.9 Mrs Law had openly stated her concern about the portrayals in the media of teachers as overworked, harassed, and demoralized despite EMB's promotion of a positive image of their profession. She said she wanted to stop such negative portrayals, which she believed discouraged young people from becoming teachers. Mrs Law also said she wanted to avoid a bad impression of teachers in the business community as the business community did not see teachers as more overworked than their employees.

11.10 Mrs Law said when she came across newspaper articles that contained "gross inaccuracies or misunderstanding", she would, if possible, contact the writers personally to clarify the misunderstanding, narrow their differences and hopefully establish some common ground.

11.11 Probably realizing that her behaviour was inappropriate, especially for someone in her position, Mrs Law was glossing over the awkward facts that she complained personally to the originators of what she considered to be unfair and unjustified criticisms of the Education Reforms or education policy and its implementation.

11.12 Clearly, Mrs Law did not hesitate to make complaints against anything or anyone disagreeable to her. She admitted to having complained to Professor Morris about the SCT seminar, to Mr Ip about the articles that he had published, and to Professor Mok about Mr Ip.

11.13 It is likely that on 30 October 2002, Mrs Law had also complained to Mr Ip about the SCT seminar held on the previous day.

11.14 Mr Ip gave unequivocal evidence that Mrs Law reprimanded him on the telephone for inviting Hon Mr Cheung as a speaker at the seminar. Mr Ip said Mrs Law asked for a copy of the video recording of the seminar. Mrs Law, on the other hand, claimed to have no recollection of calling Mr Ip on 30 October 2002.

11.15 The Commission accepts the evidence of Mr Ip who had no reason to conceal or distort the truth and was unlikely to misremember such an unusual incident.

11.16 According to Mr Ip, besides reprimanding him for inviting Hon Mr Cheung to the SCT seminar, Mrs Law also objected to his newspaper articles as having no foundation and being "loose talk".

11.17 Mrs Law complained also to Professor Morris about the SCT seminar because she believed Mr Ip was criticizing the Government for not adopting SCT without giving the Government the chance to present its views.

11.18 Between 2002 and 2004, Mr Ip and Professor Cheng had published a large number of newspaper articles criticizing the Education Reforms or education policy and its implementation. The SCT seminar and the school principals' conference were also perceived to be critical of education policy. Mr Ip organized the SCT seminar, and Professor Cheng was involved in the school principals' conference. Mr Ip and Professor Cheng clearly earned Mrs Law's displeasure.

11.19 Mrs Law contacted Professor Morris not only "to appeal to him and his colleagues to make more positive use of their newspaper columns" as she claimed, but to express her anger and frustration about what she saw as attempts to undermine the Education Reforms or education policy and its implementation.

11.20 It was likely that Mrs Law expressed her displeasure and requested Professor Morris to stop the publication of the "offending articles". By putting such questions to Professor Morris as "Who are they?", "What are they doing?", and "Why are you employing them?", Mrs Law gave Professor Morris the impression that she wanted him to "basically get rid of them".

11.21 The Commission bears in mind that in addition to the supportive evidence of Professor Luk, Professor Moore, Ms Ma and Ms Cheng, there were also Professor Mok's evidence and Professor Morris's email message to

Dr Leung dated 19 September 2003 containing the following complaint:

> "(Mrs Law) has often asked me about the contribution of certain colleagues and encouraging me to basically get rid of them. The colleagues in question are doing a good job and the only real issue, I think, is that they have written regularly in the media in ways which have been seen to be critical of Government's policy."

11.22 The Commission finds improbable and rejects any suggestion that Professor Morris made up an allegation against Mrs Law, informed his senior staff of the allegation, and then filed a bogus complaint to Dr Leung in September 2003.

11.23 The Commission wishes to stress that unlike the issues on deeper collaboration and funding cuts, which Professor Li was entitled to discuss with Professor Morris, Mrs Law had no reason complaining to Professor Morris about the criticisms of the Government policies by HKIEd's academic staff, however honourable she believed her motive to be.

11.24 Neither the staff's opinions nor their suitability for employment was a legitimate subject of conversation between Mrs Law and Professor Morris. In particular, Mrs Law had no right to silence critics of the Education Reforms or education policy and its implementation, whether or not she believed their criticisms to be misguided.

11.25 However, the Commission is skeptical that Professor Morris correctly identified the dates of Mrs Law's complaints. Following Mr Yu SC's analysis of what Mrs Law was alleged to have said on each of the four occasions described by Professor Morris, the Commission concludes that it was highly unlikely that Professor Morris was able to remember accurately the occasions in question and that it was highly likely that Professor Morris transposed events and conversations from one date to another.

11.26 Contrary to Mr Lee SC's submission, Professor Morris's letter to Mrs Law, dated 4 November 2002, did not support the suggestion that Mrs Law asked him to dismiss Mr Ip and Dr Lai on 30 October 2002.

11.27 Rather, the letter alleged Mrs Law's improper curtailing of the freedom of expression of the SCT seminar participants, with no mention of the dismissal of Dr Lai or Mr Ip:

> "with regard to the telephone conversation on 30 October. You contacted me to enquire why we had organised a seminar at the HKIEd on SCT and you queried the personnel who had been invited. Your concern was that the participants had expressed views contrary to government policy and these had been reported in the media."

11.28 If Mrs Law had requested Professor Morris to dismiss Mr Ip and Dr Lai on 30 October 2002, he probably would have mentioned it in his letter dated 4 November 2002.

11.29 Mrs Law's complaints to Professor Morris about the unwelcome seminar and conference, and the offending newspaper articles could have happened on a number of occasions.

11.30 The Commission doubts that Professor Morris was able to pinpoint their dates. Further, the Commission is unsure whether Mrs Law had used the word "fire" or similar words on any of those occasions when she made the complaints. However, her complaints could have led Professor Morris to conclude, with a suspicious and over-sensitive mind, that she wanted Professor Morris to "get rid of them".

11.31 When asked for particulars, it was likely that Professor Morris simply relied on documented incidents to anchor his allegations when he did not have independent recollection of when Mrs Law made the complaints.

11.32 On the evidence, the Commission is driven to the only reasonable conclusion that Mrs Law complained to Professor Morris against Mr Ip and Professor Cheng, although not necessarily on the occasions specified, because she objected to the seminar and the conference, and the opinions published by Mr Ip and Professor Cheng.

11.33 However, following the analysis of Mr Yu SC and Mr Mok SC, the Commission does not accept that Mrs Law made similar complaints to Professor Morris in relation to Dr Lai and Dr Wong.

11.34 Professor Morris's reference to Dr Lai was ambiguous. Until 30 October 2002, Dr Lai had not published any article that could have offended Mrs Law nor did he take part actively in the seminar on 29 October 2002. There was therefore no reason for Mrs Law to have found fault with Dr Lai in the way alleged by Professor Morris.

11.35 The Commission is persuaded that Professor Morris's allegation in relation to Dr Lai on 30 October 2002 could be based on documents and discussion with others rather than unmediated recollection.

11.36 The media reports that Dr Lai was involved in the press conference on 30 October 2002 criticizing the Government for not implementing the "all graduate, all trained" policy could have misled Professor Morris. Professor Morris must have thought that Mrs Law was offended by Dr Lai and would, therefore, have included Dr Lai in her complaints.

11.37 The press conference only took place in the afternoon on 30 October 2002 and Mrs Law could not have referred to it in the morning.

11.38 Professors Morris, realizing the fallacy only when he asked Professor Luk in the course of his evidence, suggested that Dr Lai could have offended Mrs Law by distributing pamphlets at the SCT seminar. In fact Dr Lai did not distribute pamphlets himself and only stayed in the seminar for no more than thirty minutes.

11.39 Professor Luk said he was aware that Dr Lai was a collaborator with Mr Ip on the SCT seminar from reading the preface of a book co-edited by Dr Lai and Mr Ip. The preface of the book made no reference to Dr Lai being involved in the seminar and more importantly, Professor Luk did not tell Professor Morris that Dr Lai was a collaborator when informing him that Dr Lai had distributed pamphlets at the seminar.

11.40 Professors Morris and Luk's evidence relating to Mrs Law's alleged complaints about Dr Lai is highly unsatisfactory and is not accepted.

11.41 Mrs Law's comments about Dr Wong at the Graduation Ceremony on 19 November 2004, even if made as alleged, were innocuous. Professor Morris admitted that Mrs Law did not ask him to sack Dr Wong.

11.42 Dr Wong had never written critically of the Education Reforms or education policy and its implementation, and had in fact been very supportive of Government initiatives. As both Professors Morris and Luk conceded, Dr Wong had no reason to have earned Mrs Law's ire.

11.43 Mr Lee SC's speculation that Mrs Law mistook Dr Wong for Dr Wong Ping-ho is unconvincing and is also rejected.

11.44 There was evidence showing that Mrs Law was aware of Mr Ip's contractual arrangement with HKIEd. Therefore she should have been aware that Mr Ip could not be included in VDS or CRS.

11.45 The Commission believes that when Mrs Law protested to Professor Morris about the SCT seminar, and Mr Ip's and Professor Cheng's newspaper articles, she was only expressing her anger and frustration, as she was concerned about the image of the teaching profession.

11.46 However, it must be remembered that Mrs Law was the second most senior Government official in charge of education in Hong Kong. Her demands and complaints, even if made casually, carried significant weight and, more particularly, could be viewed as attempts to silence EMB's critics.

11.47 If Mrs Law objected to Mr Ip's or Professor Cheng's opinions, she could and should have engaged them in open discussions or published her own views to refute theirs.

11.48 The Commission believes that it is improper for someone of Mrs Law's position to attempt to silence critics by addressing them personally or through their superiors, irrespective of the motive.

CHAPTER 12

ANALYSIS AND CONCLUSIONS

(THE THIRD ALLEGATION)

12.1 The Third Allegation rests primarily on whether the evidence of Professor Luk or that of Professor Li should be preferred. Although there was other evidence consistent with Professor Luk's allegation, it has to be remembered that the other evidence was not independent evidence, but originated from Professor Luk only.

12.2 The Commission believes that both Professors Li and Luk to be men of integrity and honesty although both of them, in giving evidence, had personal purposes to serve. Nevertheless, in making findings of fact, the Commission may have to prefer the evidence of one and reject that of the other, however distasteful such task is.

12.3 The Commission adheres to the principles set out in paragraphs 2.18 and 2.19 hereof, namely that Professor Luk, being the accuser, had the onus to satisfy the Commission that the Third Allegation had been proved, and proved to the required standard.

12.4 The Commission does not intend to repeat its observation about the "mutation" of Professor Luk's versions of what Professor Li was alleged to have said in relation to the First Allegation except to say that such "mutation" dented his reliability.

12.5 Professor Luk, having related the substance of Professor Li's demand to Hon Mr Cheung and Dr Ng, did not at the same time mention Professor Li's threat in his telephone conversations with them shortly afterwards or at the senior management meeting on 30 June 2004. Professor Luk said he only mentioned it to his wife and Professor Morris "because it was a private conversation".

12.6 At the same time, Professor Luk said he was frightened by and concerned about Professor Li's threat, not just personally, but also on HKIEd's behalf as it could have been linked to Professor Li's earlier threat to render HKIEd "unviable". If that was the case, the telephone conversation was not a merely private conversation as Professor Luk claimed, but an institutional matter related to HKIEd's existence.

12.7 Professor Luk had no reason to refrain from mentioning Professor Li's alleged threat at the senior management meeting on 30 June 2004, in which he raised the AOB issues on PAP. After all HKIEd senior management had been accustomed to discussing "pressure" from Professor Li/Mrs Law/EMB. There was likewise no reason for Professor Luk not to mention the threat to Professor Morris whom he contacted shortly after the telephone conversation with Professor Li, as suggested in Dr Ng's email message to Hon Mr Cheung.

12.8 At some stage, Professor Luk said he also mentioned the incident to Ms Ma, who could recall only that Professor Luk said Professor Li was very angry and that Professor Luk was trying to offer help. If Professor Luk did mention Professor Li's threat to Ms Ma, it was unlikely that Ms Ma would not remember it.

12.9 On being interrogated at the hearing, Professor Luk claimed not to know why Professor Li was angry at his refusal to condemn the surplus teachers and PTU. With respect, the reasons for Professor Li's anger are obvious on Professor Luk's own evidence, although it was possible that under interrogation, Professor Luk just did not wish to speculate on Professor Li's mood or behaviour.

12.10 In 2003, PAP, which gave high priorities to the redeployment of surplus teachers, was strongly opposed by new teachers and HKIEd students. Their repeated complaints led to the Ombudsman's report criticizing PAP and calling for its abolition. HKIEd issued a press release on 20 May 2004 supporting and endorsing the Ombudsman's recommendation. The 30 June 2004 issue of Sing Tao Daily reported that Dr F Cheung, in response to media enquiries, also openly called for abolition of PAP, thus reiterating and confirming HKIEd's official position.

12.11 However, the protesting surplus teachers and PTU not only refused to agree to the abolition of PAP, but even attempted to compel EMB to extend it beyond 30 June 2004 with protests and the threat of a hunger strike to take place in early July 2004.

12.12 Professor Luk, on his evidence, refused Professor Li's demand to issue a statement to condemn the protesting teachers and PTU. His refusal was at least inconsistent with HKIEd's 20 May 2004 press release and its position as subsequently expressed by Dr F Cheung.

12.13 Dr Ng and Hon Mr Cheung of PTU indicated that there was a general understanding between HKIEd and PTU and both Dr Ng and Hon Mr Cheung, in their statements, claimed not to remember much about the conversations they had with Professor Luk on PAP.

12.14 However, the documents produced by Hon Mr Cheung suggested that at or around the time on 30 June 2004 when the senior management meeting of HKIEd took place, Professor Luk had a conversation with Dr Ng in which Professor Luk appeared to have covered the following, as set out in Dr Ng's email message to Hon Mr Cheung at about 9:30 a.m. on 30 June 2004:

(1) Dr F Cheung's view as reported in Sing Tao Daily was personal and not representative of HKIEd;

(2) The consensus of senior management of HKIEd was that the surplus teachers should be protected, but also that there should be a time limit to PAP, although not necessarily up to 1 July 2004;

(3) HKIEd and PTU undertook not to "step on" or "exclude" each other;

(4) HKIEd, in adhering to its principle, had refused Professor Li's request to issue a statement under duress; and

(5) Professor Luk requested Professor Li to allocate funds for "teachers retraining"; Professor Li refused initially, but was softened up and would consider the request.

12.15 In his email message to Hon Mr Cheung, Dr Ng claimed that Professor Luk had obtained Professor Morris's agreement on the above. If Professor Luk did contact Professor Morris, there was no reason for Professor Luk not to mention to Professor Morris Professor Li's threat. However, Professor Luk claimed that he only mentioned the threat to Professor Morris upon his return to Hong Kong in mid-July 2004.

12.16 The Commission wishes also to point out that the AOB items raised by Professor Luk at the senior management meeting on 30 June 2004 appeared to have been an attempt to put on record HKIEd's official position in line with Professor Luk's decision and action, including the understanding that Professor Luk shared with PTU. However, the decisions made at the senior management meeting on the two AOB items were surprising.

12.17 There was no basis for saying that the press had misquoted Dr F Cheung. Professor Luk said he brought up the issues, but could not remember if there was any basis for suggesting that Dr F Cheung had been misquoted. Professor Luk suggested that Ms Ma was likely the person who brought to his attention the alleged misquote. Ms Ma herself contradicted Professor Luk's suggestion. Further, the decision to state that Dr F Cheung had been misquoted was made in Dr F Cheung's absence and without having first consulted him. Dr F Cheung confirmed in his statement to the Commission that he did not believe that he had been misquoted.

12.18 The press release issued by HKIEd on 20 May 2004 stated clearly and unequivocally that HKIEd supported the Ombudsman's report, which criticized PAP as contrary to the spirit of school-based management and being unfair to new teachers. The Ombudsman's recommendations clearly called for the abolition of PAP.

12.19 It was wrong to say that Dr F Cheung's view, as reported in Sing Tao Daily, did not represent that of HKIEd. Dr F Cheung's reported opinions were clearly consistent with HKIEd's position as stated in its 20 May 2004 press release. There was no indication that HKIEd retracted the press release.

12.20 In his evidence, Professor Luk made no reference at all to his request to Professor Li for any "teachers retraining funds" and it was not clear why and how he gave Dr Ng the indication that "Professor Li refused initially, but was softened up and would consider the request".

12.21 Mr Mok SC emphasized, if Professor Luk had discussed with Professor Li "teachers retraining funds" as mentioned in Dr Ng's email message to Hon Mr Cheung in the same telephone conversation, it was highly unlikely that Professor Li would have made the threat to Professor Luk as alleged. Of course, Professor Luk had two telephone conversations with Professor Li, and Professor Li's demand for a public statement and Professor Luk's suggestion of teacher retraining funds need not take place during the same telephone conversation.

12.22 The Commission does not wish to speculate on the reason why Professor Luk adopted the stance as he did in relation to PAP, or on what in fact went on in the evening of 29 June 2004 and the morning of 30 June 2004. Nor does the Commission wish to comment on the way Professor Luk handled the incident as an administrator. The Commission is, however, not satisfied that Professor Luk presented to the Commission the complete picture.

12.23 Having considered Professor Li's evidence, the Commission found his wish that HKIEd publicly support the cessation of PAP and continue to endorse the Ombudsman's findings reasonable and justified.

12. 24 Professor Luk, being the accuser, must present cogent and reliable evidence to support his serious allegation against Professor Li. On the evidence, the Commission does not find it possible to rely on Professor Luk's evidence alone to support the serious allegation of threat against Professor Li and concludes that the Third Allegation is not established.

12.25 However, one of the Commissioners takes the following views.

12.26 In the highly politically charged situation in the evening of 29 June 2004, a press statement by HKIEd to condemn the surplus teachers or PTU would be very favourable to Professor Li as SEM. That day the negotiations between SEM and PTU came to an impasse. Whilst anticipating further negotiations by both sides, PTU decided to stage a hunger strike in early July, and issued a press release on the issues that evening. Mr Tung was concerned, and discussed the issues with Professor Li who also said HKIEd was putting pressure on the Administration to do something. With 1 July approaching, it would also be highly desirable to have the dispute settled as soon as possible. As Professor Li said, "I was not surprised that they wanted everyone to go on the streets on July 1st."

12.27 According to Ms Ma, Professor Luk told her that Professor Li was very angry. This can be understood as Professor Li hardened his stand in response to PTU's decision to put on a hunger strike. There could have been much anxiety for the reasons mentioned earlier. In the tug-of-war, the Administration would certainly benefit from third party support, and HKIEd would certainly be the most suitable third party to issue a statement in the public domain condemning the action of the surplus teachers and PTU.

12.28 In these circumstances, Professor Li was further angered by Professor Luk's refusal to issue the statement; more so, because HKIEd issued one in May to support the Ombudsman's position on PAP. Moreover, an HKIEd public statement would back his assertion to Mr Tung that HKIEd put pressure on the Administration to do something.

12.29 Professor Li might not have realized, or would not wish to have realized, that the situations in May and on 29 June 2006 were totally different, and a statement issued for the purpose of 29 June 2006 could not be the same as that in May in many ways.

12.30 Further, Professor Li could only speak to Professor Luk in the latter's capacity as Acting President, as Professor Morris was away. Professor Li had claimed he was a friend of Professor Morris and HKIEd, but on this occasion, his demand was not acceded to.

12.31 Given Professor Li's temperament and style, he would have responded to Professor Luk in the manner as put in the Third Allegation. The events related to the incident are backed by the evidence of Professor Morris, Ms Ma, Hon Mr Cheung and Dr Ng.

12.32 In this connection, reference may be made to the occasions below:

(1) In 2002 at lunch with Council officers of HKIEd, Professor Li used the word "rape" to express the official decision that HKIED had to merge with CUHK, and should better cooperate.

(2) In 2005, during the recorded telephone conversation between Professor Li and Professor Morris, a number of subjects were covered, including university status for HKIED. Professor Li posed the question if Professor Morris would like him to set up a Government committee to look at HKIED, ranging from university status to being disbanded; then suggested to Professor Morris "not to force my hand in this one", and then said to Professor Morris, "You wouldn't want to do that, Paul?"

12.33 However, Professor Li would have spoken out of pressure, anxiety and anger. It seems to be his style or habit to introduce metaphors or other literary devices to season the effect of what he said. In a highly emotive state, he might have used words which were intended to dramatize speech. Thus

what he said would be just “expletive” as a means to vent his frustration, as suggested by Mr Yu SC.

12.34 Putting all the evidence together, it was likely that Professor Li said the relevant sentences probably with no intention to put pressure on or to threaten Professor Luk, but as a manner of expression, however offensive that might be.

CHAPTER 13

ANALYSIS AND CONCLUSIONS

(OTHER ISSUES)

Section 1: The Presidential Selection Process

13.1 Mr Fung SC emphasized in his submissions that the presidential selection process was fair and unrelated to the merger issue. Mr Fung SC pointed out that Professor Morris only confirmed his wish to be re-appointed in June 2006 and that the other members of the Review Committee were not available over the vacation period between June and September 2006. Mr Fung SC submitted that the alleged delay between June and October 2006 was thus innocuous.

13.2 Mr Fung SC said the decision to exclude Professor Grossman and Dr Wong Ping-ho from interviews with staff members of HKIEd was made in accordance with legal advice. Mr Fung SC further submitted that interviews conducted to assess Professor Morris's performance were conducted fairly.

13.3 Mr Fung SC suggested that Professors Morris and Luk tried to undermine the authority of the Council in their negotiations with CUHK.

13.4 The additional issues identified by Mr Fung SC are not issues within the ambit of the Terms of Reference and the facts relating to those additional issues are not relevant to any of the Three Allegations. The Commission does not find it necessary or proper to deal with the issues, or make any findings thereon, particularly in the absence of relevant submissions from the other parties in the Inquiry.

Section 2: The Toronto Luncheon

13.5 At the Toronto luncheon on 23 May 2000, Mrs Law was alleged to have made some negative comments generally about teachers in Hong Kong.

13.6 Because the issues relating to the alleged negative comments by Mrs Law lie beyond the purview of the Terms of Reference, the Commission shall not make any specific findings thereto. However, the Commission wishes to draw attention to the unusual circumstances and manner in which Professor Luk made the allegation.

13.7 Professor Luk mentioned the Toronto luncheon neither in his statement nor in his evidence-in-chief, saying that it was outside the scope of the Inquiry. He said that he only introduced it because Ms Wong SC asked him about it in cross-examination. The relevant proceedings are set out as follows (Day 12 pages 85-87):

> " Q: I see. Again, still on background, did you know either Prof Li or Mrs Fanny Law before you joined the HKIEd as vice-president?
> A: Yes.
> Q: In what context? Under what circumstances?
> A: I can't really say I knew them; I was acquainted with them. Prof Li first came back to Hong Kong to teach at CUHK … in 1981 or 1982 and I was on the staff of CUHK at that time.
> Q: Then you were on the staff of the Chinese U until 1990 when you emigrated to Canada?
> A: Technically until 1992 but I was on no-pay leave from the Chinese University for a couple of years. So I first met Prof Li as colleagues within Chinese University in the early 1980s. Mrs Law I had met once at a Hong Kong Government cocktail party and lunch in Toronto, when she was part of a visiting delegation of Hong Kong Government officials and I was one of the Canadian professors receiving that delegation.
> Q: But that was a social occasion?
> A: Yes.
> Q: Presumably, conversations, if any, were confined to social topics, or of course topics of some common interest?
> A: As a matter of fact, that conversation was a bit of a surprise and a shock to me, because I was introduced to Mrs Law as a professor in a Canadian university who had earlier been engaged in teacher education in Hong Kong and Mrs Law's first question to me on shaking hands was, "Tell me something bad about Hong Kong teachers."
> Q: Well, was she serious? Did she saying that purely in jest?
> A: As the conversation continued, I said, "Well, bad things but

> there are also good things." She wanted me to give some examples of the good things. I said, "For example, they work very hard." Her response was, "But they are all so stupid."

13.8 As the above dialogue indicates, Professor Luk offered his allegation against Mrs Law proactively and without prompting.

13.9 In the event recollected by Professor Luk, Mrs Law, then Director of Education, was visiting Canada as part of an official delegation. In the opinion of the Commission, it was highly unlikely that Mrs Law would have made such a sweeping thoughtless generalization about teachers in Hong Kong, let alone to a stranger. The Commission is skeptical about the accuracy of Professor Luk's recollection.

13.10 Even if Mrs Law did make the comments as Professor Luk recollected, they had the quality of a party joke, albeit a tasteless one. (The Commission notes that Professor Luk ignored Ms Wong SC's questions about the seriousness of Mrs Law's solicitation.) But they were preyed upon and uncovered seven years after the fact as evidence for a long-held prejudice.

CHAPTER 14

ACADEMIC FREEDOM

14.1 Active and uninhibited dissemination of ideas is a vital mechanism for the production and preservation of knowledge, crucial not just for HEIs but also for society as a whole. If the freedom to study, to inquire, to speak one's mind, to communicate ideas, and to assert the truth as one sees it is improperly restricted or curtailed, knowledge acquisition and dissemination will be inhibited, and society stifled.

14.2 Academic freedom includes the right to seek and disseminate the truth as one sees it and the right not to be penalized for finding and publicising unpopular truths. Like the freedom of opinions and expression, guaranteed under Article 16 of the Hong Kong Bill of Rights Ordinance (Cap 383), academic freedom is also a basic human right, applicable specifically to the academic community.

14.3 The First Global Colloquium of University Presidents (Columbia University, January 18-19, 2005) chaired by the then UN Secretary-General, Kofi Annan endorsed the following definition of academic freedom and affirmed its importance:

"The Definition of Academic Freedom

> *At its simplest, academic freedom may be defined as the freedom to conduct research, teach, speak, and publish, subject to the norms and standards of scholarly inquiry, without interference or penalty, wherever the search for truth and understanding may lead. (Underline emphasis added)*

The Importance of Academic Freedom

> *The value of academic freedom is closely linked to the fundamental purposes and mission of the modern university. The expanding role that universities are playing in the Information Age only increases its significance. The emergence of a world-wide knowledge economy, the unparalleled transnational flow of information and ideas, and the growing number of young democracies, all make necessary the continued re-examination and articulation of the nature and importance of academic freedom. Indeed, across the globe, the defense of academic freedom remains at the heart of ongoing political and economic battles over the role and autonomy of universities.*
>
> *Academic freedom benefits society in two fundamental ways. It benefits society directly, and usually immediately, through the impacts and benefits of applied knowledge, the training of skilled professionals, and the education of future leaders and citizens. It benefits society indirectly, and usually over longer periods of time, through the creation, preservation, and transmission of knowledge and understanding for its own sake, irrespective of immediate applications."*

14.4 The right to speak and publish the truth, however unpopular or unpleasant the truth may be, without interference or penalty is the basic human right of the academic community. Scholars and students must be able to study, learn, teach, research, and publish without fear of intimidation or reprisal and without political interference, in an environment tolerant and supportive of diverse opinions.

14.5 Beginning in 2002, Mr Ip and Professor Cheng published many newspaper articles, critical of the Government's Education Reforms or education policy and its implementation in order to stimulate debate and interest. They also organized seminars promoting SCT, which was in part a critical reaction against the Education Reforms or education policy and its implementation.

14.6 Mr Ip and Professor Cheng were free to express their views in forms or through media of their choices. Their proffered opinions, unpleasant and perhaps deemed erroneous to the individual in charge of the Education Reforms or education policy and its implementation, must be tolerated, as

tolerance of erroneous and unpleasant views is a necessary pre-condition for the meaningful pursuit of truth.

14.7 As the University of Delaware Faculty Handbook provides (Section 4, Personnel Policies for Faculty, B. Academic Freedom and Standards of Code):

> "Academic freedom is the freedom of the faculty to teach and speak out as the fruits of their research and scholarship dictate, even though their conclusions may be unpopular or contrary to public opinion."

14.8 In *Baumgartner v United States* (1944), 322 U. S. 665 at p. 674, the US Supreme Court emphasized a citizen's right to criticize civil servants and public policy in the following terms:

> "One of the prerogatives … is the right to criticize public men and measures – and *that means not only informed and responsible criticism but freedom to speak foolishly and without moderation*." (Italic emphasis added)

14.9 In *Lewis v Harrison School District No. 1* (1986), 805 F. (2d) 310 (8th Cir), the local school board dismissed one of its principals after he criticized the school superintendent's handling of personnel matters. The criticism was held to be protected by law, and the court specifically observed, "Speech is not unprotected … just because it is … bluntly worded and directed at specific government officials."

14.10 The Commission does not accept Mr Mok SC's submission that there was nothing unusual or improper in Mrs Law's attempt to stop the publication of articles by HKIEd staff, because they contained inaccurate information, materials which were not evidence-based, or reflected a very negative image of the teaching profession.

14.11 Even if the criticisms expressed by Mr Ip and Professor Cheng were completely unfounded and unsupported, and were mere "loose talks [sic]", they should have been free from political interference by any Government official. Mrs Law had no right to stop those criticisms, with or without enlisting the help of Professor Morris.

14.12 Freedom of expression protects even someone who is in the wrong, subject to the law of libel or slander and other necessary restrictions prescribed by law. To quote the opinion of the US Supreme Court in *New York Times Co v Sullivan* (1964) 376 U.S. 254: "… protection does not turn upon 'the truth … of the ideas and beliefs which are offered' … [The] erroneous statement is inevitable in a free debate, and … it must be protected if the freedoms of expression are to have the 'breathing space' that they 'need … to survive'."

14.13 Both Mr Ip and Professor Cheng are experienced in education policy. Mrs Law accepted that both of them were dedicated educationists and were highly respected.

14.14 There was no indication or suggestion that Mr Ip's and Professor Cheng's criticisms exceeded the norms and standards of scholarly inquiry.

14.15 Mr Ip's and Professor Cheng's pursuits of educational, scholarly, and research excellence must be tolerated and should, moreover, be respected. Otherwise neither scholars nor students would be able to flourish or achieve the ends that academic freedom is intended to serve.

14.16 Mrs Law, a conscientious and responsible Government official with a long and illustrious history of public service, was understandably disheartened by the negativity from the education sector towards the Education Reforms or education policy and its implementation that she was obliged to promote and did promote with the best possible intentions.

14.17 Mrs Law might have believed that the complaints were insincere, incorrect or unjustified. She might have felt that Mr Ip's and Professor Cheng's published views were corrupting the rest of the education sector and thereby obstructing the implementation of the Education Reforms and education policy, and more generally, doing a disservice to the education sector.

14.18 Mrs Law might also have believed that she was right to engage the critics direct to voice her concern and hoped to persuade them to a different view.

14.19 Mrs Law might have believed in the legitimacy of her direct engagement of the critics and defence of Government policy against what she considered to be unfair and unjustified criticism.

14.20 Mrs Law might have believed that the teaching profession, particularly staff members of HKIEd had an obligation to co-operate with the Government to ensure the smooth implementation of the Education Reforms and education policy, which she believed was in the best public interest.

14.21 Finally, it was likely that when Mrs Law made her complaints, her reason was clouded by frustration and anger.

14.22 However, the above possibilities did not constitute, individually or collectively, an excuse, let alone a justification, for Mrs Law's direct and personal protestation to staff of HKIEd's staff.

14.23 It would have been even a more serious and unacceptable misstep to attempt, after the direct protestation failed, to silence them through Professors Morris and/or Mok.

14.24 The Commission does not dispute, and indeed wishes to emphasize, that Mrs Law, no less than her critics, had the right to express her opinions. However, Mrs Law, as the second most senior official in charge of education, should have realized that her views on education could never have been simply personal, but were necessarily, to an obvious extent, representative of the Government.

14.25 It was unacceptable that she did not express her opinions openly and through proper channels, but instead in a manner with the semblance, if not also the substance, of intimidation and reprisal. The Commission disapproves such behaviour unequivocally.

14.26 If Mrs Law disagreed to Mr Ip's and Professor Cheng's views, she could and should have challenged them in the media or open fora.

14.27 Complaining or protesting to the critics directly or through their superiors could have inhibited their will and ability to speak their mind and communicate their ideas, and therefore an improper interference with their academic freedom.

14.28 Mrs Law's complaints to Professor Morris could have resulted in penalty or reprisal to Mr Ip and Professor Cheng.

14.29 If Mrs Law's liaison with Professor Morris had included attempts to interfere with the decisions of who should be allowed to teach at HKIEd, which the Commission does not find established, it would have been condemnable infringement of HKIEd's institutional autonomy.

14.30 The Commission hopes that Mrs Law understands that public policies, however well-intended and carefully thought-out, cannot please the entire population and are bound to aggrieve certain individuals or groups of individuals.

14.31 In a free and pluralistic society, dissenters are entitled to voice their objections and criticisms against public policies, including calls for their abolition or modification.

14.32 Dissent should not be met with contempt or insensitivity, but rather with humility, courage and tolerance. Even if such dissent is unreasonable and unfounded, it should be countered with wise and civil discourse, not derogation or personal intimidation.

14.33 By contacting the critics directly or through Professor Morris to air her complaints with a view to stopping unpleasant opinions, Mrs Law failed the standards of propriety expected of a senior civil servant.

14.34 It is particularly regrettable that Mrs Law, as the second most senior official in charge of Hong Kong's education, should have had such apparent disregard for Mr Ip's and Professor Cheng's rights to their opinions – an essential component of academic freedom.

14.35 Mrs Law emphasized that she did not believe that the people she personally engaged felt threatened and that she was only trying to appeal to them and their colleagues to make more positive uses of their newspaper columns, to help teachers to cope with problems, and to counter the negative public image of the teaching profession.

14.36 In the Commission's opinion, one of Mrs Law's purposes of calling Mr Ip and Professors Morris and Mok was to try to stop what she considered to be unfair criticisms of the Education Reforms or education policy and its implementation. It was thus an attempt to prevent the active and free dissemination of ideas. Regardless of her intentions, the Commission cannot accept Mrs Law's contention that her actions were justified.

14.37 Fortunately, as it turns out, the integrity of Hong Kong's academic freedom has not been adversely affected.

CHAPTER 15

INSTITUTIONAL AUTONOMY

15.1 On 19 July 2002, Professor Li indicated to Dr Ip, in the presence of Mr Chan and Mr Wu, that a decision to "merge" HKIEd with CUHK had been made and that if HKIEd did not co-operate, it would be "raped", meaning that it would be forced to "merge" in any case.

15.2 Mr Lee SC and Mr Yu SC both suggested that what Professor Li said constituted a threat to merge HKIEd.

15.3 Mr Lee SC submitted that HEIs had an absolute immunity against and freedom from any form of intervention. Therefore an imposed "merger" constituted an infringement of institutional autonomy.

15.4 Mr Yu SC, accepting that the Government could "force" a "merger" on an HEI by legislation, submitted, however, that imposing a "merger" without legislation was an infringement of institutional autonomy.

15.5 HEIs are created by statute, and each of the eight HEIs in Hong Kong is governed by a separate piece of legislation. The Hong Kong Institute of Education Ordinance (Cap 444), which governs HKIEd, provides for the setting up of a Council. The Council is the executive body with the power of general control over HKIEd's administration and the conduct of its affairs.

15.6 Any form of merger of HKIEd with another HEI, involving the change of its identity and/or governance would necessitate intervention by legislation. The Hong Kong Institute of Education Ordinance (Cap 444) has to be amended or replaced, as there is no other way.

15.7 Professor Li's suggested "merger" on 19 July 2002, although not necessarily a collaborative arrangement only, might not involve a change of HKIEd's identity or governance. When Professor Li mentioned a "merger", he might have been referring to institutional collaboration proposed in the Sutherland Report, published in March 2002 despite public knowledge that Professor Li was a fervent advocate of HEI merger.

15.8 Dr Ip's evidence is that Professor Li referred to institutional merger, although Mr Chan, in his evidence, said Professor Li was only suggesting that the Government had formed the intention to pursue deeper institutional collaboration.

15.9 Professor Li's use of the word "rape" was improper and offensive. However, Professor Li must have meant by it that the Government intended to realize the Sutherland Report's recommendations, whether HKIEd agreed or not, although a full merger between HKIEd and CUHK was not ruled out.

15.10 The Sutherland Report, published in early 2002, suggested that strategic collaborations and alliances between HEIs, which would benefit students with more diversified programmes and a broadened range of subjects, were essential to the future development of HEIs, in an environment of limited, if not declining, public resources.

15.11 HKIEd was specifically identified and encouraged to develop collaborative links with other HEIs because of its unique position as the only HEI dedicated to the training of teachers. The Task Force set up by HKIEd also recommended collaboration with other UGC-funded HEIs. Dr Leung said that without institutional collaboration, HKIEd would be unable to realize its full potential.

15.12 The Niland Report of 2004 also endorsed the Sutherland Report's recommendations and highlighted the benefits of more productive and closer relationships between HEIs, delineating the various modes of merger or institutional collaboration.

15.13 None of the HEIs had raised any dissenting view against the Sutherland Report or offered alternative perspectives or any other (possibly better) proposals. As observed by the Chairman during counsel's submissions, there had so far been a collective silence from HEIs on the issue.

15.14 Not surprisingly, the Government, by a decision of the ExCo in November 2002, adopted the recommendations in the Sutherland Report as part of its long-term education policy, although it is also the Government's position that it will not force HEIs to merge.

15.15 Institutional collaboration must therefore be in line with public interest and should be encouraged. Hence, UGC set up in 2004 the restructuring and collaboration fund.

15.16 Yet, over five years since the Sutherland Report, there had only been one collaborative programme between CUHK and HKIEd, involving 20 students from each institution under the DCA.

15.17 The evidence presented to the Commission showed that negotiations or agreements between HEIs on institutional collaboration had ended in few concrete results.

15.18 Mr Fung SC submitted, with reference to Professor Lam's summary, that there were two or three more collaborative programmes involving HKIEd and other HEIs, outside the scope of the DCA.

15.19 Whatever view one takes, institutional collaboration had not been as extensive as the Sutherland Report or the Niland Report recommended.

15.20 Professor Li described HEIs' complicated and conflicting inclinations towards mergers as a "jigsaw puzzle". According to Professor Li, Lingnan University wanted to be left alone; Poly U wanted to partner with City U only; City U, however, wanted to partner with CUHK rather than Poly U; HKBU wanted to be part of a triumvirate that included Poly U and City U; CUHK and HKUST were only interested in each other, and HKU only wanted to partner with an institution if it could take it over.

15.21 The "jigsaw puzzle", reflecting HEIs' attitudes, probably explained the lack of progress and achievement in institutional collaboration.

15.22 Despite CUHK's and HKUST's inclination towards a merger, its untimely public announcement met with such uproar and widespread objections from the students and staff that Professor King, the then VC of CUHK, in an effort to appease them, released an "Open Letter to Staff and Students of The University" on 6 October 2002 in which he stated that "Just as no timeline can be set for a marriage based on free will, *no other party but CUHK and HKUST can decide on the why, how, and when of the merger*". (Italic emphasis added)

15.23 Professor Lau suggested that a merger would only be possible if the Government made an offer that the HEIs involved could not refuse. Professor Young said CUHK preferred not to have anything to do with HKIEd on institutional collaboration, but would be willing to help if asked. Dr Leung, speaking in his personal capacity, admitted that in ruling against a merger, the Council and senior management of HKIEd failed to consider public interest.

15.24 HEIs, which are all publicly funded, should not place institutional or "sectoral" interest before their collective social responsibility.

15.25 The Government is entitled to encourage, steer, or direct HEIs in accordance with its policy and public interest, although policy formulation should include transparent and thorough consultation with stakeholders first. Allegations of improper interference could be avoided and improper interference will not arise if the Government or its officials make use of proper channels to secure the institutions' acceptance to follow the Government policy.

15.26 The Commission does not agree with the submissions that the Government cannot force any education policy on HEIs, other than by legislation, because to do so would be an interference with their institutional autonomy. At the same time, the Commission believes that the Government should consult HEIs before imposing a policy on them or before changing a policy affecting them, particularly with HKIEd which has the sole role of teacher education and training assigned to it. The Commission also believes that a balance must be struck if there are conflicting interests.

15.27 Succinctly put, institutional autonomy is the condition that permits an HEI to govern itself without external interference. Institutional autonomy receives its justification on the basis that there is a need to provide an enabling environment to facilitate knowledge production and dissemination.

15.28 Institutional autonomy is certainly to be defended and celebrated, but in the opinion of the Commission, which is admittedly no expert, it should not be given absolute immunity from justified intervention from a stakeholder.

15.29 In particular, institutional autonomy must not become an excuse for not being responsible for and responsive to changing needs of society, as suggested by the following excerpt from *Higher Education in the United Kingdom*, (Sheffield: Association of Colleges of Further & Higher Education, 1980), p. 9:

> "… higher education is right to defend its academic freedoms and its academic autonomy from the depredations of government. I have found, however, that academic freedom and autonomy are often resorted to in order to avoid organizational or social change."

15.30 Du Toit, in his article “From autonomy to accountability: Academic freedom under threat in South Africa?” [Social Dynamics Vol 26 (2000), pp. 76-133], sees the “classic” formulation of institutional autonomy as “crucially ambiguous” in that, in asserting institutional autonomy, “it tended to imply a denial of duties or responsibilities that extended beyond the institution’s own walls”.

15.31 It must be emphasized that autonomy implies accountability. Greater autonomy for HEIs means greater accountability in budgeting, staff appointments, student intake and certification.

15.32 Apart from formal accountability to the Government, HEIs must also be accountable to society. They must demonstrate to the public that they are worthy of the billions of dollars of public funds that they receive each year.

15.33 In the UN Committee on Economic, Social and Cultural Rights, General Comment No 13, reference was made to academic freedom and institutional autonomy in paragraphs 38 to 40.

15.34 The Commission just quotes paragraph 40 on the importance of a balance between institutional autonomy and accountability:

> “The enjoyment of academic freedom requires the autonomy of institutions of higher education. Autonomy is that degree of self-governance necessary for effective decision-making by institutions of higher education in relation to their academic work, standards, management and related activities. *Self-governance, however, must be consistent with systems of public accountability, especially in respect of funding provided by the State. Given the substantial public investments made in higher education an appropriate balance has to be struck between institutional autonomy and accountability. While there is no single model, institutional arrangements should be fair, just and equitable, and as transparent and participatory as possible*.” (Italic emphasis added)

15.35 Mr Mok SC pointed out that paragraphs 1.5 and 1.6 of the UGC Notes on Procedures, whilst emphasizing HEIs' "substantial freedom in the control of curricula and academic standards, the selection of staff and students, initiation and acceptance of research, and the internal allocation of resources", also state that "…, because the institutions are largely supported by public funds, … the Government and the community at large have a legitimate interest in the operation of the institutions to ensure that they are providing the highest possible standards of education in the most cost-effective manner" and that UGC acts as a "buffer" … and "ensuring value for money for the taxpayers".

15.36 The Niland Report also emphasizes, at paragraph 4.1, the need to balance institutional autonomy and public policy:

> "One of the abiding challenges in developing modern policies for the higher education sector is to strike the right balance between actions that encourage, steer or direct universities in particular ways to achieve certain outcomes, and on the other side of the scale, the preservation of traditional autonomy through which universities can set and pursue their own missions under the guidance of governing councils which are independent of government. With unlimited resources, the balancing point can be set more toward autonomy. But where public funds are static or declining (as they are in most countries) and where resources of private funds are seriously limited, pubic policy can be expected to take a closer interest in just how resources are allocated, and with what effect."

15.37 The view that institutional autonomy is an absolute value to be protected against any interference must be revised in the light of globalization, the commodification of knowledge, and the market force in the educational sector. Declining public funds will drive HEIs closer to the market and HEIs must respond accordingly. If HEIs do not, the Government is entitled to take steps to ensure that they do.

15.38 The IAU/IAUP Presidents' Symposium on Institutional Autonomy Revisited, held in Chiang Mai, Thailand on December 8-9, 2006, highlighted the need to modify the boundaries of institutional autonomy as stated in the following paragraph on its "Theme":

> "Institutional autonomy no longer rests on a notion of Knowledge as sacred. On the contrary, its 'desacralisation' finds an ultimate expression in commodification and in the culture of immediacy. To this, the university is no longer an exception. Institutional autonomy in an age of Globalization is no longer a condition whose basic purpose is to ensure continuity. It is increasingly seen as a prior condition to ensure higher education's capacity continuously to mutate, interact with and sustain, external forces – the market, the innovation system, or the imperative drive of science and technology. … Because a University's ability to uphold its own agenda is increasingly conditioned by its performance and its resources, so its degree of real Autonomy is similarly constrained. The individual university finds itself having to pay close attention to the risks its decisions may entail for the viability – or survival – of the establishment. Risk and boldness replace the earlier emphasis upon stability and organic change."

15.39 Further, HKIEd is unique in that it is not multi-disciplined and only focuses on teacher training. As such, HKIEd should be highly responsive to the Government's education policy, which in turn, require the co-operation of HKIEd to ensure that its training courses and future development meet the expectation of society.

15.40 EMB is, directly or indirectly, the employer of practically all HKIEd graduates and must be concerned with their quality and training. In its manpower projections, EMB decides the number and the types of teachers required for our next generation.

15.41 Public interest also demands close co-operation between the Government and HKIEd to ensure efficient use of public resources. It is unreasonable to suggest that HKIEd has absolute immunity from any intervention from the Government or that any Government intervention constitutes an infringement of its institutional autonomy.

15.42 The Commission repeats Clause V (17) of the Records of the General Conference, Twenty-ninth Session (Paris, 21 October to 12 November 1997) of UNESCO:

> "Autonomy is that degree of self-governance necessary for effective decision-making by institutions of higher education regarding their academic work, standards, management and related activities consistent with systems of public accountability, especially in respect of funding provided by the state, and respect for academic freedom and human rights. However, *the nature of institutional autonomy may differ according to the type of establishment involved*." (Italic emphasis added)

15.43 Attempts by Professor Li/EMB to steer HKIEd in its future developments towards greater institutional collaboration and alliance, possibly with policies that affect HKIEd's financial position, in order to achieve what was considered to be desirable outcomes from the perspectives of public policy and public interest, in the face of HKIEd's reluctance or inability to secure alliance or integration, did not constitute unjustified interference with HKIEd's institutional autonomy.

15.44 The Commission need not reiterate the problems faced by HKIEd discussed above but wishes to emphasize that there is a clear and pressing need for it to adapt, to interact with and sustain the "market", and to pay closer attention to the risks its decisions may entail for its viability and survival.

15.45 The evidence presented to the Commission showed that HKIEd was sluggish in developing further and deeper collaboration and alliance with other HEIs, which were not only considered important and necessary for its viability and survival but also in the public interest.

15.46 Negotiations with CUHK reached an impasse and HKIEd needs a blueprint for its further development.

15.47 The Commission accepts that both HKIEd and CUHK had their respective interests to protect, but wishes to point out that they have to be consistent with public interest, and that is a matter of priority for their respective councils and senior management.

15.48 Whilst the Government must not interfere with the substantive autonomy of HEIs in their knowledge production and dissemination, the Government's steering of HKIEd towards institutional collaboration, which was consistent with properly formulated education policy and public interest, cannot be considered unjustified interference with its institutional autonomy.

15.49 The Commission does not agree with the suggestion that the Government had to resort to legislation to implement the education policy when HKIEd demonstrated reluctance towards them, and it would have been better for the Government, in the application of a policy to a particular HEI, to first seek the institution's willing acceptance through consultation with and with respect to the role of the institution concerned.

15.50 In the light of the recommendations in the Sutherland Report, which were adopted by the CE in Council as the long-term education policy, it was legitimate for Professor Li, as SEM, to express his views on the future development of HKIEd towards institutional collaboration and alliance. Regardless of their manner of expression, Professor Li's views were not unjustified interference with the institutional autonomy of HKIEd.

15.51 The Government is entitled to steer and direct HKIEd by funding arrangements so long as those arrangements are not capricious, and are supported by bona fide policies.

15.52 In summary, the Commission does not find sufficient evidence to determine any improper interference by SEM or other Government Officials with the institutional autonomy of HKIEd.

CHAPTER 16

THE FINDINGS

16.1 The Commission makes the following findings on the Three Allegations:

(1) The First Allegation, as set out in the Gazette Notice, is not established. There was no concerted effort to force HKIEd to agree to a merger with CUHK by improperly reducing the student numbers of HKIEd in order to render it "unviable".

(2) The Second Allegation, in relation to Mr Ip and Professor Cheng, is partially established, but not established in relation to Dr Lai and Dr Wong.

(3) Mrs Law complained, on unspecified occasions, to Professor Morris against Mr Ip and Professor Cheng because the seminar organised by Mr Ip, and the contents of Mr Ip's and Professor Cheng's newspaper articles obstructed the smooth implementation of the Education Reforms and education policy. Mrs Law requested that Professor Morris try to curb Mr Ip's and Professor Cheng's criticisms, although she did not demand their dismissal.

(4) Mrs Law's complaints, even if well-intended, were improper and constituted an improper interference with Mr Ip's and Professor Cheng's academic freedom.

(5) The Third Allegation, as set out in the Gazette Notice, is not established.

(6) There was insufficient evidence to show any improper interference by SEM or other Government officials with the institutional autonomy of HKIEd.

CHAPTER 17

THE RECOMMENDATIONS

17.1 Earlier in this report, the Commission has emphasized the importance of a close working relationship and co-operation between the Government and HKIEd because of HKIEd's unique position as the sole institution of higher education dedicated to teacher training.

17.2 EMB, in charge of Hong Kong's education and the ultimate employer of most of the HKIEd graduates, must ensure that teacher training courses and future developments of HKIEd meet the needs and expectations of society.

17.3 EMB is entitled to exercise some control over HKIEd in accordance with the established education policy and the objective of improving the quality of our teachers and hence the quality of education from early childhood to secondary level.

17.4 Admittedly, the degree of EMB's control over HKIEd is a sensitive and difficult issue, involving a balance of conflicting interests.

17.5 Relationships between the Government and HEIs, including HKIEd, are changing and will continue to change. Higher education is not just a public service, but increasingly also a business.

17.6 The static or declining public funding for HEIs means that they have to enhance their financial position more proactively, not just by soliciting donations from the private sector, but also by trading educational services.

17.7 HEIs will be brought closer to the market and they will experience greater pressure to meet demands for quality assurance. There will be greater conflicts on funding arrangements between HEIs, EMB and UGC.

17.8 UGC, though an independent body advising the Government on funding to HEIs, is responsible to EMB. The Commission has heard allegations that UGC is a rubber stamp, and that UGC uncritically co-operates with EMB to achieve EMB's objectives.

17.9 The challenges to Hong Kong's educational sector identified by the Commission, whose perspective is admittedly limited, are formidable.

17.10 The unpredictable number of children requiring education in Hong Kong, for example, makes the Government's manpower planning for teachers difficult, a problem which HKIEd cannot cope with alone.

17.11 Those challenges call for close working relationships between EMB, UGC and HKIEd. A high degree of mutual understanding and trust and an uninhibited dialogue are necessary to avoid the difficulties such as those disclosed in the Inquiry.

17.12 Currently, the formal mechanism for the Government to advise HKIEd has not been fully utilised.

17.13 The CE in Council, under section 5 of The Hong Kong Institute of Education Ordinance (Cap 444) is entitled to give HKIEd "directions with respect to the exercise of its powers or the achievement of its objects, either generally or in any particular case" and HKIEd "shall comply with any directions given by the CE in Council".

17.14 However section 5 does not appear to have been invoked in the past. The reason perhaps is that it was intended only for formal Government directives rather than normal day-to-day communication.

17.15 Under section 8(1)(c) of the Hong Kong Institute of Education Ordinance (Cap 444), the Council shall consist of at least one, but not more than three, public officers appointed by the CE.

17.16 The Commission heard evidence that the public officer from EMB on the Council tended to be very passive, possibly to avoid suggestions of interference with the institutional autonomy of HKIEd.

17.17 UGC's decisions are not susceptible to further review or appeal. The only way to challenge them, other than a "plead for mercy" or "taking the issues to the street", is to seek assistance from the CE in Council or the LegCo, or go to EMB.

17.18 If Mr Lee SC is correct, the LegCo may not have sufficient time to deal with those matters thoroughly.

17.19 The Commission agrees to Mr Yu SC's suggestion that there should be an avenue of redress between the Government and HKIEd in case of a deadlock.

17.20 With the aforesaid challenges in mind, the Commission suggests the establishment of a board independent of the Government, separately or as part of EC, consisting only of individuals trusted and respected by HEIs, and moderated by UGC, to serve the following purposes:

(1) To advise the Government on policies and development plans regarding TEIs;

(2) To resolve disputes between EMB and TEIs in case of a deadlock; and

(3) To hear appeals from TEIs on UGC funding arrangements.

17.21 Under the existing arrangement, if the Government is satisfied that certain outcomes are necessary for the improvement of teacher education, EMB and UGC are entitled to encourage, steer or direct HKIEd in particular ways in order to achieve those outcomes, with the necessary funding arrangements if there are sound supportive policies. It is important for EMB's messages to be given formally and with proper documentation.

17.22 Professor Morris pointed out that ACTEQ used to include representatives from TEIs. However, those members were removed in 2002.

17.23 The Commission believes that ACTEQ, with representatives from all TEIs until 2002, should be reactivated in order to provide a forum for all TEIs and the Government to reflect their views to one another. EMB should consult TEIs on teacher education and training issues, including manpower planning and requirements, before advising UGC for the purpose of triennium planning or roll-over arrangements.

17.24 The public officers appointed to be members of the Council should pro-actively explain Government policies on HKIEd's development. Such participation should not be viewed as an attempt to interfere with its institutional autonomy.

17.25 The Commission hopes that improved facilities of communication between EMB and TEIs would reduce their mutual misunderstanding and distrust, and would enable them more effectively to serve the education sector and the public at large.

APPENDIX I

TERMS OF REFERENCE

(a) To ascertain the facts relevant to the following allegations made by Professor Bernard Luk Hung-kay, Vice President (Academic) of the Hong Kong Institute of Education ("the Institute"), in his undated letter to the teaching staff and students of the Institute which was published on the intranet of the Institute on 4 February 2007 and the internet website of Ming Pao News on 5 February 2007 –

(i) In January 2004, there was a telephone conversation between Professor Paul Morris, the President of the Institute, and Professor Arthur Li, the Secretary for Education and Manpower ("SEM") in which the latter attempted to persuade Professor Paul Morris to take the initiative to propose a merger of the Institute with the Chinese University of Hong Kong. SEM indicated that otherwise he would then allow the then Permanent Secretary for Education and Manpower to have a free hand in cutting the number of students of the Institute ("The First Allegation").

(ii) In the past few years, whenever some members of the Institute published articles in local newspapers which criticised the education reform or the education policy of the Government and its implementation, shortly afterwards senior Government Official(s) repeatedly called to request Professor Morris to dismiss such members of the Institute ("The Second Allegation").

(iii) In late June 2004, in relation to a protest by a group of surplus teachers, SEM requested Professor Bernard Luk Hung-kay to issue a statement to condemn the teachers concerned and the Hong Kong Professional Teachers' Union that assisted those teachers, as such assistance would inhibit the employment of fresh graduates of the Institute. Upon Professor Luk's refusal, SEM said, "你唔肯出吖嗎? 好! I'll remember this. You will pay! (我會記著, 慢慢跟你算帳)" ("The Third Allegation").

(b) To ascertain, on the facts as found, if there has been any improper interference by SEM or other Government Officials with the academic freedom or the institutional autonomy of the Institute.

(c) On the basis of the findings in (a) and (b) above, to make recommendations, if any, as to the ways and manner in which any advice by the Government to the Institute, with respect to the exercise of the Institute's powers or the achievement of its objects, might be given in future.

APPENDIX II

PARTIES IN THE INQUIRY

Parties

Professor Paul Morris
President, The Hong Kong Institute of Education

Professor Bernard Luk Hung-kay
Former Vice President (Academic), Hong Kong Institute of Education

Professor Arthur Li Kwok-cheung
Secretary for Education and Manpower

Mrs Fanny Law Fan Chiu-fun
Former Permanent Secretary for Education and Manpower

The Hong Kong Institute of Education

LEGAL REPRESENTATIVES OF PARTIES IN THE INQUIRY

	Legal Representatives
The Commission	Mr Benjamin Yu SC and Ms Yvonne Cheng (instructed by Messrs Wilkinson & Grist)
Parties	
Professor Paul Morris	Mr Martin Lee SC, Mr Hectar Pun and Ms Jocelyn Leung (instructed by Messrs Boase Cohen & Collins)
Professor Bernard Luk Hung-kay	Mr Martin Lee SC, Mr Hectar Pun and Ms Jocelyn Leung (instructed by Messrs Boase Cohen & Collins)
Professor Arthur Li Kwok-cheung	Mr Johnny Mok SC, Ms Lisa Wong SC, Mr Thomas Au (up to 27 April 2007) and Mr Hew Yang-wahn (from 28 April 2007) (instructed by the Department of Justice)
Mrs Fanny Law Fan Chiu-fun	Mr Johnny Mok SC, Ms Lisa Wong SC, Mr Thomas Au (up to 27 April 2007) and Mr Hew Yang-wahn (from 28 April 2007) (instructed by the Department of Justice)
The Hong Kong Institute of Education	Mr Patrick Fung SC (instructed by Messrs Johnson Stokes & Master)

APPENDIX IV

LIST OF WITNESSES IN THE INQUIRY

Hearing Day		Date	Witness		Capacity
Day 5[1]	Thu	29 March 2007	W1	Professor Paul Morris	President, The Hong Kong Institute of Education
Day 6	Fri	30 March 2007	W1	Professor Paul Morris	President, The Hong Kong Institute of Education
Day 7	Mon	2 April 2007	W1	Professor Paul Morris	President, The Hong Kong Institute of Education
Day 8	Wed	4 April 2007	W1	Professor Paul Morris	President, The Hong Kong Institute of Education
Day 9	Tue	10 April 2007	W1	Professor Paul Morris	President, The Hong Kong Institute of Education
Day 10	Wed	11 April 2007	W1	Professor Paul Morris	President, The Hong Kong Institute of Education
Day 11	Thu	12 April 2007	W1	Professor Paul Morris	President, The Hong Kong Institute of Education
Day 12	Sat	14 April 2007	W2	Professor Bernard Luk Hung-kay[2]	Vice President (Academic), The Hong Kong Institute of Education
Day 13	Mon	16 April 2007	W2	Professor Bernard Luk Hung-kay[2]	Vice President (Academic), The Hong Kong Institute of Education
Day 14	Tue	17 April 2007	W2	Professor Bernard Luk Hung-kay[2]	Vice President (Academic), The Hong Kong Institute of Education

[1] Days 1 to 4 (on Tuesday 6 March 2007, Wednesday 14 March 2007, Friday 16 March 2007 and Thursday 22 March 2007 respectively) were taken up with interlocutory matters.

[2] Professor Bernard Luk Hung-kay's term of office as Vice President (Academic), Hong Kong Institute of Education, expired on 30 April 2007.

Hearing Day		Date		Witness	Capacity
Day 15	Thu	19 April 2007	W2	Professor Bernard Luk Hung-kay[2]	Vice President (Academic), The Hong Kong Institute of Education
Day 16	Fri	20 April 2007	W2	Professor Bernard Luk Hung-kay[2]	Vice President (Academic), The Hong Kong Institute of Education
			W3	Dr Simon Ip Sik-on	Former Council Chairman, The Hong Kong Institute of Education
Day 17	Sat	21 April 2007	W4	Professor David Grossman	Dean, Faculty of Languages, Arts and Sciences, The Hong Kong Institute of Education
			W5	Professor Magdalena Mok Mo-ching	Professor, Department of Educational Psychology, Counselling and Learning Needs, The Hong Kong Institute of Education
Day 18	Tue	24 April 2007	W5	Professor Magdalena Mok Mo-ching	Professor, Department of Educational Psychology, Counselling and Learning Needs, The Hong Kong Institute of Education
			W6	Ms Katherine Ma Miu-wah	Former Director of Communications and Institutional Advancement, The Hong Kong Institute of Education
			W7	Dr Grace Mak Chiu-ling	Principal Lecturer, Department of Educational Policy and Administration, The Hong Kong Institute of

[2] Professor Bernard Luk Hung-kay's term of office as Vice President (Academic), Hong Kong Institute of Education, expired on 30 April 2007.

Hearing Day		Date	Witness		Capacity
					Education
Day 19	Wed	25 April 2007	W8	Dr Lai Kwok-chan	Head of Strategic and Academic Planning, The Hong Kong Institute of Education
Day 20	Thu	26 April 2007	W9	Mr Ip Kin-yuen	Former Lecturer, The Hong Kong Institute of Education
			W10	Ms Doreen Cheng Siu-fong	Senior Personal Secretary to President, The Hong Kong Institute of Education
			W8	Dr Lai Kwok-chan	Head of Strategic and Academic Planning, The Hong Kong Institute of Education
Day 21	Fri	27 April 2007	W11	Mr Michael Stone	Secretary General, University Grants Committee
Day 22	Sat	28 April 2007	W11	Mr Michael Stone	Secretary General, University Grants Committee
			W12	Dr Alice Lam Lee Kiu-yue	Former Chairman, University Grants Committee
Day 23	Mon	30 April 2007	W12	Dr Alice Lam Lee Kiu-yue	Former Chairman, University Grants Committee
			W13	Dr Angela Cheung Wong Wan-yiu	Former Council Member, The Hong Kong Institute of Education
			W14	Professor Phillip J Moore	Associate Vice President (Curriculum and Quality Assurance), The Hong Kong Institute of Education
Day 24	Wed	2 May 2007	W15	Professor Lawrence J Lau	Vice-Chancellor, The Chinese University of Hong Kong

Hearing Day		Date	Witness		Capacity
			W16	Professor Kenneth Young	Pro-Vice-Chancellor, The Chinese University of Hong Kong
			W17	Ms Susanna Cheung Sau-man	Former Principal Assistant Secretary for Education and Manpower (Professional Development and Training), Education and Manpower Bureau
Day 25	Sat	5 May 2007	W17	Ms Susanna Cheung Sau-man	Former Principal Assistant Secretary for Education and Manpower (Professional Development and Training), Education and Manpower Bureau
			W18	Mr Pang Yiu-kai	Council Treasurer, The Hong Kong Institute of Education
			W19	Dr Thomas Leung Kwok-fai	Council Chairman, The Hong Kong Institute of Education
Day 26	Sat	12 May 2007	W19	Dr Thomas Leung Kwok-fai	Council Chairman, The Hong Kong Institute of Education
Day 27	Mon	14 May 2007	W20	Mr Alfred Chan Wing-kin	Former Deputy Council Chairman, The Hong Kong Institute of Education
			W19	Dr Thomas Leung Kwok-fai	Council Chairman, The Hong Kong Institute of Education
Day 28	Tue	15 May 2007	W19	Dr Thomas Leung Kwok-fai	Council Chairman, The Hong Kong Institute of Education

Hearing Day		Date	Witness		Capacity
Day 29	Wed	16 May 2007	W21	Mrs Fanny Law Fan Chiu-fun	Former Permanent Secretary for Education and Manpower, Education and Manpower Bureau
Day 30	Thu	17 May 2007	W21	Mrs Fanny Law Fan Chiu-fun	Former Permanent Secretary for Education and Manpower, Education and Manpower Bureau
Day 31	Fri	18 May 2007	W21	Mrs Fanny Law Fan Chiu-fun	Former Permanent Secretary for Education and Manpower, Education and Manpower Bureau
Day 32	Sat	19 May 2007	W19	Dr Thomas Leung Kwok-fai	Council Chairman, The Hong Kong Institute of Education
			W22	Professor Lo Mun-ling	Head, Centre for Learning-study and School Partnership, The Hong Kong Institute of Education
Day 33	Mon	21 May 2007	W23	Professor Arthur Li Kwok-cheung	Secretary for Education and 7Manpower, Education and Manpower Bureau
Day 34	Tue	22 May 2007	W23	Professor Arthur Li Kwok-cheung	Secretary for Education and Manpower, Education and Manpower Bureau
Day 35	Wed	23 May 2007	W23	Professor Arthur Li Kwok-cheung	Secretary for Education and Manpower, Education and Manpower Bureau
Day 36	Fri	25 May 2007	W24	Mr Andrew Poon Chung-shing	Former Principal Assistant Secretary for Education and Manpower (Quality Assurance), Education and Manpower Bureau

Hearing Day		Date	Witness		Capacity
			W23	Professor Arthur Li Kwok-cheung	Secretary for Education and Manpower, Education and Manpower Bureau
Day 37	Sat	26 May 2007	W23	Professor Arthur Li Kwok-cheung	Secretary for Education and Manpower, Education and Manpower Bureau
			* * * * *		
Day 38	Tue	5 June 2007		Closing Submissions	
Day 39	Wed	6 June 2007		Closing Submissions	

APPENDIX V

SUMMARY OF TESTIMONIES OF WITNESSES

Professor Paul Morris

Professor Morris's vision was for HKIEd to become an autonomous university dedicated to training teachers, but he believed it was Professor Li's wish to merge HKIEd with CUHK. Professor Morris pointed out that when Professor Li was still VC of CUHK, he had publicly advocated a merger of HKIEd with CUHK. Professor Morris said that it was not Government policy to reduce the number of HEIs and that institutional integration was just Professor Li's private agenda. Professor Morris said he was only agreeable to a collaborative arrangement with CUHK up to the Federation Model, and not the Merger Model.

2. Professor Morris mentioned a dinner meeting with Professor Li on 26 June 2002, two days after the announcement of the latter's appointment as SEM, when Professor Li suggested that the way forward was for HKIEd to become part of an education centre within CUHK. Professor Li suggested that Professor Morris could be the leader of the education centre.

3. Professor Morris said after Professor Li became SEM, he had repeated, on many occasions, his strong wish for HKIEd to merge with CUHK. Professor Morris mentioned a lunch meeting, which could be on or after 23 August 2002, with the then Council Chairman, Dr Ip, who mentioned Professor Li's remark that unless HKIEd agreed to merge, it would be "raped", meaning it would be made unviable. Professor Morris said he then became extremely cautious and suspicious of Professor Li, and saw his every action as part of a pattern to "rape" HKIEd.

4. Professor Morris emphasized the Council's formal position, following the recommendation of the consultants – IBM – made in a report dated 29 November 2002, and the consensus reached at the two Retreats that HKIEd would not seek a full merger with another institution, but only some forms of collaboration.

5. Professor Morris impliedly suggested that the merger issue had delayed HKIEd's IR, regarded usually as a pre-requisite for university status, between May and October 2003, although the review eventually went ahead and resulted in HKIEd's self-accrediting status in March 2004.

6. Professor Morris said Professor Li telephoned him on 21 January 2004 and told him that the Start Letter for the 2005-2008 triennium was very bad news. Professor Li said he was HKIEd's only friend in EMB and he wanted to help, and that the only way to address the problem was to do something "radical", i.e. to merge HKIEd with CUHK to create a centre of excellence for teacher education.

7. When Professor Morris asked Professor Li why he delayed the IR, Professor Li said it was unimportant, as it had gone ahead. Professor Li then claimed not to be responsible for the cuts to student numbers, as it was the responsibility of someone else. In oral evidence, Professor Morris could not recall Professor Li mentioned a name, but he took it that it was Mrs Law who was responsible while he said in his witness statement that Professor Li said Mrs Law wanted HKIEd squeezed. Professor Morris said he reported the telephone conversation to Professors Luk and Moore, Ms Ma and Ms Cheng.

8. Professor Morris mentioned a telephone call from Professor Li between 20 and 24 March 2004, complaining about a conference of one thousand school principals, co-organised by HKIEd and held at its campus, in which serious criticisms were levelled at the Education Reforms and EMB. Professor Li told Professor Morris that everyone at EMB was furious, and Mrs Law was so upset that she had identified a list of punishments for HKIEd. Professor Morris said he was concerned and therefore gave instruction to distance HKIEd from the conference by

making sure that the conference website was not an official part of HKIEd's website.

9. Professor Morris had a lunch meeting with Professor Li at the Ritz Carlton Hotel in early April 2004 when Professor Li again urged him to initiate a merger with CUHK.

10. Professor Morris referred to the Retreats in 2004 at the Jockey Club Beas River Country Club when Dr Leung made a very strong statement that HKIEd had to merge or else it would suffer "death by a thousand cuts". The conclusion of the Retreats was accepted by the HKIEd Council, which was no full merger. Professor Morris said he was willing to explore deep collaborations with other HEIs in order to preserve autonomy in key areas, but he was against a full merger. Professor Morris emphasized that the students of HKIEd did not support a merger and that having obtained self-accrediting status in 2004, he was eager to seek university status for HKIEd.

11. Professor Morris was of the view that CUHK wanted eventually to "take over" HKIEd, after a meeting with Professor Lau, the newly appointed VC of CUHK on 22 July 2004. In a "Briefing Notes" to Dr Leung in August 2004, Professor Morris stated:

> "In other words, full integration/merger was not explicitly discussed at these meetings. … What is apparent to me is that while there was an initial readiness on CUHK's part to see HKIEd retain a fair amount of autonomy, the distinct impression gained from the 22 July meeting was that a full merger was their preferred position. Indeed, to me it was as if we had gone the full circle back to January, 2003 (i.e. we could be an Institute but really would be a Faculty Board responsible to their Senate and Council. … To me the message from them is now quite clear, full amalgamation."

Nevertheless, the DCA was signed in July 2005 with the endorsement of UGC and EMB.

12. Professor Morris said his opposition to a merger resulted in severe reductions in student numbers and resources from UGC in the 2005-08 triennium, leading to serious arguments with EMB, as according to UGC, the cuts were based on EMB's advice. Further, there was no logical foundation for the reductions and they could only be the implementation of the threats to "punish" or "rape" HKIEd. Professor Morris said he was expecting further cuts in student numbers and if the pattern continued, HKIEd would indeed be unviable.

13. Professor Morris referred to a telephone conversation he had with Professor Li on 16 November 2005 that he had secretly recorded. He said Professor Li, having agreed to attend the Graduation Ceremony on 18 November 2005, changed his mind because of the plan of the Students' Union to petition to him after he had openly supported university status for Shue Yan College, but not for HKIEd.

14. In the conversation, Professor Li was angry because he thought staff members and students of HKIEd were attacking him personally. Professor Li said he would retaliate if attacked. He also indicated that if HKIEd continued to press for university status, a Committee would be set up to decide its future and that the options included a merger or a "disbandment".

15. Professor Morris gave evidence that after his return from leave, Professor Luk informed him of the conversation he had with Professor Li and told him that when he refused Professor Li's demand to issue a statement against PTU, Professor Li said words to the effect that "I'll remember this. You will pay!".

16. Professor Morris described Mrs Law's negative views towards HKIEd. He said Mrs Law encouraged the removal of successful projects from HKIEd and encouraged its "good staff" to leave. He said Mrs Law was critical of HKIEd and was intolerant to dissenting voices. Professor Morris said he had expressed to senior staff and Council members his concern about Mrs Law's attempts to undermine HKIEd.

17. Professor Morris suggested that his attempts to defend staff members' academic freedom had earned him hostility from Mrs Law. He perceived that EMB had unfairly painted a negative image of HKIEd by the manner in which the results of LPAT were released. Professor Morris alleged that Mrs Law put pressure on him to sack staff members for their public criticisms against the Education Reforms or education policy and its implementation. He referred to the following incidents:

(1) On 29 October 2002, Mr Ip organised a seminar to promote SCT. Mrs Law telephoned Professor Morris the next morning, berating him for organising the event, promoting ideas contrary to Government policy, and allowing PTU a forum to present its views. Mrs Law asked why Mr Ip and Dr Lai were employed, and what they were doing at HKIEd. Mrs Law then targeted Mr Ip, saying that he had no PhD degree and did not do any research work. Mrs Law said that they should be sacked when their contracts came up for renewal. Professor Morris invited Mrs Law to contact Mr Ip and Dr Lai direct if she did not agree with them and told her that as they were just expressing their views and were not involved in anything illegal or immoral, there was no basis to dismiss them.

Professor Morris pointed out that Dr Lai did not take an active role in the SCT seminar, but held a press conference in the afternoon of 30 October 2002, criticizing the Government for not implementing the "all graduate, all trained" policy. Mrs Law subsequently sent an angry letter to Professor Morris saying that the event should not have been held without her prior knowledge.

(2) At the Graduation Ceremony on 19 November 2004, Mrs Law questioned Professor Morris why HKIEd employed Dr Wong. Professor Morris said Mrs Law did not ask him to sack Dr Wong, but given previous conversations he had with Mrs Law, he was left with the unmistakable impression that she was encouraging him to do so.

(3) Between 24 November 2004 and 1 December 2004, Professor Cheng published in Ming Pao Daily a series of articles highly critical of the Education Reforms. Mrs Law telephoned and complained, saying that the articles undermined the Education Reforms and that HKIEd had a political agenda. Mrs Law asked Professor Morris why HKIEd allowed the publication of those articles and then said that HKIEd should not employ Professor Cheng.

18. Professor Morris alleged that Mrs Law repeated her criticisms against Mr Ip and Professor Cheng on 21 April 2005 when she telephoned to ask if their names had been included in the lists of VDS or CRS. Professor Morris said he only pointed out that Mr Ip and Professor Cheng were not eligible under the schemes and paid no heed to Mrs Law's unreasonable requests.

19. Professor Morris said he reported the matters to Professor Luk and possibly to Dr Leung orally. Professor Morris pointed out that he had, in an email message dated 19 September 2003, complained to Dr Leung about Mrs Law's negative views of HKIEd and her demands to dismiss colleagues for criticizing the Education Reforms or education policy and its implementation.

20. Professor Morris talked about Dr Leung's role in seeking a merger with CUHK. He said Dr Leung raised similar arguments as Professor Li to persuade him to initiate a merger. He said Dr Leung told him that Professor Li had tasked him to implement a merger with CUHK when he was re-appointed Council Chairman in 2006.

21. Professor Morris said in 2006, Dr Leung had on many occasions put pressure on him to merge with CUHK and the DCA was moving towards a full merger. He said Dr Leung made it clear that there was a lot of pressure from EMB, and that if HKIEd did not merge with CUHK, a significant percentage of its student numbers would be jeopardized.

22. In the latter part of 2006, when Professor Morris's contract came up for consideration, Dr Leung told Professor Morris that unless he agreed to a merger, he would not be re-appointed as President of HKIEd.

23. Professor Morris emphasized the frequent and substantial pressure from both Professor Li and Dr Leung to merge with CUHK, and that on the merger issue, Dr Leung was Professor Li's agent although he swung backwards and forwards from that position. Professor Morris accepted, however, that he had no valid foundation for such accusation other than Dr Leung's admission that he had been tasked to achieve a merger when he became Council Chairman.

24. Professor Morris mentioned a meeting he had with Professor Li, Dr Leung, Professor Lau, Dr Lam, Professor Young, and Mr Stone on 17 April 2006 ("the Hong Kong Club dinner"), when Professor Li again pushed for a full merger. Professor Morris said CUHK also wanted a merger, but he had made clear his objection and his preference for a federation.

25. Professor Morris said he made known his position to Dr Cheng, at a follow-up dinner on 10 May 2006, and Dr Cheng, having better understood his position, commented, "It is like getting on a bus but not knowing where the final destination is".

26. In June 2006, Professor Morris told Dr Leung that if the Council decided to merge HKIEd with CUHK, he would not want to be re-appointed as President of HKIEd.

27. In connection with the Hong Kong Club dinner, Professor Morris, six months later on 9 October 2006, prepared a "Strictly Private and Confidential" letter addressed to Professors Luk and Moore in the following terms:

> "Below are the details of what the Vice Chancellor of CUHK described as his view of the future relationship between CUHK and HKIEd.
>
> 1. It would be a merger – a federal arrangement would not be acceptable.
>
> 2. In the longer term, he envisaged the HKIEd would move to the Shatin campus.
>
> 3. We would become part of their Faculty of Education. This would be split into two divisions, an undergraduate and a postgraduate division. The HKIEd would be the former.
>
> 4. Many of our staff would be retitled to Teaching Fellow/Instructor grades so as to exclude them from the RAE.
>
> These points were made at a dinner on 17 April 2006 at Hong Kong Club …"

28. Professor Morris said he gave the letter to Professors Luk and Moore to show to Professor Young in their future discussions on institutional integration.

29. Professor Morris recalled that at a HUCOM dinner on 4 April 2006, Professor Li told him in private that he would be leaving his post in July 2007 and that Professor Morris would not continue in his after September 2007. Subsequently Dr Leung also told Professor Morris that he would not be re-appointed as President because of his refusal to accept a merger. Subsequently Professor Morris said he made clear to

his senior staff members that if the Council decided to merge, he would not be willing to continue as President.

30. Professor Morris described how his office briefed Dr Leung to dispel the often repeated but erroneous claim that the profile of HKIEd's student intake was far weaker than those of other TEIs when Dr Leung went to meet Mr Tsang in August 2006.

31. Professor Morris said Dr Leung subsequently informed him that the Government did not have a policy to push for a merger and that on matters relating to HKIEd, Professor Li was not an honest broker. When confronted with the record kept by the CE's office, Professor Morris said its contents differed from what Dr Leung told him.

32. Professor Morris concluded his evidence-in-chief by referring to an incident in late 2004 when Professor Li urged him to commit to a merger so that Mr Tung could include it in his final policy address to be delivered in early 2005. Professor Li even said $200 million would be made available for a merger.

33. Professor Morris was adamant that a merger was not in the best interest of HKIEd or of Hong Kong, and that his view was broadly supported by students and staff members of HKIEd.

34. In cross-examination, Professor Morris admitted that the only names often targeted by Mrs Law were Mr Ip and Professor Cheng. The brief conversation he had with Mrs Law about Dr Wong was confined to the questions, said in an extremely negative tone, of "Why we employed him? What he was doing here? What I thought of him?"

35. Professor Morris said Mrs Law did not expressly ask him to dismiss Dr Wong, but given his previous experience, it was a reasonable inference to draw. Professor Morris admitted that Dr Wong had neither published articles nor taken part in activities that would have offended Mrs Law.

36. Professor Morris agreed that Dr Wong was extremely supportive of Government policies and therefore he was surprised when Mrs Law targeted him. Nevertheless, Professor Morris insisted that his interpretation of what Mrs Law said was correct.

37. Professor Morris disagreed to the suggestion that as SCT was not contrary to Government policy, the seminar on 29 October 2002 should not have angered any Government official. Professor Morris emphasized that the Government was not supportive of SCT and was only floating pilot schemes as delaying tactics. Professor Morris suggested that SCT had a long history in Hong Kong, dating back to the time when Chris Patten was the Governor, and should have been implemented if the Government had been sincere.

38. Professor Morris agreed that Dr Lai only distributed pamphlets at the seminar on 29 October 2002. The only other thing that Dr Lai did which could have earned Mrs Law's displeasure was a press conference about the non-implementation of the "all graduate, all trained" policy held in the afternoon of 30 October 2002. However, Mrs Law could not be referring to it as their conversation took place before the press conference.

39. Professor Morris agreed that it made no sense for Mrs Law to ask Mr Ip's name to be included in VDS or CRS as Mr Ip was on contract and not entitled to join those schemes. Professor Morris disagreed that he had mixed up events and denied that he made up the allegations about the conversation with Mrs Law on 30 October 2002 based on documents and not on his memory.

40. Professor Morris disagreed to the suggestion that Mrs Law only wanted a balanced view to be presented at Mr Ip's seminar and she did not criticize the views of the speakers.

41. When it was pointed out that Mr Ip had a close and friendly relationship with Mrs Law and there was no reason for her to demand his dismissal, Professor Morris said their relationship had seriously deteriorated.

42. Professor Morris disagreed that Mrs Law was supportive of HKIEd and when she criticized HKIEd, her criticisms were justified. He rejected suggestions of "bias" or "prejudice" at HKIEd against EMB and Mrs Law, but accepted that there was a very strong view at HKIEd that it was being seriously disadvantaged and that every attempt, or many attempts, were made by senior Government officials to be extremely critical of HKIEd. He also denied that he had misinterpreted and/or misrepresented what Mrs Law had said.

43. Professor Morris agreed that Mrs Law was supportive of measures taken by HKIEd to upgrade the staff's qualifications in MIRS and the tri-lingual programme of the Jockey Club Primary School. However, Professor Morris maintained that Mrs Law often demonstrated a low opinion of HKIEd and had requested him to dismiss staff members for voicing criticisms against the Education Reforms or education policy and its implementation. Professor Morris insisted that the LPAT results could have been released in a manner less harmful to HKIEd.

44. Professor Morris agreed that there was no indication that EMB had unfairly treated HKIEd on programmes it conducted, and that funds for those programmes from EMB in fact made a significant contribution to enable HKIEd to maintain a relatively sound financial position.

45. Professor Morris said the reduction of student numbers in the 2005-08 triennium could not be justified on demographic grounds and that the initial figure of "0" for the part-time C (ECE) programme in 2007/08 could not be a clerical error or the result of miscommunication. Professor Morris emphasized that the decision to stop the B Ed (Secondary) in Arts, Music and PE in the 2008/09 roll-over year could not be explained by the projected surplus of secondary school teachers in 2012. Professor Morris suggested that the reduction of B Ed (Primary) places from 1,330 to 1,050 and the reduction of C (ECE) numbers would hurt HKIEd most.

46. However, Professor Morris agreed that some of the cuts were known in 2001 and other factors contributing to such cuts, including civil service salary cuts, only surfaced in 2003. He admitted that HKIEd had a sound financial reserve of $600 million because of various measures taken by HKIEd and extra financing for special projects obtained from EMB, but that could be dissipated quickly if the number of students continued to be cut. However, Professor Morris disagreed that EMB had been particularly helpful and cited as examples HKIEd's failure to get articulated places in associate degree programmes, RPGs and university title.

47. Professor Morris agreed that there was no recommendation for any reduction in RPGs and that it was for UGC to decide, based on the advice of EMB, the allocation of RPGs and articulated places among HEIs. Professor Morris accepted that given the circumstances, the reduced target enrolment for PUCs of 350 ftes per annum was acceptable and that EMB was supportive of such courses. Professor Morris, however, insisted that there was a pattern over the years to disadvantage HKIEd and that there were continuous attempts to reduce its student numbers.

48. Professor Morris was adamant that whilst he had no objection to a "merger" up to the Federation Model identified in the Niland Report, he was against a full merger that Professor Li wanted, namely the Chung Chi Model mentioned at the dinner on 26 June 2002, as such full merger would mean a complete loss of HKIEd's identity and autonomy (Chung Chi, one of the colleges at CUHK, lost its autonomy after its amalgamation with the other two colleges). Professor Morris maintained that all negotiations with CUHK were conducted with that in mind.

49. Professor Morris insisted that it was only Professor Li's private wish to have a full merger of HKIEd with CUHK and that the Hong Kong Club dinner was aimed at a full merger and not a long-term solution with room for further negotiation. He said no other form of institutional integration was talked about, except merger.

50. Professor Morris did not agree with the way in which Dr Leung described the meeting between Dr Leung and himself. Professor Morris insisted that Dr Leung had told him of an inevitable merger, and that if he disagreed, he would not be re-appointed.

51. Professor Morris said he did not propose a merger of all the education faculties within the UGC-funded HEIs to form a teaching education centre under his leadership. He insisted that it was Professor Li who first floated the idea at the dinner on 26 June 2002.

52. Professor Morris said he did not spread the rumours of an imminent merger with CUHK in order to delay the presidential selection. He insisted that the decision not to re-appoint him was linked to the merger issue. EMB could muster sufficient votes to block his re-appointment as the CE appointed all Council members on EMB's recommendation. When confronted with the identities of the Council members, Professor Morris admitted that he had no foundation for such an accusation.

53. Despite the clear provisions in the DCA, which ruled out merger for two triennia, Professor Morris suggested that CUHK did not strongly desire a relationship with HKIEd, but if some form of integration were to take place, CUHK's preference would be a full merger.

54. Professor Morris was questioned about the letter from 18 senior academic members of HKIEd led by Professor Luk addressing Council members to the effect that the presidential selection should not proceed until the merger issue was clarified. Professor Morris admitted that there was no immediate plan to merge with CUHK and he was unaware of the source of the rumours.

55. In answering questions put by Mr Yu SC, Professor Morris admitted that he was not good at dates and sequences of events. He was unsure when Dr Ip mentioned to him Professor Li's remark about the "rape" of HKIEd. Professor Morris said the only time Mrs Law used the term "sack" or "fire" or "dismiss" was at the conversation on 30 October 2002 in relation to Mr Ip and Dr Lai although in the case of Professor

Cheng, she said HKIEd should not employ him. Further, Professor Morris was asked if he could have mistaken Dr Wong with another staff member, Dr Wong Ping-ho, who was an active member of the staff union, he said it was unlikely. Professor Morris was asked why he did not raise the issue with Mrs Law earlier when he wrote to her; he said he did not want the relationship to further deteriorate. He also said he had not identified the colleagues targeted by Mrs Law in his email message to Dr Leung, to avoid fear and concern to those colleagues in case they heard about it.

56. Professor Morris agreed that in his email message dated 19 September 2003 to Dr Leung, he specifically mentioned the "all graduate, all trained" policy, but only complained as an accompanying issue against Mrs Law's demand to "basically get rid of" his colleagues. Professor Morris said he mentioned Mrs Law's demands to Professor Luk, Professor Moore, Ms Ma and Ms Cheng. Whilst he could not remember if he had mentioned them to Dr Ip, he thought that he would have.

57. Professor Morris also admitted that in the course of his evidence, he had discussed with Professor Luk Dr Lai's involvement in the seminar on 29 October 2002, and was told that Dr Lai had been distributing pamphlets.

58. Professor Morris agreed that on 21 January 2004, Professor Li did not say, "if you don't merge with CUHK, then you would have your numbers cut", but only "what's coming to you in the Start Letter is very bad news. I want to try and help you. I'm your best friend. If you want to be viable then the only way to do it is to merge". Professor Morris also mentioned in his evidence that HKIEd was not popular within EMB and there was a desire to cut its student numbers.

59. When asked about his allegation that Dr Leung was Professor Li's agent, Professor Morris said Dr Leung was under pressure from EMB and was genuinely torn between different viewpoints. He said Dr Leung was not too enthusiastic on a merger, but believed it was inevitable, as he had been tasked to implement a merger when he was re-appointed the Council Chairman.

60. Professor Morris did not suggest that the ten Council members, in voting against his re-appointment as President, were influenced by EMB. He said he made no allegation against any Council member.

61. In re-examination, Professor Morris said when reporting his conversations with Professor Li or Mrs Law to Professor Luk or Ms Ma, he would do so concisely, but accurately, and tried not to mislead them. He was, however, unable to say, if their versions of the events were different, whose version was more accurate.

62. Professor Morris repeated his vision for an education university in Hong Kong and cited many successful examples.

63. Professor Morris reiterated his suggestion that the Government was not genuine in implementing SCT and that UGC, in its decisions, often acted on EMB's advice. He also repeated his objections, with reference to the record of the LegCo Panel on Education meeting on 11 January 2005, to the funding cuts proposed by UGC.

64. Professor Morris insisted that what Dr Leung told him about the meeting with Mr Tsang in August 2006 did not match the record kept by the CE's Office.

65. Professor Morris insisted that Mrs Law's view of HKIEd was very negative. He repeated Mrs Law's critical comments about HKIEd made to visiting professors.

66. On communication channels, Professor Morris said that existing or previous channels that existed were not operated. There should be some kind of consultation body for TEIs to discuss planned developments. EMB should also channel more of their proposals through their representative on the Council.

Professor Bernard Luk Hung-kay

67. Professor Luk said he had little contact with either Professor Li or Mrs Law. He said he first met Professor Li in the early 1980s at CUHK where they both worked and to him Professor Li was a very intelligent, very articulate, but easy-going person who did not put on airs.

68. Professor Luk said when he heard Professor Li's idea of CUHK taking over HKIEd, and his comments that "the authority is in my hand" and "starting with diplomacy and following up with the deployment of a troop", he was shocked at the "high-handedness of a Government official towards two supposedly autonomous universities enjoying full autonomy and freedom".

69. Professor Luk supported Professor Morris's evidence on the telephone conversation on 21 January 2004. He said Professor Morris looked very unhappy and subsequently reported to him what was said. From what he heard and what Professor Morris told him, Professor Luk got the impression that Professor Li claimed to be an old friend and they went back a long time. Professor Li told Professor Morris that the student numbers for HKIEd were very bad in the Start Letter for the 2005-08 triennium, but then he could offer help to ameliorate the student numbers if Professor Morris would do something radical, otherwise he would allow Mrs Law to cut the student numbers as indicated in the Start Letter or even "worse". Professor Luk understood what Professor Li wanted was for HKIEd to be part of CUHK in accordance with the Chung Chi model.

70. Professor Luk said Professor Morris had related to him and other senior staff members of Professor Li's demands for a merger, and Mrs Law's demands for the dismissal of colleagues who had criticised the Education Reforms or education policy and its implementation.

71. Professor Luk suggested that Professor Li often expressed in meetings a strong personal wish for HKIEd to merge with CUHK. Like Professor Morris, Professor Luk objected to a full merger as his vision was for HKIEd to acquire an independent university status.

72. Professor Luk alleged that UGC was acting under the influence, if not the instructions, of EMB. He said the drop in the B Ed (Primary) places from 1,330 to 1,050 in the Second Start Letter, and the overall 15% reduction of the student numbers in the "Allocation Letter" dated 7 May 2004 (which was, according to Mr Stone, the "Allocution Letter") could not be justified on demographic grounds. Professor Luk said the drop in the part-time C (ECE) places to 200 for 2005/06 and 2006/07, and then to zero for 2007/08, and the more recent suggestion of no provision for B Ed in Arts, Music and PE were part of the punishment imposed by EMB.

73. Professor Luk emphasized the pressure arising from HKIEd's failure to attain university status, the student numbers cut, the need to submit tenders in times of UGC budget cuts despite the unreasonable terms amounting to infringement of academic freedom, and the attempts to entice its good staff to leave.

74. Professor Luk described the telephone conversation he had with Professor Li on 29 June 2004 at about 5:30 to 6 pm. According to Professor Luk, once he identified himself as Acting President, Professor Li immediately demanded him to issue a statement to condemn the surplus teachers who planned to stage a hunger strike and PTU for supporting them. When Professor Luk refused, Professor Li said, "You're not willing to issue the statement? Fine! (你唔肯出吖嗎? 好!) I'll remember this. You will pay!".

75. Professor Luk told the Commission that Professor Li made the comment with such force and anger that he was shocked and frightened. However, he was able to remember the words and the tone used. Professor Luk said he did not understand why Professor Li was angry, but associated his remark with his earlier threat about cutting student numbers. Professor Luk said he reported the incident to Professor Morris subsequently.

76. Professor Luk said Mrs Law was an extremely dominating person intolerant of differing views, and had often levelled unjustifiable and derogatory remarks about HKIEd. Professor Luk mentioned a lunch meeting in Toronto on 23 May 2000 held by a Government delegation visiting Canada. He said Mrs Law asked him to tell her something bad about Hong Kong teachers and when he said Hong Kong teachers worked very hard, Mrs Law responded by saying, "but they are all so stupid".

77. Professor Luk alleged that there were occasions when Mrs Law openly suggested to certain well-performed staff members that they should leave HKIEd to join other more prestigious institutions. He also mentioned Mrs Law's suggestion that academics, including staff members of HKIEd, should stop writing articles to newspapers to the effect that teachers were overworked or projecting a negative image of teaching, so as to prevent further damage to the teaching profession's image.

78. Professor Luk repeated what Professor Morris told him about Mrs Law's frequent demands for the dismissal of staff with particular reference to Mr Ip, Dr Lai, Professor Cheng and Dr Wong and her requests for Mr Ip and Professor Cheng to be put on the VDS and CRS lists. Professor Luk confirmed that Mrs Law mostly targeted Mr Ip and Professor Cheng because of their critical views about the Education Reforms or education policy and its implementation. For reasons unknown to him, these calls did not happen after mid 2005.

79. Professor Luk explained his reasons for publishing the Letter. He said some Council members were smearing senior management of HKIEd and, in particular, Professor Morris. Professor Luk emphasized the unhappy and unjust events in his dealings with EMB, and the unfair and unprofessional presidential selection process.

80. Professor Luk told the Commission that after he and Professor Morris both left HKIEd, there would be no one left to defend its autonomy and it was therefore necessary for him to expose the situation before his departure. He said he was not keen on staying at HKIEd as he had alternative arrangements, but he wanted HKIEd to remain

autonomous.

81. Professor Luk insisted that merger was just Professor Li's own agenda as the Government, through the CE and other senior officers, had indicated that there was no policy to merge HKIEd with another HEI. Yet Professor Morris was unjustifiably smeared and not re-appointed because of his steadfast attempts to uphold his conviction and dignity, and the autonomy of HKIEd.

82. Professor Luk, in answering questions from Ms Wong SC, confirmed that when he joined HKIEd in September 2003, HKIEd was already having difficulties because of budget cuts. Nevertheless, his main concern was for HKIEd to attain self-accrediting status and to become a university of education. Although he negotiated with CUHK collaboration and explored federation, HKIEd always rejected a full merger. He said he was prepared to negotiate with CUHK on such basis, knowing Professor Li wanted a full merger, as he was hoping that Professor Li would be satisfied with a federation arrangement. Moreover, he was aware that staff in the Faculty of Education of CUHK were opposed to the idea of merger.

83. Professor Luk said the relationships between HKIEd and certain EMB senior officials were difficult, particularly after the release of the LPAT results. He suggested that EMB had not briefed the media properly about the LPAT results despite an earlier agreement to do so. Professor Luk said at a meeting with Professor Li on 3 January 2004, he formed the impression that Professor Li was a forceful person and would not take "no" to his request. He also said HKIEd, not being EMB's favourite, had difficulty with EMB's top level. He suggested that EMB through UGC had tried to delay the IR.

84. Professor Luk said despite Professor Li's threat to cut the student numbers, all they could do was to adopt a wait-and-see attitude. He said other than disclosing the incident to Professor Moore and Ms Ma, they did not spread it for fear of a panic when HKIEd was still recovering from VDS and CRS. Professor Luk said he kept no record of the conversations because he was "too lazy".

85. Professor Luk mentioned the occasions when Professor Morris received telephone calls from Mrs Law seeking dismissal of staff members of HKIEd. He said he was only able to fix dates to four occasions although there were other occasions when Mrs Law made those calls. Professor Luk confirmed that Mrs Law mostly mentioned Mr Ip and Professor Cheng, although she also mentioned Dr Lai's name once.

86. Professor Luk said when Professor Morris told him about Mrs Law's demand for Dr Wong's dismissal, he did not ask for details as he recognized Mrs Law's pattern of mentioning a name of a person and then asking for his dismissal.

87. Professor Luk suggested that in 2004, HKIEd graduates did not have difficulty getting employment, and therefore PAP was not seriously affecting them. Professor Luk was referred to press reports showing that Dr F Cheung supported the new teachers, and viewed PAP as unfair. He was also referred to HKIEd's press release that it, in principle, supported and endorsed the Ombudsman's recommendation of a fair chance for both surplus teachers and new teachers to compete for employment.

88. Professor Luk, however, disagreed to the suggestion that HKIEd was siding with new teachers against the interest of surplus teachers, at least "not to the extent of having to condemn them". Professor Luk said he could not explain Professor Li's "quick response" and "outburst" when he refused his request to issue a statement to condemn surplus teachers and PTU.

89. Professor Luk admitted that he only disclosed Professor Li's "outburst" to his wife and Professor Morris, and not to anyone else, not even to senior staff members at the meeting on 30 June 2004, as it was a private conversation. He said although he was just the Acting President, he saw no need to share the details of the conversation with other colleagues so long as they knew there was such a telephone call. Professor Luk agreed that Professor Li's "outburst" was an isolated incident and might not be related to the merger issue, but was part of the

general pattern of exerting pressure on, and his contempt for, HKIEd.

90. Professor Luk disagreed to the suggestions that over the telephone, Professor Li simply asked HKIEd to support the cessation of PAP on 30 June 2004 and to continue to endorse the findings of the Ombudsman as it did in the earlier press release; that Professor Luk refused to do so because of a pre-existing understanding with PTU; and that he discussed the press release of PTU at the senior management meeting on 30 June 2004 because he wanted HKIEd to adopt a position that would pacify PTU.

91. Professor Luk further explained that he published the Letter because he wanted to address the merger issue and the attempts by outside Council members to vilify and smear Professor Morris. He said it was Dr Leung who linked the merger issue with the presidential selection.

92. Despite Dr Leung's declared position as indicated in various documents, including minutes of Council meetings and public announcements, Professor Luk insisted that Dr Leung wanted a full merger with CUHK, and the merger issue was linked to the presidential selection. Professor Luk identified media reports showing how Dr Leung's support for a merger led to an uproar, and how Dr Leung had to clarify his position. Professor Luk suggested that on the merger issue, Dr Leung's position shifted from time to time, depending on whom he last talked with.

93. Professor Luk complained about the presidential selection process, saying it was unfair and not conducted in accordance with earlier Council resolutions. He pointed out that the Review Committee, appointed in April 2006, consisted of five members including two staff members. However, the Review Committee did not meet until September 2006, when Dr Leung excluded the two staff members from taking part in interviews of stakeholders on the basis that their presence might inhibit exchanges of views.

94. Professor Luk insisted that Professor Morris was not re-appointed because of his refusal to support a merger. His hypothesis was that Dr Leung wanted to replace a non-compliant President with a more compliant one, so that the President and the Council Chairman together could push successfully for a merger.

95. Professor Luk denied that he had tried to mislead the public on the identity of the Government official whom he claimed to have asked Professor Morris to dismiss staff of HKIEd.

96. When asked to comment on a colleague's impression of him as "quite openly antagonistic to Government with a view that Government was wrong as a matter of definition", Professor Luk said he did not know the basis of such judgment, and it was nonsense.

97. Professor Luk insisted that at the lunch meeting in Toronto on 23 May 2000, he was seated next to Mrs Law when she made the comment that "Hong Kong teachers are all so stupid" even when confronted with the seating plan which did not have his name on the table headed by Mrs Law. It was later pointed out that two or three guests at Mrs Law's table did not turn up.

98. Professor Luk agreed that he was mistaken when he said it was a free-seating lunch. However, he was able to remember the Italian gentleman to the left of Mrs Law as Mr Ermanno Pascutto, who had worked in Hong Kong and was known to his cousin. Professor Luk said he had a short chat with Mr Pascutto after Mrs Law left. Professor Luk said he knew most of the guests in Mrs Law's table, but could not remember if he was sitting with them at the same table.

99. Mr Yu SC took Professor Luk to the notes made by Ms Ma of what happened at some senior management meetings of HKIEd. Professor Luk said those notes accorded broadly with his memory of the events. Professor Luk insisted that he had prior knowledge that Dr Lai was a collaborator of the seminar on SCT on 29 October 2002. He said Dr Lai told him so and he had also come across publications by both Mr Ip and Dr Lai on SCT. Professor Luk confirmed that he had informed

Professor Morris that Dr Lai was distributing pamphlets at the seminar on 29 October 2002. However, he did not tell Professor Morris that Dr Lai was also a collaborator of the SCT seminar on 29 October 2002.

100. Professor Luk said he was not sure if Mrs Law gave a reason for wanting Mr Ip or Professor Cheng to be dismissed and it was just an inference that he drew. He said he was unable to understand why Mrs Law targeted Dr Wong.

101. Professor Luk insisted that after the telephone call from Professor Li on 21 January 2004, he discussed with Professor Morris the Chung Chi model that Professor Li had mentioned and that something had to be done before UGC issued the Allocation Letter. He insisted that there was no logical foundation for the unprecedented cuts and that EMB had clearly targeted HKIEd.

102. Professor Luk was questioned about a letter dated 30 June 2004 from Dr Ng, thanking him for the position he had adopted in the PAP dispute, namely for not issuing a statement to condemn the surplus teachers. Professor Luk said the reference in the letter that HKIEd and PTU would not "step" on each other was a long-term understanding and was unrelated to the PAP issue.

103. Professor Luk said he did not consult his colleagues before refusing Professor Li's request to issue a statement to condemn the surplus teachers and PTU because of a general consensus in senior management that HKIEd would not alienate either the surplus teachers or the new teachers.

104. Professor Luk agreed that he brought up the AOB items at the senior management meeting on 30 June 2004, leading to the decisions that "there have been misquotes on press interviews with Dr F Cheung (on Sing Tao Daily) and telephone conversation between EMB and Ms Ma, and subsequently a rumour that HKIEd has issued a statement on opposing the hiring freeze (PAP), which has not happened at all".

105. However, Professor Luk could not remember if there was any basis for suggesting that Dr F Cheung had been misquoted, but claimed that he had been briefed to that effect. He admitted that Dr F Cheung was not present at the meeting but did not know if Dr F Cheung had been asked if Sing Tao Daily had misquoted him.

106. Professor Luk drew a distinction between publishing a statement condemning the surplus teachers and a statement opposing PAP in principle. He said if Professor Li had asked him to issue a statement opposing PAP, he would have discussed with him further. When asked why he stated in his Letter that the surplus teachers were protesting against the Government for failing to help them to transfer to other posts instead of stating the true picture that they were seeking an extension of PAP, Professor Luk said that issue was not foremost in his memory when he wrote the Letter.

107. Professor Luk said he had no complaints against Council members who had voted against re-appointing Professor Morris although three of them were new members and some of the votes could have been based on directions of Council officers.

108. Professor Luk referred to the objectionable terms in the tender contracts from EMB. He said he did not know if contracts obtained by other institutions from EMB contained similar terms.

<u>Dr Simon Ip Sik-on</u>

109. Dr Ip mentioned media reports of Professor Li's comments as SEM designate about institutional mergers, which gave rise to considerable disquiet within the Council, senior management, staff and students of HKIEd.

110. Dr Ip said he had a meeting with Mr Tung on 16 May 2002 on merger of HEIs for fiscal reasons and his impression was that merger of HKIEd with another institution was just a very initial idea, which needed to be fully considered. Dr Ip then had lunch with Mrs Law in June 2002 to discuss the merger and other issues. Before the lunch, he sent

her a copy of the HKIEd Council's response.

111. On 19 July 2002, Dr Ip initiated a lunch with Professor Li, which was also attended by Mr Chan and Mr Wu, and they discussed the merger issue. Dr Ip said the clear message from Professor Li was that merger was going to happen. Dr Ip repeated Professor Li's words that merger was not his idea, but as Mr Tung had decided to merge HKIEd with CUHK, the parties had better co-operate, even knowing his former colleagues at CUHK were not keen at the idea. Professor Li further said the merger proposal was not motivated by financial reasons, but he could not state what good reasons could argue in favour of a merger. If HKIEd did not agree, it would be "raped", meaning it would be forced upon it. Dr Ip said it was an inflammatory use of language or an unfortunate choice of metaphor, but he did not understand it to mean that HKIEd would be made unviable.

112. Dr Ip said he was surprised at Professor Li's remarks as they were different from Mr Tung's declared position. He was inwardly annoyed as it was a very abrupt notice of a Government decision to merge HKIEd without any sensible, intelligent, or substantive discussion beforehand, and seemed to be a fait accompli. Dr Ip said he related to Professor Morris what Professor Li said at the first available opportunity, possibly shortly after 14 or 15 August 2002 and not later than 23 August 2002.

113. However, when Professor Li came before the HKIEd Council to explain his position on 28 November 2002, he talked, not just on a merger, but integration and collaboration, which was very different from what he said at the July lunch. Dr Ip said there was some confusion as to what the Government really wanted. Dr Ip said the Government had been supporting HKIEd for over ten years and if there were to be a sudden change, the Government should properly explain.

114. Dr Ip said he complained to Professor Li about negative comments of senior Government officials about HKIEd as reported in the media, including the remark allegedly made by Professor Li that HKIEd was a third-class university. EMB subsequently denied that Professor Li had made such a remark.

115. Dr Ip said he had no recollection of any briefing by Professor Morris of Mrs Law's attempts to get him to dismiss staff members of HKIEd. He said if it happened, he would expect to be informed. Dr Ip said until 24 April 2003 when he stepped down as Council Chairman, he had not heard anything in the nature of the Second Allegation.

116. Dr Ip said the merger issue was one of the reasons why he did not want to be re-appointed as it was a time consuming, difficult and controversial issue. Dr Ip said Dr Leung was a logical and worthwhile successor to take his place.

117. Dr Ip agreed that at the discussions with Mr Tung and Professor Li about merger, the term was not clearly defined, but he took it to mean a full merger. Neither did Professor Li expressly say what type of merger he was referring to.

118. Dr Ip said Professor Li did not advance any good reasons for a merger at the July lunch. He disagreed to the suggestion that Professor Li was just floating the idea and trying to stimulate a response. Dr Ip said Professor Li had clearly stated that Mr Tung had made a decision and that the parties had better co-operate. Dr Ip emphasized the contents of the note that he made of the meeting, namely "C H Tung has decided to merge CUHK and HKIEd. He [meaning Professor Li] denied that it was his own idea … Tung wants to show himself as a strong leader and come up with some decisive action". Dr Ip was adamant that there was no discussion about "deeper co-operation" and that Professor Li did use the word "rape", which to him was relevant and important to the extent of showing the intention or attitude of the Government.

Professor David Grossman

119. Professor Grossman was one of the 18 Academic Board members who in a joint letter alleged that the appointment of the President had been entangled with the merger issue. He said the information was obtained from Dr Leung at the "heart-to-heart" talk on 28 September 2006, and from colleagues at CUHK.

120. Professor Grossman suggested that the presidential selection process was a device to put in a leadership that would bring forward a merger, ostensibly by Dr Leung, but at the instigation of Professor Li. He said Dr Leung, contrary to Council policy, sincerely believed that HKIEd would not survive without a merger because of pressure from Professor Li. Professor Grossman said the pressure to merge had been quite openly talked about among senior management of HKIEd since 2004, although he did not have any first-hand knowledge.

121. Professor Grossman told the Commission that he heard of Mrs Law's demands for the dismissal of staff members of HKIEd, particularly after the principals' conference in March 2004, and for the inclusion of Mr Ip and Professor Cheng in VDS and CRS because of their involvement in the SCT seminar. Mrs Law had suggested to Dr Heung to leave HKIEd. Professor Grossman said he also heard of Mrs Law's remarks about HKIEd keeping some people and allowing others to leave.

122. On cross-examination by Mr Lee SC, Professor Grossman said that at a dinner with the former Dean of the Faculty of Education at CUHK, the former Dean told him that in his first meeting with Professor Li, who was then VC of CUHK, the first thing Professor Li said to him was "when are we going to take over HKIEd?" Professor Grossman also asserted that at the First Retreat in 2004, Dr Leung used the phrase "death by a thousand cuts" in association with what might happen if HKIEd did not merge, and that was a full merger.

123. Professor Grossman, as one of the staff members in the Review Committee on presidential selection, complained about the delay in the review procedure and the decision to exclude staff members in the interviews with stakeholders. He said the decision was improper, despite the advice from lawyers to the contrary, and therefore the decision on the presidential selection was unfair. However, Professor Grossman made no allegation that the voting members of the Council had not acted in the best interest of HKIEd or independently. He suggested that if proper procedure had been followed, the result of the presidential selection could have been different.

124. Mr Fung SC, for HKIEd, took Professor Grossman through various documents and minutes of meetings showing that proper steps had in fact been taken in connection with the operation of the Review Committee. It was suggested that the delay in the review procedure was partly due to the time for Professor Morris to consider if he wished to be nominated and the non-availability of members of the Review Committee at different times.

Professor Magdalena Mok Mo-ching

125. Professor Mok was Mrs Law's schoolmate from 1965 to 1972 when they attended St Mary's Canossian College and they had been friends ever since. Professor Mok said they had kept contact and Mrs Law would sometimes consult her on education matters. Professor Mok said she thought highly of Mrs Law and considered her a most able, intelligent, hardworking and gracious person.

126. Professor Mok alleged that some time in 2004 or 2005, Mrs Law telephoned and asked her to dismiss Mr Ip because he had written articles against EMB initiatives and "was doing it again". Professor Mok said Mrs Law was very angry and commented, "Someone who made accusations without proof was not a real academic and did not deserve to be a professor."

127. Professor Mok said Mrs Law did not specify which article(s) she was referring to. Professor Mok believed it was likely to be the article entitled "Loose Talk" published in Sing Tao Daily on 7 January 2004 in which Mr Ip talked about the teachers' plight brought about by the Education Reforms or education policy and its implementation.

128. Professor Mok said she was afraid and shocked at Mrs Law's demand, and was only able to point out that (a) she had nothing to do with Mr Ip; (b) she was not Mr Ip's superior at work; and (c) she was not in the same department as Mr Ip, and in any event a due process had to be followed to dismiss a staff member. Mrs Law then said at least Mr Ip should not be promoted. Mrs Law further indicated she did not want to go direct to Professor Morris, but if Professor Mok did not "fix" (處理) Mr Ip, she would do so.

129. Professor Mok said she subsequently told Mr Ip about the telephone call from Mrs Law. She also told her superior and Dr Mak, her colleague.

130. Professor Mok also mentioned Mrs Law's attempt to have access to her papers on a research project on "self-directed learning of secondary students" that she had submitted to UGC with her research associates for a grant. Professor Mok suspected that when she rejected Mrs Law's request, Mrs Law tried to obtain her papers in the name of EMB through UGC. Professor Mok was apprehensive that her refusal to submit to Mrs Law's demand might somehow jeopardize her future opportunities in getting grants from UGC.

131. Professor Mok agreed that Mrs Law was angry because Mr Ip published a private conversation in which Mrs Law accused him of engaging in "loose talk". Professor Mok denied that she was sensitive and had overreacted. She also denied that she had embellished her evidence to make it more damaging to Mrs Law by omitting part of the evidence and by emphasizing that Mrs Law was serious about her request to have Mr Ip "fired". She considered that Mrs Law's approach was an infringement of academic freedom and an interference with institutional autonomy.

132. Professor Mok emphasized that Mrs Law's attempt to get her papers through UGC after her refusal was objectionable, although Mr Stone had clarified the matter. She agreed that there was little trust between staff members of HKIEd and EMB or UGC.

133. Professor Mok agreed that when she met Mrs Law in a group of school friends, they would be less guarded in what they would say to one another. She said she had considered long and hard before deciding to give evidence against Mrs Law because of the conflict between friendship and the duty to speak the truth as a citizen. She disagreed to the suggestion that if the word "fire" or similar word was mentioned, it was not used seriously and was said out of agitation and frustration.

Dr Grace Mak Chiu-ling

134. Dr Mak, Professor Mok's colleague, mentioned the incident when Professor Mok told her of Mrs Law's request to have Mr Ip "fired" because of article(s) that he had published. Both of them expressed surprise and indignation at such request as Mrs Law must have realized that it was wrong to make such a request. Dr Mak was unable to remember when the event took place, but believed it was not long after Professor Mok received the call from Mrs Law.

Ms Katherine Ma Miu-wah

135. Ms Ma had frequent contacts with senior management. Ms Ma had no direct contact with Professor Li or Mrs Law, but only heard of them from reports by senior management.

136. Ms Ma said the merger issue had been going on when she joined HKIEd in August 2002 and it still persisted when she left in November 2006. Ms Ma said in early 2003, Professor Morris mentioned a meeting in July 2002 between Professor Li, Dr Ip and two Council members, and how Dr Ip and the Council members felt "fed up" with the Government's "bullying".

137. Ms Ma also mentioned the Retreats in which Dr Leung expressed a strong view for urgent and fundamental changes, including a merger. Ms Ma said Dr Leung's view attracted criticisms from other participants. Ms Ma disagreed to the suggestion that Dr Leung was just floating ideas with room for further negotiations. She said Dr Leung's inclination towards a merger was obvious.

138. Ms Ma opined that despite the consensus reached at the Retreats and the signing of the DCA, Dr Leung was still inclined towards a merger as demonstrated by his saying to the media at the Graduation Ceremony on 18 November 2005 that one way of achieving university status was for HKIEd to merge.

139. Ms Ma said from her observation, she believed Dr Leung was under pressure from the Government, and in particular, Professor Li to initiate a merger. Dr Leung, when asked if he had to clarify his earlier statement on whether he had changed his stance against a merger, said there was no need to do so. However, when confronted by the students' objection, Dr Leung then suggested that the media had misunderstood him in reporting that he favoured a merger, and reconfirmed his support for HKIEd's quest for university title.

140. From the notes she made, Ms Ma said Professor Morris had mentioned the following incidents when pressure was put on Professor Morris to merge HKIEd with CUHK:

(1) On 29 March 2006 at the Hong Kong Club, Professor Li, in the presence of Dr Leung and Mr Pang, told Professor Morris that he had a meeting with Mr Tsang. Professor Li further said that Mr Tsang was critical of HKIEd and had proposed three options for HKIEd, namely a merger, becoming a postgraduate school or closing down.

(2) At the Hong Kong Club dinner on 17 April 2006, Professor Lau proposed a merger. Professor Morris said such proposal was open to three interpretations, (a) CUHK genuinely preferred a merger; (b) CUHK was acting under pressure

from Professor Li; and (c) CUHK did not expect HKIEd to agree and therefore CUHK would not be blamed for the unsuccessful outcome.

(3) On 8 May 2006, Professor Li told Professor Morris Mr Tsang's wish of a merger and Dr Leung also said if Professor Morris did not agree to a merger, his re-appointment as President would be at stake.

(4) On 10 May 2006 at a dinner with Dr Leung in which Mr Pang, Dr Cheng and Professor Lau were present, Professor Lau suggested that CUHK would focus on the graduate school and HKIEd would focus on undergraduate studies. Dr Leung and Mr Pang talked about the Federation Model but conceded when CUHK discreetly said no. According to Professor Morris, Dr Leung again indicated to him that a condition for his re-appointment was his willingness to facilitate a merger. Professor Morris said he did not agree and would not resign and if the Council decided not to re-appoint him, they would have to explain.

(5) Around 10 June 2006, Dr Leung suggested, in accordance with Professor Li's wish, that Professor Morris should announce a merger plan and if he did, Dr Leung would support him, otherwise Dr Leung would also step down from the Council when his term expired in April 2007.

(6) On 20 June 2006 in the presence of Mr Pang, Dr Leung told Professor Morris that according to Professor Li, a merger was what Mr Tsang wanted and confirmation could be obtained from the CE's office. Dr Leung then arranged a meeting with Mr Tsang.

(7) Around 14 September 2006 at a dinner with Dr Leung and Mr Pang, Dr Leung mentioned that the Government and not just Professor Li was in favour of a merger and that it would be pushed after the Election of the CE in March 2007. Dr

Leung also mentioned that the presidential selection process would be engineered to a conclusion of having to go for an open search.

141. According to Professor Morris, when reporting on his meeting with Mr Tsang, Dr Leung said Mr Tsang was positive after hearing his explanations that teacher education was a problem in Hong Kong and not just that of HKIEd, and that merger would only relocate the problem rather than solving it. However, the record of the meeting prepared by the CE's Office appeared to be different from Dr Leung's report.

142. Ms Ma confirmed Professor Morris's determination that he would not lead a merger and would be prepared to step down if a merger was forced upon him. Ms Ma mentioned the "heart-to-heart" talk after the Council meeting on 28 September 2006 when Dr Leung said his prediction of "death by a thousand cuts" was proved right. Dr Leung also said Professors Morris and Luk had personality problems, leading to a bad relationship with the Government.

143. Ms Ma said Professor Morris had on several occasions told her of Mrs Law's requests to dismiss staff members of HKIEd. The two names most frequently mentioned were Mr Ip and Professor Cheng, with Dr Lai being the third name she heard. Ms Ma said she remembered Mr Ip and Professor Cheng very clearly, but not that much about Dr Lai. She admitted that what she knew about Dr Lai was just "guessing". She noted that instances of staff being named to be dismissed ceased to come to her knowledge from about December 2005.

144. Ms Ma also said after the principals' conference in March 2004, she also heard Professor Morris saying that EMB was not happy and a list of "punishments" for HKIEd had been drawn up. Professor Morris rejected Mrs Law's requests, but did not inform the staff members concerned and did not take the matter further as it was considered useless to complain to UGC or to the Council, although in or around January 2005, Professor Morris did bring the issue to Dr Leung's attention.

145. Ms Ma identified the notes she made of the meetings, the contents of which were broadly consistent with her evidence.

146. Ms Ma confirmed the incident in June 2004 when Professor Luk mentioned Professor Li's demand for HKIEd to issue a statement to condemn the surplus teachers and PTU. Despite being told that Professor Li was very angry, Ms Ma took the view that it was unusual for HKIEd to do so and they could only try to offer some other help. Ms Ma said she had no recollection of what was said at the senior management meeting on 30 June 2004.

147. Ms Ma also said Professor Luk did mention to her in 2003 about the conversation he had with Mrs Law in Toronto when she said "teachers in Hong Kong are all so stupid".

Dr Lai Kwok-chan

148. Dr Lai was one of the 18 Academic Board members who in a joint letter alleged that the appointment of the President had been entangled with the merger issue. Dr Lai admitted that he had no personal knowledge and it was Professor Grossman who told him about it.

149. Dr Lai said he was not involved in organising the seminar on SCT with Mr Ip and was only present on 29 October 2002 for about 20 minutes as one of the participants.

150. Dr Lai said he was one of the seven people taking part in the "heart-to-heart" talk after the Council meeting on 28 September 2006.

151. Dr Lai recalled Dr Leung saying that Professor Li had waited several days for HKIEd to come up with a proposal, but it didn't and was therefore excluded from "a big sum of money for ECE". Dr Lai said Dr Leung was upset and then talked about the negative development of HKIEd and its poor relationship with EMB. Dr Lai recalled Dr Leung saying that the relationship between Professor Morris, Professor Luk and senior EMB officials had developed to such a state that "both sides hated each other".

152. In the “heart-to-heart” talk, Dr Leung commented that both sides had a “siege mentality”, and that he was concerned about the performance of both Professors Morris and Luk, and then said Professor Li was easier than Mrs Law to communicate with although he “liked to fight and would fight to the end”.

153. Dr Lai told the Commission that Dr Leung mentioned the possibility of HKIEd becoming part of CUHK so that the Faculty of Education of CUHK could move to the campus of HKIEd and staff members of HKIEd could be involved in research projects of CUHK, although CUHK would likely object as they were in fact not eager to merge with HKIEd.

154. Dr Lai said he heard Dr Leung saying that HKIEd could not continue as it was and must look for a new course, meaning something more than deep collaboration with CUHK. Dr Lai said he did not hear Dr Leung mentioning the linkage of the presidential selection with the merger issue and he could not make that connection, although he would not be surprised if some of his colleagues would.

155. Dr Lai confirmed that Dr Leung had not said at the meeting that (a) HKIEd would have no future if it did not merge with CUHK; and (b) Professor Morris was the person blocking the merger.

156. Dr Lai mentioned the policy announced by Mr Tung in 1997 to have all primary and secondary school teachers to be graduates and thus the significant increase in FYFD places in the 2001-2004 triennium.

157. However, since 2002, there had been continued tension between EMB and HKIEd and to a lesser extent other TEIs. He said EMB was wrong in projecting a strong demand for part-time training places for serving teachers and in relying on untrained teachers to meet shortage.

158. Dr Lai pointed out EMB’s minimalist approach, driven by demographic factors and carried out by inexperienced civil servants, resulted in outdated projections for the 2005-08 triennium. Dr Lai said

EMB's micro-management and strong preference for new teachers in the three core subjects of English Language, Chinese Language and Mathematics had greatly influenced UGC's student allocation decisions in those KLAs, despite the absence of an appropriate methodology for projecting demand by KLAs. It also led to the implementation of the mandatory language proficiency requirements and a dramatic increase in the number of FYFD places in English Language at both the primary and secondary levels whereas the requirement for trained teachers in "non-core" subjects such as Arts, Music and PE was neglected.

159. According to Dr Lai, the need to meet the new demand for nursing in the 2004/05 roll-over year led to a reduction of B Ed (Primary) FYFD places and as HKIEd was the major provider of such courses and when the cut was applied on a pro-rata basis, HKIEd suffered a significant cut of 43 places as opposed to 5 for CUHK and 7 for HKU. CUHK and HKU were compensated by the new FYFD places for nursing programmes, HKIEd ended up being the only institution suffering an overall reduction in FYFD places.

160. Dr Lai said the planning process for the 2005-08 triennium was chaotic with the unprecedented issue of a Second Start Letter, which demonstrated that EMB played a dominant role in stipulating student numbers whilst UGC reacted passively to its advice. Dr Lai said there was no explanation for the reduction of 1,330 FYFD (Primary) places in the First Start Letter to 1,050 in the Second Start Letter.

161. Dr Lai pointed out that HKIEd suffered a total reduction of 14.3% in 2007/08 from the base year of 2004/05 with 77% of the cut being unrelated to the demographic factor.

162. Dr Lai emphasized that the reduction of 25 FYFD (Secondary) places in each year of 2005-08 meant that HKIEd was again the only institution given a cut in FYFD (Secondary) places. The need for HKIEd to contribute to all FYFDs for the joint programme in English and Education with Lingnan University meant a further cut of 20 FYFD places.

163. Dr Lai pointed out that HKIEd only trained 25% of secondary school teachers, yet it absorbed all the cuts in FYFD (Secondary) in the 2005-08 triennium. There were also significant cuts in PUCs and full-time PGDE numbers with no provision for senior year places as other institutions had. The emphasis on "core' subjects also meant a threat to "non-core" subjects, such as Arts, Music and PE, which traditionally had been HKIEd's areas of strength.

164. Despite the strong demand for part-time C (ECE) places which was a core part of HKIEd's programme, the First Start Letter suggested a reduction from 369 places in 2004/05 to 200 each for 2005/06 and 2006/07 and zero for 2007/08 and it was only after strong objection that EMB agreed to re-instate 200 places for 2007/08.

165. Dr Lai did not agree to the Government's explanation that the reduction in C (ECE) places was the result of policy target of upgrading kindergarten principals having been met. He pointed out that EMB in fact used the saving to fund tendered programmes on the basis that "provision of ECE programmes should not be monopolized by one institution" and that "diversity would be beneficial".

166. Dr Lai emphasized that such measure had never been adopted before and that it was a drastic move to take away such a large proportion of C (ECE) places from HKIEd whose core mission was to prepare childhood teachers.

167. Dr Lai gave detailed explanations of how the cuts to student numbers affected HKIEd. He emphasized that the reduction of B Ed (Primary) places from 1,330 to 1,050 in the Second Start Letter for the 2005-08 triennium, and the figures of 200 C (ECE) places for 2005/06 and 2006/07, and 0 for 2007/08 would affect HKIEd seriously as HKIEd was the major provider of Primary Education and ECE. Dr Lai pointed out that HKIEd, unlike other more established institutions, relied solely on Government support and the cuts to student numbers posed unbearable financial difficulties.

168. Dr Lai accepted that there was a reduction in student unit cost funding from UGC and admitted that there was a reason to justify each of the cuts, including a declining birth rate, declining new immigrant student numbers, removal of front-end loading and surplus teachers etc. However, Dr Lai pointed out that all the cuts occurred in the 2005-08 triennium causing serious funding difficulties to HKIEd and they could not be justified. Dr Lai concluded that if the deletion of all FYFD places for the "non-core" subjects continued, HKIEd would have to close down courses in Arts, Music, PE, Home Economics and Business Studies in 2008/09.

169. Dr Lai pointed out that the decision to reduce funding to HKIEd to finance other service providers came from EMB. Dr Lai was taken to various documents showing the response from EMB to each of the complaints that he had made. Dr Lai fairly conceded to some of the suggestions by Mr Mok SC, but insisted that what had happened to HKIEd since 2002 was unfair and had rendered it financially unviable.

170. Dr Lai said in the process of determining teacher education places, there should be adequate consultation with TEIs, and greater transparency in determining specific manpower requirements. Further, up to about 2002, TEIs sat on ACTEQ, providing an avenue of exchanging views with EMB.

Mr Ip Kin-yuen

171. Mr Ip worked at HKIEd between 1996 and 2006. He was seconded to ED between 1999 and 2000 when he came to know Mrs Law whom he kept in touch and developed a good relationship. Mr Ip considered Mrs Law a very intelligent, conscientious, hardworking, talented and enthusiastic Government official who would show her concern in every aspect of her work and held strong subjective views. Mr Ip said he respected Mrs Law a lot at one time.

172. In 2002 and 2003, Mr Ip worked at HKIEd's Department of Educational Policy and Administration under Professor Lee. Mr Ip said after the SCT seminar on 29 October 2002, Mrs Law telephoned the following day to accuse him severely for inviting Hon Mr Cheung as a speaker. She then asked Mr Ip for a copy of the video record of the seminar to enable her to better understand what took place at the seminar. Mr Ip refused and said he would prepare a summary on the seminar, which suggestion was accepted by Mrs Law although she was not too happy in accepting it.

173. Mr Ip said Dr Lai's name was not mentioned during the conversation and it had no adverse impact on his relationship with Mrs Law although they had less contact thereafter.

174. Mr Ip confirmed that Dr Lai was present at the seminar, but took no part in its preparation and he was not aware of any publication by Dr Lai on SCT.

175. Mr Ip said he had written a number of articles on the increased workload of teachers under the Education Reforms. However, Mrs Law held a different view and the two had an argument over the telephone on or about 15 December 2003. Mrs Law held that Mr Ip's argument had no foundation and was just "loose talk". She said that Mr Ip should be teaching others how to do "composition" in order to lessen their workload. She also accused Mr Ip of "shirking responsibility" ("推卸責任") before hurriedly hanging up.

176. Mr Ip then published the article, "Shirking Responsibility" ("推卸責任") on 18 December 2003 and another article "Loose Talk" on 7 January 2004. Mr Ip said he tried not to reveal Mrs Law's identity in the articles by only referring to her as "a friend" or "a friend from the Government", but Mrs Law would no doubt realize that the articles referred to her. Mr Ip said he, too, was very angry at Mrs Law's attitude and wanted to express his feeling to Mrs Law through the articles.

177. Mr Ip said he heard from different sources that EMB was not satisfied with him for his activities on SCT, and learned from Professors Luk and Mok that Mrs Law had exerted pressure to sack him. According to Professor Luk, at the end of 2005 or early 2006, Mrs Law telephoned

Professor Morris asking him to include his name in the VDS, meaning to terminate his service. Mr Ip was told in February 2007 that Mrs Law had on two occasions asked Professor Morris to dismiss him, the other occasion taking place after Mr Ip organised a seminar on SCT.

178. Mr Ip also mentioned the chance meeting with Professor Mok, who told him that Mrs Law had criticized him for the articles he published. From what Professor Mok said, he felt that Mrs Law wanted Professor Mok to "fix" him, meaning to dismiss him, but he was unable to remember the exact words used.

179. Mr Ip agreed that his relationship with Mrs Law had been very good, and Mrs Law was receptive to his ideas and supportive of some of the programmes he had organized, including writing a foreword in October 2002 for a book that he intended to publish and arranging discussions with EMB officials for two visitors from Shanghai.

180. But according to Mr Ip, after the telephone conversation with Mrs Law on 30 October 2002, they had less contact. It was not a friendly discussion, but a reprimand by Mrs Law. Mr Ip agreed that when he was seconded to ED, he provided a copy of his employment contract showing that he was on contract terms with HKIEd and as such was not entitled to join VDS. He also agreed that on reading his articles, she would know it was a disclosure of a private talk and she could be upset at it.

<u>Ms Doreen Cheng Siu-fong</u>

181. Ms Cheng confirmed the call from Professor Li on 21 January 2004. She said Professor Morris looked upset after the conversation and on being asked why, said HKIEd had to do something radical and to initiate a merger with CUHK, otherwise the student numbers would be squeezed.

182. Ms Cheng said Professor Morris also told her the following:

(1) At the HUCOM meeting on 4 April 2006, Professor Li told Professor Morris that he would step down as SEM in July 2007 and that Professor Morris would have to leave his job in September 2007, even though the presidential review process would only be discussed at the Council meeting to be held on 6 April 2006.

(2) At the dinner on 17 April 2006, Professor Li pushed for a merger and CUHK would only accept a full merger.

(3) On 10 and 16 June 2006, Dr Leung told Professor Morris that it would be difficult to re-appoint him if he did not agree to a merger.

183. Ms Cheng also confirmed the telephone call from Professor Li at the end of June 2004, asking to speak to the Acting President, Professor Luk. Ms Cheng said when Professor Morris was away, he could be contacted by mobile phone. She was unable to say if Professor Luk had tried to get in touch with Professor Morris at or around the time when Professor Li called at the end of June 2004.

Mr Michael Stone

184. Mr Stone, UGC's Secretary General since August 2003, seldom had direct contact with Professor Li, except at meetings with Dr Lam.

185. Mr Stone said Professor Li believed in the integration of HKIEd with other HEIs, in the long-term interests of teacher education provision and HKIEd, and advocated that it should move as far down the track of a merger as possible. When asked if Professor Li or Mrs Law had any negative sentiment towards HKIEd, Mr Stone said they had expressed frustration at the lack of progress in taking forward the DCA to achieve a merger.

186. Mr Stone disagreed to Professor Morris's suggestion that the Hong Kong Club dinner was devoted entirely to the discussion of a full merger. He said there were discussions on various ways for HKIEd and CUHK to work together. Mr Stone said Professor Li had a forceful personality and he was trying to push HKIEd and CUHK towards implementing the DCA, with the possible ultimate goal of a full merger after two triennia.

187. Mr Stone referred to a UGC meeting with Mr Tsang on 27 April 2006 in which Mr Tsang expressed concern about the quality of students attracted to HKIEd and its impact on the next generation. Mr Tsang suggested the option of turning HKIEd into a post-graduate institution, which suggestion was "resented" by HKIEd's senior management when put to them.

188. Mr Stone referred to the minutes of meetings of UGC and Dr Lam's statement as an aide-memoire in his evidence. The record of the meeting on 27 April 2006 showed that Dr Lam complained that HKIEd and CUHK had, up to that stage, only initiated a joint programme in English Studies and Education, and had not done much else. She had, together with Professor Li, told them that they had to make more substantial progress on collaboration. She made clear that simply maintaining the *status quo* was not an option and had given them three months to work out something substantive. Mr Stone agreed that there was no sanction when they did not.

189. Mr Stone denied the suggestion that UGC took "instructions" from EMB on its decisions, although the Administration, in providing UGC with specific manpower requirements of teachers, was sometimes going into great detail being "too prescriptive". Mr Stone denied the suggestion that the specific manpower requirements were presented to UGC as a fait accompli and he categorically denied that the intake of B Ed (Secondary) in Arts, Music and PE for 2008/09 was the result of "instructions" from the Administration.

190. Mr Stone went through the Second Start Letter to HKIEd containing variations from the first one for the 2005-08 triennium. He opined that the figures in the Second Start Letter were more rational, but had some difficulties in understanding the figures for C (ECE) places. It was an EMB decision and so was the decision to cut QKT places.

191. As for the reduction in PUC places, Mr Stone accepted that it was an EMB decision, but made with the agreement of HKIEd. He pointed out that PUCs should be outside UGC and run by EMB. It was because of EMB's insistence that PUCs remained within UGC's jurisdiction.

192. Mr Stone accepted that HKIEd was the only institution without any senior year places, but pointed out that UGC did not allow any senior year places to any TEI. It was UGC's policy decisions not to grant any RPGs to HKIEd, and to grant 15 FYFD (Secondary) to Lingnan University and 10 FYFD (Secondary) to HKU to the detriment of HKIEd.

193. Mr Stone confirmed that UGC had recently obtained agreement from EMB to allow 40 places in "non-core" subjects for the 2008/09 roll-over year, as a result of objections from the relevant sectors.

194. When asked by Mr Yu SC which areas would be best targeted if Professor Li wanted to create difficulties for HKIEd, Mr Stone suggested that they would be C (ECE), FYFD (Primary), and FYFD (Secondary) in "non-core" subjects of Arts, Music and PE.

195. Mr Stone agreed that the letter dated 30 April 2003 from Ms Cheung of EMB to Miss Wong of UGC suggested holding up the IR pending deliberation of HKIEd's future by the Administration.

196. Mr Stone confirmed that his draft briefing note for Mr Tsang's meeting with Dr Leung on 4 August 2006 referred to "some form of merger or federation was in practice the only way to guarantee a long term viable future for HKIEd", but when the briefing note reached Mr Tsang through EMB, it became "some form of merger was the only way …".

197. Mr Stone said Professor Morris accepted UGC's offer for the 2005-08 triennium after going through internal Government procedures, including the CE in Council. He also said HKIEd had written to the Chairman of the LegCo Panel on Education, and UGC was then invited to attend meetings to explain its position. The Panel accepted UGC's explanations and its proposals which were also endorsed by the LegCo Finance Committee after some minor compromise.

Dr Alice Lam Lee Kiu-yue

198. Dr Lam, Chairman of UGC between 1999 and March 2007, confirmed that Professor Li encouraged institutional co-operation to create a better education environment and that he favoured merger or deep collaboration between HKIEd and another HEI. She said whilst Professor Li would like to see a merger, he did not force a merger, nor made it a condition for continued Government funding.

199. Dr Lam referred to meetings with Professor Morris, Professor Li and Dr Leung when the questions of the IR and merger/deep collaboration were discussed. According to Dr Lam, the decision to carry out the IR was made in January 2003 and the panel of experts was scheduled to come to Hong Kong in April 2003. However, the SARS epidemic resulted in a delay until September 2003 and HKIEd obtained self-accrediting status in April 2004. Dr Lam denied any deliberate attempt to delay the process despite what appeared to be a request from EMB to hold up the procedure until the question of HKIEd's status was clarified.

200. Dr Lam agreed that it was unusual for UGC to issue two Start Letters. However, for the 2005-08 triennium, the manpower planning needed to be sorted out with EMB and it was decided that the Start Letter would be issued first. A revised guideline was sent to each of the HEIs subsequently. Dr Lam emphasized that EMB did not give instructions to UGC, but would set out manpower requirements covering multiple disciplines, including teachers.

201. Dr Lam confirmed the signing of the DCA between HKIEd and CUHK in July 2005, which ruled out a full merger for two triennia.

202. Dr Lam referred to the Hong Kong Club dinner on 17 April 2006 and said the whole ambience and atmosphere was to listen to views from both sides. She remembered Professor Morris talked a lot about the Federation Model, citing the Columbia Teachers College and Columbia University as an example and explaining its features. Dr Lam said others also expressed their views on the modes of future co-operation between HKIEd and CUHK. However, nothing concrete came out of the meeting and they were given another three months to work out something substantive.

203. Dr Lam said as the DCA had been signed for nine months, yet HKIEd and CUHK had come up with very few concrete proposals and they were therefore encouraged to do more. She said if HKIEd and CUHK were able to come forward with substantive milestones, she was prepared to "ringfence" necessary resources for teacher education.

204. Dr Lam denied Professor Morris's suggestion that the Hong Kong Club dinner discussion was devoted to a full merger. Dr Lam mentioned the meeting with Mr Tsang on 27 April 2006 to update him on the DCA. She said Mr Tsang was concerned and insisted that the two institutions should come up with something more.

205. Dr Lam also referred to meetings she had with Professor Morris, Professor Lau and other senior management of the two institutions on their collaboration proposals.

<u>Dr Angela Cheung Wong Wan-yiu</u>

206. Dr Cheung, a former Council member, mentioned the Council meeting on 28 November 2002 when Professor Li presented the advantages of mergers of HEIs, with particular reference to a merger of HKIEd with CUHK. Dr Cheung said the term "merger" was used loosely and Professor Li actually also talked about institutional collaboration and co-operation.

207. Dr Cheung said at the Retreat on 24 April 2004, Dr Leung emphasized the importance of a merger with CUHK, as proposed by Professor Li, and that if HKIEd did not agree, it would suffer greatly ending in a painful death. Dr Cheung agreed that Dr Leung had also mentioned other forms of collaboration, but his emphasis was on merger and it created significant anxiety amongst people attending the Retreat. Dr Cheung said she specifically raised the issue with Dr Leung.

208. Dr Cheung said at a meeting on 31 October 2006, Professor Morris told her that Dr Leung had indicated if he objected to a merger, his contract would not be renewed.

209. On the relationship between EMB and HKIEd, Dr Cheung hoped HKIEd would receive greater understanding and greater cooperation, and teacher education be given greater respect. In this regard, more respect and priority should be given to HKIEd for what it was expected to undertake by statute.

Professor Phillip J Moore

210. Professor Moore repeated Professor Morris's complaint about Professor Li's demand in early 2004 for a merger or else there would be cuts to student numbers. Professor Moore was unable to say when it took place, but he remembered distinctly the reference to "Professor Li, Merger and Cuts".

211. Professor Moore said he met Professor Li in the morning following the principals' conference on 19 March 2004 when Professor Li made unflattering remarks about the quality of HKIEd graduates.

212. Professor Moore said at or around the same time, Professor Morris informed him of Professor Li's displeasure at the principals' conference and he had to make sure that comments relating to the principals' conference did not appear at HKIEd's website.

213. Professor Moore was involved in IR, initially planned for June 2003, but was delayed because of the SARS outbreak. Professor Moore said senior management was concerned that Professor Li was instrumental in a delay of the IR by linking it to merger.

214. Professor Moore was involved in the discussion of the DCA with CUHK. Professor Moore said Professor Morris told him about rumours that Professor Li wanted a merger clause in the DCA and that Professor Morris's re-appointment was linked to the merger issue. He said CUHK objected to the Federation Model and was only interested in a merger, including a plan to move HKIEd to CUHK's campus in Shatin. Professor Moore said the previous VC, Professor King, and the current VC, Professor Lau, gave him the impression that the end point of their discussions would be a full merger.

215. Professor Moore mentioned a meeting with Mrs Law on programmes sponsored by EMB. He said HKIEd only managed to obtain $30 million and not the expected $60-$100 million. He said when he told Mrs Law that he could not guarantee what students would do as they had already staged a protest, Mrs Law stood up, walked to the door and slammed the door at him.

216. Professor Moore also repeated, as second-hand or third-hand information, the many occasions when Professor Li was said to have promoted a merger with CUHK. Through contact with different VCs and Pro-VCs of CUHK, he realized CUHK aimed at a full merger. Professor Moore confirmed that at the First Retreat, Dr Leung emphasized the importance of having a merger with CUHK; otherwise HKIEd would "suffer death by a thousand cuts". Professor Moore opined that Dr Leung was Professor Li's messenger on merger. Professor Moore also repeated some of the complaints with regard to the cuts to student numbers, and presidential selection procedure.

Professor Lawrence J Lau

217. Professor Lau confirmed his presence at the Hong Kong Club dinner on 17 April 2006. He said the conversation related to various possible modes and areas of deep collaboration between CUHK and HKIEd, including taking stock of the five additional areas set out in a joint letter addressed to Dr Lam on 19 April 2006. Professor Lau said the contents of Professor Morris's letter to Professors Luk and Moore dated 9 October 2006 relating to what was supposed to be the gist of the discussion at the Hong Kong Club dinner was incorrect.

218. Professor Lau said he had no recollection of any discussion of merger as defined in the Niland Report and emphasized that the DCA positively excluded a merger for two triennia. Professor Lau denied Professor Morris's account of what happened at the dinner.

219. Professor Lau was referred to the draft brief for Mr Tsang in which reference was made to the Hong Kong Club dinner. Professor Lau said he had no recollection of the suggestion that maintaining HKIEd's *status quo* was not an option or that some form of merger or federation was in practice the only way to guarantee a long-term viable future of HKIEd although the Federation Model was discussed. Professor Lau said he had not heard of the three months' period in which CUHK and HKIEd had to revert to the UGC Chairman/SEM about the roadmap and the final arrangements.

220. Professor Lau told the Commission that CUHK did not want to merge with HKIEd and was only willing to help to explore arrangements if they would help to improve teacher education in Hong Kong. Professor Lau emphasized that both CUHK and HKIEd wanted to have separate budgets, separate research assessment and separate external assessment and a merger in the Niland sense was inconsistent with such aspirations. Professor Lau referred to the correspondence between CUHK and HKIEd confirming their willingness to explore forms of collaboration other than a full merger.

221. Professor Lau said he was not aware of Professor Li's desire for a merger of HKIEd with CUHK, although he was broadly supportive of the DCA and his position was well known.

222. Professor Lau said the meeting with Professor Morris on 22 July 2004 was just a courtesy call he made to Professor Morris after he became VC, CUHK on 1 July 2004. He said he made known his personal position that for anyone to get a CUHK degree, CUHK would need to exercise control over quality assurance and if CUHK were to have such responsibility, it would need more authority.

223. Professor Lau emphasized that the scope of the Federation Model could be very broad and any such arrangement with HKIEd must be premised on CUHK being able to control the quality of the programmes, as it was meaningless to permit the use of CUHK's name without any actual input from CUHK. He said he would not allow CUHK to issue nominal degrees without any added value from CUHK and that CUHK's responsibility must be commensurate with its authority.

224. Professor Lau said the loose Federation Model proposed by HKIEd only provided CUHK degrees to HKIEd's students without sufficient safeguards to bring lasting benefits and was therefore not acceptable to CUHK.

225. Professor Lau informed the Commission that up to November 2006, CUHK and HKIEd were still revolving around what kind of Federation Model that HKIEd was prepared to accept, and they had not been able to reach agreement.

226. Professor Lau accepted that the contents of the letter to the UGC Chairman dated 19 April 2006 had been agreed upon before the dinner on 17 April 2006 although it was only signed two days later. He was however adamant that part of dinner was devoted to the discussion of the contents of the letter.

227. In response to questions by the Commission, Professor Lau acknowledged that institutional autonomy of HEIs with regard to their further or future development was highly controversial when there was a conflict between institutional autonomy and public interest.

228. Professor Lau agreed that public-funded HEIs must be responsive and responsible to society and when there was a conflict, there would be difficulties although he took the view that in the long term, what was good for HEIs was also good for the public and vice versa. Professor Lau suggested that the short-term conflicts would best be resolved with flexibility during the transitional period by providing extra resources for the transitional arrangements.

229. Professor Lau agreed that it would be difficult to persuade HEIs to merge even if it was in public interest to do so because of vested interests. He suggested that if one really wanted to sell it, one had to go out to sell it to the students, to the faculty members and tell them what benefits would accrue, even though much later. One further had to be practical and try to protect the vested interests so as to minimize opposition.

230. Professor Lau appeared to suggest that forcing a merger upon HEIs would be impossible unless there was an offer that could not be refused and that was why resources would be required for satisfactory transitional arrangements so that no one was threatened enough to take drastic action. Professor Lau also believed that it would be very difficult to force a merger on HEIs even if it were in public interest. However, if it were public policy to do it, then it would have to be done provided that it had substantial public support.

231. Professor Lau agreed that institutional autonomy was not absolute and would have to give way to the public interest. Professor Lau said institutional autonomy was not a problem in Hong Kong although public-funded HEIs must pay regard to the manpower needs projected by the Government.

Professor Kenneth Young

232. Professor Young who was also present at the Hong Kong Club dinner on 17 April 2006, gave evidence broadly in line with that of Professor Lau. Professor Young said it was just a social dinner to update EMB and UGC on the DCA.

233. Professor Young denied the suggestions that Professor Li talked about merger and that HKIEd would not be viable in the long term without it. He insisted that there were discussions about various possible arrangements, but not merger. Professor Young denied telling Professor Luk that merger was discussed at the dinner.

234. Professor Young believed Professor Li's position, as that of the Government, was to do something to improve HKIEd's quality and that some form of affiliation with another HEI ought to be explored.

235. Professor Young told the Commission that a number of unfortunate circumstances converged on HKIEd, including the funding cuts (which applied to all institutions), the demographics leading to a substantial reduction in the demand for teachers and therefore cuts or potential cuts for teacher education providers (a particularly serious problem for a "mono-technic" HEI such as HKIEd), the community's increasing expectation that all teachers should be graduates with degrees and therefore sub-degree places (HKIEd being the major provider) had to be reduced, some of HKIEd's staff inherited from the former teacher training colleges (civil servants) were paid on a higher scale than university professors when they were not trained or prepared to teach up to degree level, and that TEIs were not attracting the best students (common to all TEIs although it was more serious in the case of HKIEd).

236. In response to Mr Lee SC's suggestion that SCT would solve the demographic problem that HKIEd faced, Professor Young said that was putting the "cart before the horse". He opined that "what ought to be done in primary schools should be discussed from the point of view of what's good for the primary schools, not what is good for TEIs".

237. Professor Young insisted that the discussion with HKIEd was confined to the Federation Model, but ended up getting nowhere and a decision was then made to do something concrete, resulting in the joint programme of English Studies and Education under the DCA. He admitted that CUHK, from a selfish point of view, preferred not to have anything to do with HKIEd, but felt, as a responsible institution, that it should offer help although merger (even to explore it) was ruled out *ab initio*.

238. However, Professor Young admitted that when HKIEd's suggestion of a loose Federation Model was rejected for reasons advanced by Professor Lau, it could have led to a misunderstanding that CUHK was seeking a merger although only a tight Federation Model under the Niland Report was what was being explored, bearing in mind the boundaries between the institutions.

239. Professor Young emphasized that CUHK did not want a merger and that position was always made clear to HKIEd in their meetings to avoid sending the wrong message. He was surprised by the suggestion that CUHK was pushing for a merger when he and his team kept saying and writing, "No merger".

240. Professor Young said the discussions with HKIEd never progressed beyond the informal stage when they just bounced ideas around to see what might work and that was why there was always "zero mention" in the formal task force reports as they were unable to see their way to a solution. The relationship between CUHK and HKIEd remained at the Deep Collaboration level.

241. Professor Young categorically denied the accuracy of Professor Morris's letter dated 9 October 2006 to Professors Luk and Moore, and emphasized that CUHK had no space to accommodate HKIEd on their Shatin campus. He was adamant that he was never shown Professor Morris's letter dated 9 October 2006 as the discussion in fact started before 9 October 2006 when Professor Luk again made the proposal of a loose Federation Model.

242. Professor Young said the discussions broke off in November 2006 when Professor Luk implored him not to tell Dr Leung about what was going on. Professor Young said after learning that Professor Luk and his team negotiated with CUHK without the authorisation or the knowledge of Dr Leung, he felt extremely uncomfortable, particularly when the differences between HKIEd's management and its Council were already surfacing in the media. Professor Young then reported to Professor Lau and a decision was made to suspend all negotiations immediately.

243. Professor Young told the Commission that Professor Morris/Professor Luk had complained about pressure put on him by EMB, including Professor Li and Mrs Law. He believed that Professor Morris/Professor Luk felt the pressure, but had exaggerated their perceptions and tended to blame particular people for HKIEd's difficulties although they were "of no particular person's making".

244. On the possible conflict between institutional autonomy and public interest, Professor Young said the following:

> "Institutional autonomy is a privilege, and with that privilege comes a very heavy responsibility, the responsibility to look at very serious community needs, society needs and Government policy. Also, when our own perspective is not consistent with Government policy, we do have the responsibility to bring up those differences in a professional way, through proper channels, and argue our case in a rational, professional manner. This is not hypothetical. It has happened before. The most serious case in my memory was when our four-year programme was rolled back to a three-year programme, back in the 1980s, I would assume. That was extremely traumatic for us. We disagreed with the Government. I think in retrospect we were correct, but that did not carry the day. We put our case forward professionally, through the relevant committees. We argued. But when the Government went through due process, in other words it had its policy endorsed by ExCo, endorsed by LegCo, it was

a policy that we had to accept as a responsible body, because it is not something crazy; it is within the bounds of differences within which reasonable people can disagree".

Ms Susanna Cheung Sau-man

245. Ms Cheung recently retired from EMB and before she retired, she was, together with other colleagues, involved in the planning cycle of the 2005-08 triennium and the initial planning for the 2008/09 roll-over year for HEIs, including the issue of Start Letters. She explained the working procedure and confirmed that the 2008/09 process was on-going.

246. Ms Cheung emphasized that EMB only advised UGC on global figures and territory-wide teacher training places and it was UGC's responsibility for allocating training places to TEIs.

247. Ms Cheung said the decrease in FYFD (primary) and increase in FYFD (secondary) in the Second Start Letter were the result of concerns raised by UGC about EMB's proposed increase in the FYFD (primary) and the considerable shift towards English KLA. She said EMB and UGC revisited the issues and made adjustments to the numbers with total FYFD levelling off across the three years.

248. Ms Cheung said in preparing advice on teacher education places, a mechanism, through consultation with relevant Divisions on policy requirements, was broadly followed. Regard was also paid to statistics on projected overall supply and demand provided by the EMB's Statistics Section and prevailing polices which might affect supply and demand. Ms Cheung said the planning for the 2005-08 triennium was in line with the established mechanism and stipulations of the civil service.

249. Ms Cheung said the zero provision for part-time C(ECE) for 2007/08 was a mistake due to miscommunication. Ms Cheung was unable to account for how such a mistake or miscommunication occurred.

250. Upon cross-examination, Ms Cheung confirmed that she sought steer from Mrs Law, and accordingly wrote to UGC in 2003 that EMB had reservation about commissioning the IR of HKIEd at that stage, and that it should be further considered when SG of UGC had reviewed the situation, and developed a strategy for institutional merger. Subsequently, however, "after discussion between EMB and UGC at the senior level", according to her understanding the way was then clear for the IR. Ms Cheung also said that Mrs Law was the "ultimate examiner" of everything, so she could keep an eye on everything.

Mr Pang Yiu-kai

251. Mr Pang confirmed that the two Retreats on 24 April and 5 June 2004 discussed the way forward for HKIEd following the release of the Niland Report. Mr Pang confirmed that at the First Retreat, Dr Leung did emphasize that if HKIEd were to maintain its *status quo*, it would "die a death by a thousand cuts" in the light of the demographics, the changes in society, the Government's stance on institutional integration and the recommendations in the Niland Report.

252. Mr Pang agreed that the "death by a thousand cuts" could be a reference to financial cuts or cuts in student numbers, but it was more a reference to a gradual deterioration over a period of time. Mr Pang also said Dr Leung laid down all the alternatives in the Niland Report and the Sutherland Report, and was not saying one thing but excluding the others. Mr Pang believed that the Government was not saying that HKIEd must merge.

253. Mr Pang said Dr Leung did mention merger in the context of the spectrum of possible alternatives, but he did not say or imply that if HKIEd did not pursue a full merger, it would die "a death by a thousand cuts". Mr Pang also confirmed that at the Second Retreat, a consensus was reached not to have a full merger, but to have discussions with other HEIs on Federation/Affiliation/Collaboration.

254. Mr Pang admitted that Professor Morris's relationship with Mrs Law was poor and he often heard Professor Morris complaining about Government officials at EMB. However, Professor Morris never told him of Mrs Law's request to sack staff members of HKIEd although he did mention one occasion when Mrs Law encouraged a staff member to leave HKIEd to join another HEI.

255. Mr Pang told the Commission that at the meeting on 21 March 2006 with Dr Leung, Professor Li and Mrs Law, Dr Leung lobbied for more funding for HKIEd and there was a discussion on possible collaboration with other HEIs in addition to the one with CUHK. Mr Pang said full merger was not discussed as the Council had already excluded it. He said Professor Li encouraged them to explore further deep collaboration opportunities with other HEIs.

256. Mr Pang said at the drinks meeting on 29 March 2006, Professor Li was amiable and was encouraging HKIEd to collaborate with other HEIs, whereas Professor Morris mentioned the viable option of the Columbia model. Mr Pang said he had no recollection of the matters mentioned by Professor Morris to Ms Ma as noted down by her.

257. Mr Pang told the Commission that the dinner on 10 May 2006 focused on the exploration of a viable Federation arrangement with CUHK which suggested some form of amalgamation of functions under a Federation arrangement. He was positive that CUHK did not request a full merger or absorption of HKIEd's campus. Mr Pang also said Professor Morris was fairly inflexible in his negotiations with CUHK. The parties were far apart on issues of governance under the Federation arrangement and no consensus was reached.

258. Mr Pang said the dinner on 14 September 2006 was just a social dinner. He said he did not hear that a merger (in the form of a take-over) was favoured not just by Professor Li, but also by the Government as a whole, or that the merger would not be pushed through until after the CE election in March 2007. Mr Pang also denied the suggestion that at the meeting on 20 June 2006, Dr Leung mentioned Mr Tsang's view on merger. Mr Pang emphasized that there was no such

record in the minutes of the meeting.

259. Mr Pang generally did not agree to the accuracy of the notes of debriefing by Professor Morris of the meetings that they had, although Mr Pang agreed that there was always a possibility of something said not in his presence or when he was not paying attention.

Dr Thomas Leung Kwok-fai

260. Dr Leung, Council Chairman since April 2003, gave evidence in his personal capacity. Dr Leung informed the Commission that in response to the Sutherland Report and the view attributed to Professor Li that HKIEd should merge with another HEI, HKIEd produced a discussion paper in 2002, basically objecting to a full merger. The Council agreed that HKIEd's mission and values should not be diluted or compromised under any form of merger, and that the resources for teacher education should be protected.

261. Dr Leung said Professor Li attended the Council meeting on 28 November 2002 to share his view on HKIEd's role in the context of the Government's education policy and the recommendations in the Sutherland Report. At the meeting, Professor Li encouraged HKIEd to explore collaboration arrangements with other HEIs, but pointed out that it was up to HKIEd to decide on the identity of the partner and the form of collaboration. HKIEd then formed a Task Force to look into the matter.

262. Dr Leung arranged to meet Professor Li with Professors Morris and Luk on 23 February 2004. At the meeting, Professor Li pointed out the demographic factor and the reduced need for teachers, and suggested that HKIEd should explore closer collaboration with other HEIs and the possibility of HKIEd absorbing education faculties of other HEIs to create a centre of excellence of teacher educators, but Professor Li emphasized that it was up to HKIEd to negotiate with other HEIs.

263. Dr Leung said at the lunch meeting on 1 September 2003 with Professor Morris, Dr Lam and Mr Stone in connection with the IR, the term "merger" was used in a loose sense. Professor Morris had earlier indicated his preference for a Federation arrangement, but it was agreed that they should move ahead to explore different forms of collaboration/merger.

264. The Task Force produced a report suggesting collaboration with other HEIs as the projected decrease in student numbers, the reduction in the unit cost per student and the withdrawal of front-end loading would likely lead to serious financial deficit for HKIEd in 2005-08, unless cost saving measures were implemented.

265. Dr Leung told the Commission that by the time the Niland Report was released in March 2004, Professors Morris and Luk had engaged CUHK in collaboration and merger discussion. Dr Leung said Professor Morris wanted to keep the negotiations secret, but he took a different view. He insisted that Council members, staff and students should be made aware of the situation and hence the First Retreat was attended by forty odd people with an extensive agenda, including small group discussion.

266. Dr Leung said at the First Retreat he used the phrase "death by a thousand cuts" to emphasize the unfavourable demographics that would lead to funding cuts. His point was that HKIEd could not maintain the *status quo* and must adapt itself to survive. He pointed out the recommendation in the Sutherland Report of changing the funding strategy of UGC to rely on performance and role differentiation, which could have a serious adverse impact on HKIEd.

267. Dr Leung emphasized that he was just trying to set a scene for a constructive discussion and was not pushing for a merger as defined in the Niland Report. Dr Leung said the term "merger" was still being used loosely and he himself was against a full merger.

268. Dr Leung went through a brief note taken at the First Retreat to support his emphasis that HKIEd could not maintain the *status quo* and must respond to the need to change. Dr Leung suggested that he was only prepared to move within the loose Affiliation, Deep Collaboration and Federation Models. Dr Leung lamented at the lack of foresight on the part of HKIEd's staff in the face of the difficult situation, including the competition ahead.

269. The consensus reached at the Second Retreat was a rejection of a merger, but to pursue institutional integration under the Federation Model, the Deep Collaboration Model or the loose Affiliation Model. Professors Morris and Luk were then tasked to negotiate with CUHK institutional integration, which eventually led to the signing of the DCA in July 2005.

270. Dr Leung pointed out that the DCA referred to the need for continuing discussions, focusing on various levels of co-operation for two triennia (2005-08 and 2008-11) other than a full merger, but that appropriate changes to each institution's current governance and operations might be adopted for the second triennium by mutual consent. The DCA was therefore just the beginning and not the end of the collaboration process, but CUHK and HKIEd achieved very little under the DCA and only a joint degree in English Studies and Education involving 20 students from each institution was put in place.

271. Dr Leung said he had frequent discussion with Professor Morris on the progress of the DCA, as it was the Council's resolution that institutional integration under the Affiliation or Federation Model should be explored.

272. Dr Leung denied the suggestion that he had pressed or requested Professor Morris to initiate a merger with CUHK. He said Professor Li did not request, or put pressure on him to secure a merger with CUHK or suggest having any change in the governance of HKIEd. However, Dr Leung believed Professor Li wanted HKIEd and CUHK to put in greater effort to achieve further progress including more joint programmes.

273. Dr Leung emphasized the rather bleak picture of HKIEd with a projected recurrent deficit for three to four years despite the redundancy schemes, which made it important for HKIEd to embark upon some kind of collaboration or Federation arrangement with other HEIs.

274. Dr Leung said in all the meetings with Professor Li, Professor Morris, CUHK's representatives and other related parties, the discussions were all confined to progress of the DCA and how further funding could be obtained from UGC to finance specific programmes or initiatives relating to collaboration.

275. Dr Leung said Professor Morris often put forward the Columbia University Federation Model as a possible option and they both wanted HKIEd to maintain a high degree of autonomy. Dr Leung said Professor Morris indicated a wish to absorb the Faculty of Education of CUHK into HKIEd, but Professor Lau said it was difficult to convince CUHK's Council or its Faculty of Education.

276. Dr Leung referred to a meeting on 23 March 2006 with Professor Morris when he expressed his wish to take over the Faculty of Education of CUHK as soon as possible and it was then arranged to meet Professor Li on 29 March 2006. At the meeting, Professor Li indicated that HKIEd could pursue what it wanted. Dr Leung said Professor Li did mention the Chung Chi Model which was quickly ruled out as it meant a loss of autonomy. This meeting with Professor Li in fact led to the Hong Kong Club dinner on 17 April 2006 to enable HKIEd to directly negotiate with CUHK.

277. Dr Leung said the discussions at the Hong Kong Club dinner circled on different aspects of the Federation Model, but no conclusion was reached. He said the discussions were unsatisfactory, as both sides did not see any urgency and the institutional constraints on both sides also prevented the discussion from coming to fruition. Dr Leung said Dr Lam's comment that CUHK and HKIEd should get back to her within three months was said as they were leaving and he doubted if too many

people heard it.

278. Dr Leung said he arranged to meet Mr Tsang in August 2006, and the record of the CE's Office captured the gist of the conversation. Mr Tsang was most concerned about the quality of the student intake when he said, "That's in the best interest of Hong Kong. We cannot have a very good educational system if we don't have the best possible teachers, and HKIEd is in that pivotal position". Mr Tsang simply urged Dr Leung to reach an agreement with CUHK.

279. Dr Leung said there was never any suggestion of pushing through a merger only after the CE election in March 2007.

280. Dr Leung said after the Hong Kong Club dinner and another one or two follow-up meetings, a decision was made to suspend the negotiations with CUHK as further discussion was unlikely to be fruitful. However, Professors Morris and Luk continued with the discussion without proper authority, which Dr Leung found to be totally unacceptable.

281. Dr Leung confirmed the "heart-to-heart" talk on 28 September 2006 and admitted that he did say he was proved right in his earlier prediction of a dim outlook for HKIEd and yet its senior management was not addressing the problem. He said he used the term "siege mentality" to describe the attitude of senior management of HKIEd when they just ascribed all the problems of HKIEd to actions from UGC and EMB without finding ways to tackle the difficulties facing HKIEd. He also said EMB/Mrs Law was under siege because of criticism on the Education Reforms.

282. Dr Leung mentioned the breakfast meeting in June 2006 with Professor Morris in connection with his re-appointment. He said Professor Morris indicated his wish to be re-appointed. Dr Leung then briefed him on the procedure and indicated that to secure two-thirds of the votes of the voting members would be a challenge. He also mentioned some of the concerns expressed by the external Council Members on Professor Morris's weaknesses.

283. According to Dr Leung, Professor Morris was upset and expressed his "disbelief" in the negative opinions about his performance. He said the negative opinions were put forward to "justify' his removal, that there was an "agenda to merge" HKIEd and that he was being "victimized" because of his opposition to a merger. Professor Morris even said that he would protect his reputation and that, "It's not going to be that simple". Nevertheless, he asked for his contract renewal process to proceed.

284. According to Dr Leung, when the Review Committee submitted its report to the Council on 1 December 2006, Professor Morris informed the Council that Dr Leung had pressured him to agree to a merger as a condition for his re-appointment.

285. Dr Leung said Professor Morris was reluctant to explore any Federation Model and would prefer total autonomy and independence for HKIEd. He was adamant that he only asked Professor Morris to press on with exploring an eventual model of institutional integration with CUHK and never pressed him for a full merger.

286. Dr Leung said Professor Morris did not pursue the Federation Model but only insisted on absorbing the Faculty of Education of CUHK and enjoying other benefits of such an affiliation.

287. In response to some of Professor Morris's allegations, Dr Leung said in 2003, Professor Morris already realized the need to pursue discussions on the merger prospects and he was hoping to achieve a Federal arrangement with a high degree of autonomy. In a confidential email message dated 19 September 2003, Professor Morris stated:

> "I agree with your view that strategically we should take the initiative now as to wait could result in us being in a very weak bargaining position. We should however not give the initial impression that we have decided to merge and wish to negotiate the terms. I think we should take the line that – we believe that if certain conditions were satisfied, a merger

could be beneficial and help HKIEd to better achieve its mission. Accordingly, the key task is to establish those conditions."

288. Dr Leung said it was hard to understand why Professor Morris should claim to be totally surprised that the subject of the "direction of merger" was raised at the meeting in October 2003 between Professor Li and Mrs Law on the one hand and Dr Leung and Mr Chan on the other.

289. Dr Leung said he had no recollection of Professor Morris orally informing him of pressure from Mrs Law to get rid of staff, but he acknowledged the email message dated 19 September 2003.

290. Dr Leung said he did raise with Mrs Law the issue of her maximizing negativity of HKIEd, which Mrs Law denied. However, he did not raise the issue of her "trying to get rid of staff" because Professor Morris constantly expressed his very strong negative feelings about EMB and that his complaints of persecution by EMB were also a constant affair. Dr Leung said Professor Morris even alleged that the external Council members were "agents" of EMB appointed to undermine HKIEd.

291. Dr Leung told the Commission that Professor Morris had complained about an external Council member, Ms Wong, writing newspaper articles critical of HKIEd. Professor Morris asked Dr Leung to tell Ms Wong to stop and to ask EMB not to renew her term.

292. Dr Leung said Professor Morris did not report to him the telephone conversation he had with Professor Li on 21 January 2004. He was adamant that he initiated the meeting with Professor Li on 23 February 2004 to talk about the future development of HKIEd and not because of the telephone conversation on 21 January 2004.

293. Dr Leung said Professor Luk fabricated the allegation that he was nervous and shaky at the meeting on 23 February 2004 with Professor Li. He also said Professor Li did not say HKIEd should merge if it was to have any future, but was suggesting that HKIEd should respond to the Sutherland Report by having collaborative programmes with other HEIs to improve subject depth and discipline. Dr Leung was adamant that Professor Li had no preference as to which HEI that HKIEd should collaborate with and what the eventual collaboration form would be, as it was a matter for HKIEd to work out.

294. Dr Leung said the notes made by Ms Ma of the de-briefing by Professor Morris were not correct. The suggestion was that Professor Morris made up the contents of the alleged conversations.

295. Dr Leung admitted that at the Graduation Ceremony in November 2005, he said no option should be ruled out in answer to the press question of "what kind of merger with CUHK would be the way to get university title". He said it was a silly answer in a difficult situation. He rejected Ms Ma's suggestion for a clarification because he was angry and being self-defensive, hoping that "it would just go away". Dr Leung, nevertheless, reiterated his position at the Council meeting.

296. Dr Leung described his frustration at senior management of HKIEd because they failed to focus on doing positive things and be constructive, but instead just engaged in battling and arguing with EMB and UGC on the basis that there was a conspiracy to disadvantage HKIEd.

297. Dr Leung had very negative comments about Professors Morris and Luk. Dr Leung said Professor Luk was already very hostile to Professor Li at his first meeting together with Dr Leung and Professor Morris on 23 February 2004, only a few months after he joined HKIEd.

298. Dr Leung alleged that Professors Morris and Luk were obsessed with the threat of a merger and had created an imaginary enemy, thus spending all their energy trying to fight such an imaginary enemy. Whenever institutional integration was mentioned, they would assume

that a merger was being forced upon HKIEd.

299. In the opinion of Dr Leung, communication between HKIEd and the Government broke down because of personality problems, oversensitivity and lack of trust. He was of the view that there should be a forum for dialogue between HKIEd and other TEIs and PSEM.

300. Dr Leung said Professor Li did not trust Professor Morris because Professor Morris tried to trick him. He also said Mrs Law got frustrated because HKIEd's senior management argued over everything and always believed that EMB was trying to disadvantage HKIEd.

301. Dr Leung said HKIEd was different from other universities as Government policies had an impact on how HKIEd structured its programmes and what it should do. Dr Leung believed that as partners, HKIEd had to work with the Government and the Government had to listen to HKIEd. Therefore there should be a forum for dialogue with regular meetings to decide the structure of academic programmes. Dr Leung also believed that HKIEd should be granted university status, as a full merger with another HEI might not be conducive to the training of good teachers.

302. Dr Leung denied the suggestion that he was acting as SEM's agent and considered such an allegation a very serious and wrong accusation, and a personal attack on his integrity. Dr Leung emphasized his independence as Council Chairman to present his views in the best interest of HKIEd.

303. Dr Leung emphasized that it was his duty to pursue collaboration with other HEIs under the various models and that his relationship with Professor Li and Mrs Law were purely professional. Moreover, he had never said to anyone that he had accepted the re-appointment as Council Chairman in 2006 because he had been tasked by Professor Li to implement a merger with CUHK.

304. Dr Leung denied using the term “not an honest broker” to describe Professor Li. He said it was Professor Morris who used the term when urging him to meet Mr Tsang. He said there was a complete lack of trust between Professors Morris and Li, and Professor Morris repeatedly asserted that Professor Li harboured a personal agenda to merge HKIEd with CUHK.

305. Dr Leung said Mr Tsang was generally supportive of institutional integration, but felt that it was up to HKIEd and CUHK to work out the arrangements, bearing in mind the best interest of the community in teacher education.

306. Dr Leung said despite Professor Morris’s constant complaints about being unfairly treated by EMB, he had been assured that there had been no unfair treatment and was provided with logical rationale by EMB for their decisions.

307. Dr Leung impliedly suggested that Professor Morris spread or condoned the unfounded rumours circulating at the end of 2006 about the pending merger of HKIEd with CUHK and the linkage between merger and the presidential selection. He denied the suggestion that he had requested Professor Morris to announce a merger of HKIEd with CUHK. He said he had, on many occasions, asked Professor Morris to hold a staff forum to explain the options of Deep Collaboration and Federation Models, but Professor Morris refused.

308. Dr Leung told the Commission that in November 2006 when Professor Morris’s re-appointment was being discussed, he expressed his support for the Federation Model. However, Professor Morris changed his stance and said his first option was for HKIEd to remain a totally independent HEI.

309. Dr Leung denied Professor Luk’s allegations that he insisted on a merger and refused to consider the Federation Model. He also denied having told Professor Luk not to offend Government officials by insisting on having institutional autonomy and academic freedom.

310. Dr Leung told the Commission that EMB did not in any way disadvantage HKIEd or put pressure on it, although Mrs Law might feel that senior management of HKIEd was unreasonable because they always argued everything with her and never accepted her explanation.

311. Dr Leung agreed that merger had its positive side, yet he was against it. He was also against the tight Federation Model if it meant HKIEd were to lose its Council. Dr Leung said he was not aware of any Government decision of actually reducing the number of HEIs and he believed HKIEd should be granted university status, and that a task force had been established to achieve it.

312. Dr Leung denied the suggestion that Professor Li objected to HKIEd getting university title because it would make it more difficult to merge it with CUHK. He said it was always Professor Li's wish for HKIEd to explore institutional integration with CUHK, but not a full merger. Dr Leung pointed out that no application for university title had been made because he wanted to get it better organized, talk to different people, and get a better sense about the level of community support before making a formal application.

313. Dr Leung took the view that it was as important to have a good environment to nurture good teachers as having good quality student intakes.

314. Dr Leung was adamant that when he used the term "death by a thousand cuts" at the First Retreat, he was just emphasizing the need for HKIEd to make changes and not to maintain the *status quo* as its programmes would not be able to justify the level of funding required due to the forecasted decline in the number of school-age children.

315. Dr Leung denied that he had changed his mind and wanted a full merger with CUHK. Dr Leung emphasized that from the time of the two Retreats in 2004 until 2006, there was no complaint against him for pushing a full merger, but then the topic suddenly surfaced and became a subject of big suspicion. Dr Leung also emphasized that the notes kept of the Retreats clearly supported him.

316. It was put to Dr Leung that he had not put on hold the discussion with CUHK after the Hong Kong Club dinner in April 2006 and the follow-up dinner with Dr Cheng in June 2006. Dr Leung disagreed to the proposition, although Professor Li might still want them to continue the discussion.

317. Dr Leung said at the meeting with Mr Tsang on 4 August 2006, he explained to Mr Tsang the situation and Mr Tsang urged them to reach some agreement on "merger" as it would be in public interest.

318. Dr Leung also insisted that the presidential selection process was conducted fairly and in a timely manner. The decision to exclude the two staff members in the interviews of the stakeholders was taken upon legal advice. He denied the suggestion of a plan to prevent the re-appointment of Professor Morris as President and that it was part of the effort to achieve a full merger of HKIEd with CUHK.

319. Dr Leung was asked about Professor Morris's complaint that Mrs Law wanted him to get rid of staff. He said he did not take the complaint seriously as it was hidden in a long email message and there were no particulars. He further said that Professor Morris had a suspicious mind and was prompt to complain against a lot of different people.

320. Dr Leung suggested that EC should be represented at the Council instead of EMB as EC would be more independent. He agreed that in deciding against a merger of HKIEd with other HEIs, public interest was given secondary consideration. In any case, since the Sutherland Report came out in 2002, there had been hardly any significant institutional integration across the sector. Dr Leung suggested that the Government and UGC should engage the tertiary sector at the highest level to go over the issues again.

Mr Alfred Chan Wing-kin

321. Mr Chan, Deputy Council Chairman of HKIEd until April 2004, recalled the meeting with Professor Li at Messrs Johnson Stokes and Master's office with Dr Ip and Mr Wu on 19 July 2002 when they discussed the merger issue. In his first statement to the Commission through his solicitors, Mr Chan said Professor Li was arguing on behalf of the Government in favour of a merger irrespective of the wishes of either HKIEd or CUHK. In a subsequent statement, Mr Chan slightly toned down what Professor Li had said by saying that an intention of collaboration was formed by the Government before either establishment had made expressed wishes of the way forward.

322. Mr Chan said the latter version was more accurate as he did not in fact know if CUHK was agreeable to a merger and that Professor Li was just expressing a strong intention of the Government to have deeper collaboration between HKIEd and CUHK.

323. Mr Chan said he remembered Professor Li used the word "rape" although not in a threatening way, but casually and impolitely. Mr Chan said he did not have the impression that Professor Li was saying HKIEd would not be viable if it did not merge, but would be disadvantaged.

324. When confronted with Dr Ip's evidence and the note he made of the meeting, Mr Chan said it was just a matter of impression and he insisted that his impression was that Professor Li did not use the word "rape" in the threatening way as described by Dr Ip.

325. In answering questions from Mr Mok SC, Mr Chan agreed that the general consensus of HKIEd, due to economic and demographic changes, was that HKIEd had to co-operate with other HEIs and to work pro-actively with them. Mr Chan agreed that at the meeting, Professor Li was also expressing similar sentiments. Mr Chan confirmed that Professor Li did say that the real benefit of institutional integration was not financial, and that the Government would have resources to support it.

Mrs Fanny Law Fan Chiu-fun

326. Mrs Law has a distinguished career in the public service. Mrs Law was Director of Education, SEM and PSEM before she became the Commissioner of the Independent Commission Against Corruption.

327. Mrs Law referred to the Government target of bringing down total Government operating expenditure to $200 billion, and 20% of GDP or below, by 2008/09, which meant every bureau and department had to achieve 11% saving over five years and the reduction of the grants to the UGC-funded institutions of 10%. She also talked about the 15% drop in the primary student population and its impact on HKIEd.

328. Mrs Law described the Education Reforms launched in October 2000 and how such Reforms created dissatisfaction and criticisms amongst various interested groups. Mrs Law said she believed in effective communication and took every opportunity to meet with academics, students, teachers, parents, school councils and various educational bodies and in so doing, she was able to understand the difficulties that frontline teachers faced.

329. Mrs Law emphasized that EMB took note of public reactions and media reports and if there were obvious and significant inaccurate information or misunderstanding, steps would be taken to clarify them. In the spirit of frank exchange of views, she would even call the writers if there were serious misunderstanding of the Government policy or significant differences of view or where the writers demonstrated a new perspective or good suggestions. She emphasized that such exchanges must not be regarded as interfering with academic freedom.

330. On the other hand, Mrs Law believed that academics, with a high status, should be objective, evidence-based and intellectually rigorous and honest.

331. Mrs Law said her relationship with HKIEd had always been cordial. She was particularly supportive of HKIEd and took various steps to promote its image. In particular, Mrs Law pointed out the support she had for Professor Lo's projects.

332. Mrs Law said she was saddened by the string of email messages by Professor Morris, criticizing her and without giving her the opportunity to explain.

333. Mrs Law admitted to having called Professor Morris and other academic staff of HKIEd to discuss with them current issues, and to appeal to them and their colleagues to make more positive use of their newspaper columns, and to help teachers to cope with problems commonly encountered in their work so as to counter the negative image of teachers, and to attract young people to join the teaching profession.

334. Mrs Law referred to the negative image of teachers arising out of the consultation on the Education Reforms and the results of LPAT, which exposed weaknesses in the writing and oral proficiencies of English language teachers.

335. Mrs Law told the Commission her relationship with Mr Ip, Dr Wong, Dr Lai and Professor Cheng. She said Mr Ip was a dedicated educator with sound views that she respected, and maintained a cordial relationship with him after his one-year secondment to ED in 1999. Mrs Law knew Dr Lai and Professor Cheng. However, Mrs Law said she had no recollection of Dr Wong and could not even visualize his face.

336. Mrs Law referred to the only article published by Dr Wong prior to 19 November 2004 and said Dr Wong's views as expressed in the article were completely consistent with ACTEQ's advice to EMB and could not therefore have caused any concern to EMB. She said she was completely baffled by Professor Morris's allegation in relation to Dr Wong.

337. Mrs Law confirmed that she called Professor Morris on 30 October 2002 to find out more about the SCT seminar held on 29 October 2002, and to register a concern that EMB had not been invited to present its views at the seminar, so that PTU was able to dominate the seminar with its political agenda of seeking an immediate implementation of SCT as a means to alleviate the problem of surplus teachers. She emphasized that SCT was a policy issue that required careful and mature planning, and should not be taken as an expedient way to resolve the problem of surplus teachers as advocated by PTU.

338. Mrs Law said neither Mr Ip nor Dr Lai was mentioned in her telephone conversation with Professor Morris. She said she was in fact not aware of Mr Ip's involvement in the SCT seminar until much later and she was only aware of Dr Lai's role at the seminar when Professor Morris gave evidence as none of their names was mentioned in Sing Tao Daily that she read before calling Professor Morris.

339. Mrs Law emphasized that there was nothing in the public domain that Dr Lai was involved in organizing the SCT seminar or in any way involved in promoting SCT.

340. Mrs Law suggested that Professor Morris had fabricated his evidence against her.

341. Mrs Law said she had no recollection of calling Mr Ip on 30 October 2002 or asking for the video-recording of the SCT seminar. However, she was able to say that there was no record of Mr Ip's sending her the notes of the seminar. She said the notes were in fact attached to the letter from Professor Morris dated 4 November 2002. Mrs Law believed it was unlikely that she would have such a telephone conversation with Mr Ip prior to 4 November 2002.

342. Mrs Law detailed her "disputes" with Mr Ip over his newspaper articles. She said in December 2003, Mr Ip published a series of articles, making sweeping and unfavourable statements about teachers' morale. Mrs Law telephoned Mr Ip to tell him that there were "happy teachers" and urged Mr Ip to use his column to share the "good practices"

so as to lift teachers' morale.

343. Mrs Law suggested that Mr Ip was not presenting a balanced view and that his sweeping statements, without the support of objective evidence, were "loose talks". She further suggested anyone who engaged in those "loose talks" should not seriously be considered as an academic.

344. When Mr Ip turned down her request, Mrs Law thought he was not helping teachers to manage their work efficiently and effectively. Mrs Law then hung up, ending the conversation with the comment that Mr Ip was just "shirking responsibility".

345. Mrs Law said when she found out that Mr Ip published their conversation in his column, quoting her out of context and accusing her of being unreasonable, Mrs Law said she was angry, but refrained from calling Mr Ip for fear that he would again publish their conversation. Nevertheless, they maintained a cordial relationship.

346. Mrs Law said she called Professor Mok in late December 2003 as she was frustrated with Mr Ip for publishing a personal conversation in the media, in which her identity could be readily ascertained and she could not accept Mr Ip's allegation that she was being totally unreasonable. She called Professor Mok to get some sympathetic hearing from a former classmate who was also an academic to ventilate her frustration, and hoped that Professor Mok would be more objective.

347. Mrs Law said she was angry and upset, but did not believe she had used the word "fire" as she was aware of the need for due process for the dismissal of any staff of HKIEd. She would not have referred to Mr Ip as "Professor" and would not have asked who Mr Ip's supervisor was as she knew his supervisor. Mrs Law emphasized the need for due process and that there was no basis to dismiss Mr Ip.

348. Mrs Law said she did complain to Professor Mok about Mr Ip and expressed her hope that Professor Mok would do something (做啲嘢) about the impasse she had with Mr Ip. However Professor Mok was quick to dissociate herself from the dispute saying she was not Mr Ip's

supervisor and there was nothing she could do. Mrs Law said part of Professor Mok's evidence was not true although she was unable to remember every detail of the conversation she had with Professor Mok.

349. Mrs Law suggested that she could not have instilled any fear on Professor Mok as Professor Mok continued to send greetings to her at New Year in 2005 and 2006.

350. Mrs Law denied the suggestion that she had implicitly asked Professor Morris to dismiss Dr Wong at HKIEd's graduation ceremony on 19 November 2004. Dr Wong's views on professional development of teachers were well respected and adopted by ACTEQ and EMB. She had no reason to speak negatively against Dr Wong or anyone on 19 November 2004.

351. Mrs Law said, notwithstanding Professor Cheng's criticisms of the Education Reforms in general, he was supportive of EMB's initiatives on the professional development of principals. She also pointed out that Professor Cheng's suggestions on the Education Reforms were in line with EMB policies and she had no reason to ask Professor Morris not to employ Professor Cheng on the basis that Professor Cheng's articles were undermining the Education Reforms. Mrs Law pointed out that Professor Cheng's view could not have the effect of undermining the Education Reforms, as there were over 3,000 submissions on the Education Reforms.

352. Mrs Law denied the allegation that a list of punishments for HKIEd was prepared after the school principals' conference in March 2004 co-organised by Professor Cheng. She said what was prepared was a list of action to address the concerns expressed at the conference.

353. Mrs Law refuted Professor Luk's allegations in relation to the C (ECE) places and emphasized that the criteria for the award of tender and the basis for allocating C (ECE) places were transparent and strictly followed. Mrs Law denied the suggestion that HKIEd had been "ill-treated" or "targeted" in any way. She explained why HKIEd and two other institutions were not invited to a meeting for the discussion on the

extended programme of ECE held in May 2006.

354. Mrs Law denied the suggestion that she made telephone calls to Professor Morris shortly after academic staff of HKIEd had published articles critical of the Education Reforms or education policy and its implementation, demanding the dismissal of those staff. She said it was illogical that she would be making repeated demands for four years despite the lack of response.

355. Mrs Law said she did call Professor Morris in connection with VDS and CRS, as there were financial implications for EMB. However, she denied asking Professor Morris why the names of Mr Ip and Professor Cheng were not included in the schemes or that HKIEd should not employ them.

356. Mrs Law said she was aware that Mr Ip was not eligible as he was on contract and in any event at the time of the call, the deadline for the application had expired. She further pointed out that no one could add names to the VDS list without the consent of the staff concerned and therefore the suggestion that she had demanded Mr Ip's name to be included simply did not make sense.

357. Mrs Law emphasized that VDS and CRS were proposed by HKIEd with full support from the Administration in order to achieve the required saving targets and that EMB was only concerned with ex-civil servants who remained at HKIEd.

358. Mrs Law was referred to evidence of Professors Morris, Luk and Grossman accusing her of asking for Professor Cheng's dismissal because of the articles that he published in November and December 2004. Mrs Law denied the suggestion and pointed out that she always tried to be positive and join hands with all teacher educators to help teachers to overcome the challenges arising from the Education Reforms.

359. Mrs Law said she was a forthright person and it was possible that she might have given Professor Morris the impression that she was not too happy about the criticisms published by HKIEd's teaching staff.

360. Mrs Law denied Professor Luk's allegation that she had blamed the academics for exaggerating the problem of teachers' workload and demanded that they should stop writing articles carrying those messages. She said she was just trying to appeal to the participants at the meeting on 16 June 2005 to work out a positive and constructive way to support teachers in implementing the Education Reforms, a message that she had been championing over the years.

361. Mrs Law said she had not demanded the dismissal of the four academic staff members of HKIEd as alleged by Professors Morris and Luk or that she had in any way interfered with the academic freedom of those staff members.

362. In response to Dr Lai's allegations on education policy, Mrs Law emphasized the need to expand pre-service teacher education and upgrade serving teachers would cost the respective sums of $1.2 billion and $65 million over two triennia between 1998 and 2004 on top of the $2 billion required to upgrade all primary and secondary teaching posts. Whilst the Administration was committed to the "all graduate, all trained" policy, a pragmatic and progressive approach had to be adopted due to budgetary constraints. Mrs Law pointed out the need to upgrade the sub-degree pre-service courses offered by HKIEd to degree or post-graduate levels and have such sub-degree courses phased out by 2004/05.

363. Mrs Law emphasized that the methodology for teacher demand projections was developed by a working group with representation of frontline educators and academics, and was endorsed by ACTEQ. Whilst EMB did advise UGC on the global teacher education requirements by programmes, levels and KLAs, it was UGC that decided the allocation of student numbers among TEIs and EMB was not even informed of the actual allocation.

364. Mrs Law further emphasized that (1) the overall reduction of FYFD primary places from 1,330 to 1,050, which was higher than the figure for 2004/05, was made at UGC's request; (2) the increase in English language places was a response to the new policies and community aspirations; (3) the reduction in PUC places was in line with declared policy, having regard to the diverse demand for in-service teacher training, and (4) the overall provision of in-service C (ECE) places was increased as a result of competitive bidding.

365. Mrs Law gave a detailed explanation of the various instances cited by Professors Morris and Luk to support their allegations that EMB had taken every opportunity to project a negative image of HKIEd. She denied the suggestion that she was in any way involved in or responsible for any attempt to disadvantage HKIEd.

366. Mrs Law said there were established rules and procedures for processing the triennial funding and that every decision on student numbers was justified and supported by existing policies. Mrs Law criticized Dr Lai's approach for taking into consideration policies that had not been determined and discounting surplus teachers and teachers who rejoined the profession.

367. Mrs Law described in detail how the various student places for the 2005-08 triennium for HKIEd were arrived at and why it was necessary to put up some C (ECE) courses for tender. She emphasized the need to respond to popular demand and to maximize value for money.

368. Mrs Law also denied the suggestion that the contract terms of EMB-funded projects relating to rights over research instruments and materials, control over course contents and choice of speakers, and the videotaping of sessions amounted to infringement of academic freedom by financial means.

369. Mrs Law explained the legitimate purposes of those terms, particularly the need to maximize public interests in the deployment of resources. The contract terms applied to all HEIs and that they had the choice of whether to bid for the projects or not.

370. Mrs Law also dealt with Professor Mok's complaints that she tried to obtain materials via the UGC Secretariat and the meeting on 3 February 2005 in connection with HKIEd's proposals to obtain alternative funding from EMB. She said when she questioned and critically examined the proposals put forward by HKIEd, there was a heated debate. Mrs Law denied that she left in anger and slammed the door on Professor Moore. She said she had to leave in a hurry to attend another appointment.

371. Mrs Law said she did not induce staff of HKIEd to leave, but was only encouraging the interflow of staff among ED, schools and TEIs to build bridges and develop better understanding among them. Mrs Law denied making any adverse comments about Hong Kong teachers at the Toronto luncheon on 23 May 2000 as alleged by Professor Luk.

372. Mrs Law also emphasized EMB's support for projects of Professor Mok and Professor Lo in December 2005. Mrs Law said when she made the suggestion to Professor Lo to take her Centre for Learning-study and School Partnership away from HKIEd, she had the wider public interest in mind.

373. In response to the questions by Mr Yu SC, Mrs Law did not say Mr Ip fabricated his evidence against her. Initially Mrs Law said she did not remember having told Professor Mok to "fire" Mr Ip although she was able to say that parts of Professor Mok's allegations were not true.

374. However, on being further questioned, Mrs Law said she did not use the word "fire" and Professor Mok must have fabricated her evidence. Mrs Law said, "I did not in all seriousness order her to fire Mr Ip. That's not possible. That's not achievable."

375. Mrs Law also said that there was a lot of misunderstanding on the part of Professor Lo and Dr Heung and that they had had "wrong emphasis". She said she did not tell Professor Lo that HKIEd had no future, but could not remember her conversation with Dr Heung in December 2005. When asked by Mr Yu SC if she might have told Dr

Heung that HKIEd was poorly managed and that she should resign, Mrs Law replied, "Possible, but not probable."

376. Mrs Law emphasized that she excluded HKIEd and two other institutions from the meeting with other TEIs in May 2006 to see if they could expand their capacities in providing ECE training services because she was trying to maximize the expertise and was looking for diversity. By involving more UGC-funded HEIs in ECE, there would be competition and improvement in quality. Mrs Law insisted that she had no complaint against the quality of the programmes offered by HKIEd, but had reservation about the quality of its students.

377. Mrs Law explained the zero provision for C (ECE) places for 2007/08 on the basis that on paper, the policy target for upgrading serving principals had been met and the funds were therefore withdrawn when there was no policy decision in support. The suggestion was that the zero provision was the result of misunderstanding.

378. Mrs Law lamented at the frustration she had when dealing with HKIEd. She said its senior management only looked after their self-interests and had no regard to the big picture. She said academia, unlike trade unions, should be more broad minded, more objective, and base their comments on facts.

379. Mrs Law said the reduction of the C (ECE) places was because the policy targets had been met, and it was a subsequent political decision to plough back the savings from the reduction of the C (ECE) and QKT places into ECE and because of the lower unit costs obtained in the tendering procedure, additional ECE places were created to the benefit of the profession.

380. On the reduction of PUCs, Mrs Law said it was a decision based on judgment and under-enrolment figures. She agreed that the decision was made because of budgetary squeeze, the need to diversify and demands from other sectors, without due regard to the actual impact of the decision on HKIEd.

381. Mrs Law denied that she had any negative feeling towards HKIEd or was in any way involved in any attempt to disadvantage HKIEd. She said every decision was based on established policy and was "institution blind".

382. Mrs Law admitted that she had made, more than once over the years, general appeals to Professor Morris and to other teacher educators to be more positive about the Education Reforms and to work together to make the Reforms work.

383. Mrs Law also admitted that she had called Professor Morris to express her concern if someone from HKIEd published articles criticizing the Education Reforms or education policy and its implementation and hoped that Professor Morris would do something about it. But when Professor Morris said he could not do anything, she just left it. Mrs Law denied that was what happened on 30 October 2002.

384. Mrs Law said she regularly spoke to principals and would only call up writers whom she knew and people did not find her calls threatening. She hoped that academics and opinion leaders would be more open minded, more broad-minded and when they expressed their views, they would take into account more perspectives.

385. In concluding her evidence, Mrs Law pointed out that academic freedom was not a licence to simply promote parochial interests, but rather to serve the interests of the community. Mrs Law emphasized that the Government had a role to determine the structure of higher education, which would be in the best interests of the community.

Professor Lo Mun-ling

386. Professor Lo is Head of CLASP at HKIEd. Professor Lo told the Commission that Mrs Law closely followed CLASP and was very supportive.

387. Professor Lo said Mrs Law had on more than one occasion suggested to her that she should take CLASP staff and set up an independent centre standalone or under EMB, which suggestion she rejected. Indeed Mrs Law made the same suggestion quite openly in a conference attended by about 150 teachers and school educators.

388. Professor Lo told the Commission that after a meeting of ACTEQ, Mrs Law said to her quietly that HKIEd had no future and encouraged her to seek appointment at other universities. Professor Lo subsequently informed her colleagues as well as Professor Morris. She said when Professor Morris heard what Mrs Law said, he reacted very strongly.

389. Professor Lo agreed that Mrs Law had always been very supportive of her work, including providing $27 million for her VITAL project. Professor Lo also agreed that in inviting her to set up an independent centre of CLASP, Mrs Law was hoping that her good work could be generalized to the whole of Hong Kong. She felt that Mrs Law was caring and was concerned that she would get the best of what would be available. Professor Lo was adamant that Mrs Law did say HKIEd had no future.

Professor Arthur Li Kwok-cheung

390. Professor Li had a very distinguished medical career before becoming VC of CUHK and then SEM.

391. Professor Li said after the announcement of his appointment as SEM, he immediately arranged to meet Professor Morris as he regarded teacher education important and was most concerned about ECE and wanted to know more about HKIEd that trained 80% of primary school teachers.

392. Professor Li said he got the idea from Professor Morris to have all TEIs in Hong Kong to be grouped under HKIEd, which position was confirmed by records kept by the Council.

393. Professor Li also explored with other HEIs whether they would be prepared to form strategic alliances with one another and the result was an amazing jigsaw puzzle, namely,

> "Lingnan University felt they wanted to remain as a small liberal arts institution and they don't feel that they want to link up with anybody else. They think small is beautiful ... Poly U would like to join with another university ... The target they had in mind was City U. City U, on the other hand, did not want to join up with Polytechnic U, but they would like to consider joining up with CUHK. HKBU felt that if Polytechnic U joined up with City U, then they would like to be a part of that triumvirate. They could do the humanities side while the other two will get on with the technical side. CUHK did not show any interest to join up with City U, but they showed an interest to join up with HKUST. HKUST like to join up with CUHK. HKU would like to join up with all the other universities, provided they are under them. HKIEd felt that if CUHK and HKUST joined up together, then they would consider joining in that partnership."

394. Professor Li said the Sutherland Report made a lot of sense but stopped short of merger, and he would like to see strategic alliances built up between HEIs to enable them to compete at the international level, and that maintaining the *status quo* was not sustainable. However, he was adamant that he did not have a fixed view of how it should be done or how to go about it, and that it had to be done on a voluntary basis.

395. Professor Li said he was aware of HEIs' worry that savings from such alliance would be taken back by the Government, but it was his idea that any money saved would be "ringfenced" and would not be taken away, despite the severe financial difficulties of the Government. He believed that strategic alliances would even be financially rewarding for HEIs. Professor Li said the Government would not do anything to disadvantage any HEI.

396. Professor Li told the Commission that he did not use the word “rape” at the lunch meeting with Dr Ip in July 2002. At the lunch, Dr Ip was not too complimentary about the Government and Mr Tung, and was agitated by his adverse comments about the quality of HKIEd students. Professor Li denied having said that Mr Tung had decided to merge CUHK and HKIEd. Professor Li said he hardly knew Mrs Law then and would not have said that he was being pushed by her.

397. Professor Li agreed that he had, in response to media questions at his media tea reception in 2002, made reference to “match-making is successful” (“相睇成功”), “the authority is in my hand” (“權在我手”), and “starting with diplomacy and following up with the deployment of a troop” (“先禮後兵”).

398. Professor Li’s explanation with reference to those remarks was that VC of CUHK and the President of HKUST had informed him of their intention to explore the feasibility of a merger. However, they anticipated that the process would be difficult and complicated, and they asked him to make a very clear Government directive and steer to facilitate the process. Nevertheless the comments were made in a joking manner. Professor Li said he was fully aware of the difficulties involved in any full merger of HEIs.

399. Professor Li pointed out that he had subsequently stated his position to HKUST that “any merger will be based on an effective model of integration that will respect the unique cultures of HKUST and CUHK” and that “there will be no forced merger”.

400. Professor Li said he took part in drafting the speech of Mr Tung at the 40th Anniversary Banquet of CUHK on 6 December 2003, carrying the message that there would be no forced institutional integration of HEIs.

401. Professor Li referred to the Sutherland Report and emphasized the need to improve the quality of HEIs by way of institutional integration, but the different aspirations of HEIs made it

difficult to have successful mergers. Nevertheless, it was considered important to have more alliances and collaborations among HEIs. Professor Li said the Government had no intention to reduce the number of HEIs.

402. Professor Li emphasized that despite the Government's financial difficulties, proposed alliances and collaborations between HEIs were not aimed at saving resources, but improvement to the quality of higher education. He said he had no particular preference of the type of institutional integration and he would support any form of strategic alliance. Professor Li said he would use the term "merger" generally to describe institutional integration even after the publication of the Niland Report.

403. Professor Li said prior to the telephone conversation with Professor Morris on 21 January 2004, he was aware that HKIEd was interested and eager to pursue a merger with other HEIs, although CUHK and HKUST were not particularly keen to be integrated with HKIEd. He was also aware through UGC and the related reports that institutional integration would be pursued. Professor Li mentioned the meeting with Heads of HEIs and student representatives in January 2004 when he announced the proposed budget cuts which was very bad news for HEIs.

404. Professor Li said as HKIEd was facing significant financial difficulty despite VDS and CRS, he should help HKIEd. He believed if HKIEd could do more with regard to institutional integration, its financial situation could be improved. Professor Li's view was that 2 + 2 programmes i.e. a student would do two years at each of two institutions, suggested in the Sutherland Report, was the way forward for HKIEd.

405. Professor Li referred to the telephone conversation he had with Professor Morris on 21 January 2004. He said HKIEd was very much in his heart as it was important to have good teachers. However, the Government was in a very difficult financial position and that was translated to HEIs. HKIEd faced additional difficulties because of various negative factors and as there was $200 million for institutional restructuring and collaboration, he wanted to let Professor Morris know

about it.

406. Professor Li said he told Professor Morris that HKIEd was facing significant cuts, but additional funding from UGC could be made available to encourage restructuring and collaboration between the institutions and he invited Professor Morris to do something radical, something different that could satisfy the criteria of grant of the UGC restructuring and collaboration fund.

407. Professor Li admitted that he might have used the word "merger" but not "viable" or "stay afloat". The basic message was that HKIEd had to do something towards restructuring and collaboration with the financial crisis that it faced. He categorically denied the allegation of a threat to cut the number of students in order to force Professor Morris to initiate a merger between HKIEd and CUHK.

408. Professor Li admitted that he might have used the term "merger" to describe different forms of institutional integration as it was easier and more convenient to do so. He said he would not have used it in the sense of a full merger as he was aware that the Council had already ruled out a full merger of HKIEd with any HEI.

409. Professor Li mentioned the meeting with Dr Leung, Professor Morris and Professor Luk on 23 February 2004 at his office. He said Dr Leung's description of the event was more or less accurate. He also denied Professor Luk's suggestion that Dr Leung was shaking, or that he had any negative feeling about HKIEd and had not made any unflattering remarks about the quality of HKIEd graduates as alleged by Professor Moore.

410. Professor Li further denied saying that Mrs Law was angry about the school principals' conference in March 2004, co-organised by Professor Cheng, and had prepared a list of punishments for HKIEd. He said Professor Morris's description of the lunch they had on 7 April 2004 was incorrect. Professor Li had never urged Professor Morris to have a full merger and he just wanted HEIs to engage in institutional integration. He denied the suggestion that he had asked Professor Morris to commit to

a merger so that Mr Tung could include it in his Policy Address in 2005.

411. Professor Li said the 2 + 2 model was adopted as a Government policy. However, HKIEd did not find the suggestion attractive and was complacent; and he had to encourage it to move forward.

412. Professor Li was referred to the breakfast meeting between Dr Leung and Professor Morris on 23 March 2006 when Professor Morris pointed out his wish to share some of the RPGs of CUHK and to take over its Faculty of Education if he was to talk about a federation arrangement. Subsequently a drinks meeting on 29 March 2006 was arranged and Professor Li simply indicated his agreement but suggested that they had to convince CUHK.

413. The drinks meeting led to the Hong Kong Club dinner on 17 April 2006 in which the Columbia model raised by Professor Morris was talked about as well as other issues relating to institutional integration.

414. Professor Li emphasized that neither he nor Mrs Law had a free hand in cutting the number of students of HKIEd. He described in detail how the CE in Council approved the level of recurrent funding to the UGC-funded institutions, with inputs from all relevant bureaux of the Government, UGC, and the institutions before it was submitted to the Finance Committee of the LegCo for final approval. Professor Li also described how the number of 1,050 students for the 2005-08 triennium was arrived at. He said the average of 350 students per year was an increase of more than 21% over the 2004/05 academic year and therefore there was no question of any "cut".

415. Professor Li also explained why the number of UGC-funded in-service training places led to the reduction of part-time C (ECE) places to 200 in the 2005/06 academic year.

416. Professor Li emphasized that it was part of his responsibility to ensure that the Government offered the best tertiary education system possible within the available resources and that merger/deep collaboration of one or more HEIs was a viable option. He said Professor Morris indicated that he was in favour of the idea although it was unlikely that the Council would be persuaded, and that was why Professor Li offered and did give the presentation to the Council on 28 November 2002.

417. Professor Li, whilst recognizing Professor Morris's and Professor Luk's wish to see greater investment by the Government in HKIEd, argued that budget restraints and the needs of other institutions must be taken into consideration and that additional funding for HKIEd might not be justified in the absence of changes.

418. Professor Li admitted that he had suggested to Professor Morris to make changes to HKIEd, including merger/deep collaboration, but emphasized that such changes could not be forced upon them. He reiterated that funding to HKIEd and the question of merger/deep collaboration were distinct matters, and that he would not and did not threaten to cut HKIEd's funding in order to force any merger upon HKIEd.

419. Professor Li questioned why Professors Morris and Luk only raised, at such a late stage, the alleged requests from Mrs Law to sack the staff of HKIEd who had criticized the Education Reforms or education policy and its implementation. The alleged requests did not represent the Government's position and he personally did not believe that Mrs Law would have made such requests.

420. Professor Li denied Professor Luk's allegation that he had threatened to make him "pay" for the refusal to issue a statement on 29 June 2004 condemning a group of surplus teachers and PTU who were staging a protest. He did not know Professor Luk well and had only met him once or twice prior to June. Professor Li pointed out his cordial relationship with PTU and therefore there was no need to make a threat to obtain support from HKIEd against PTU which was acting on behalf of the surplus teachers.

421. Professor Li emphasized that EMB had taken significant steps to solve the problem of surplus teachers, in the light of competing interests arising out of class reduction due to a declining birth rate. He also described how HKIEd's fresh graduates challenged PAP that favoured surplus teachers, including a complaint to the Ombudsman, leading to a decision not to extend it.

422. According to Professor Li, the decision not to extend PAP gave rise to PTU's announcement to escalate their protests by staging a hunger strike on 3 July 2004. He said as HKIEd had endorsed the findings of the Ombudsman, it should publicly endorse the termination of PAP and that was why he decided to call Professor Morris on 29 June 2004.

423. Professor Li was adamant that he did not threaten Professor Luk, who was the Acting President at the time, as there was no reason for doing so. He said when he indicated his hope that HKIEd would support the cessation of PAP, and would continue to endorse the findings of the Ombudsman, Professor Luk said he would consider the issue with his colleagues and would call him back. Professor Li said Professor Luk never called him back, but pointed out that Dr F Cheung spoke to the press supporting the termination of PAP, according to a report in Sing Tao Daily on 30 June 2004, and he thought that was the result of Professor Luk's effort.

424. Professor Li emphasized that there was no need for Professor Luk to contact PTU on his behalf as EMB was then in direct contact with PTU. Professor Li also rejected the suggestion that the issue of re-training funds for surplus teachers was raised in the conversation by Professor Luk.

425. Professor Li was taken through the notes of Ms Ma in connection with the meeting attended by Professor Morris. He said those notes were mostly correct. Professor Li said at the meeting of UGC with Mr Tsang in April 2006, Mr Tsang was concerned about the quality of student intake by HKIEd and indicated the possibility of turning HKIEd

into a postgraduate institution, which was objected to by its senior management. However, Mr Tsang did not mention the option of closing down HKIEd.

426. Professor Li denied telling Dr Leung that he wanted a change of governance, merger or to squeeze HKIEd. He categorically said the contents of the letter from Professor Morris to Professors Luk and Moore dated 9 October 2006 were incorrect. He said a number of issues were raised at the Hong Kong Club dinner on 17 April 2006 and not just a full merger as suggested in the letter. There was no suggestion of moving HKIEd to CUHK's Shatin campus.

427. Professor Li was asked why he amended the brief to Mr Tsang prepared by Mr Stone in connection with the discussion between CUHK and HKIEd on institutional integration. Professor Li emphasized that it was his brief to Mr Tsang and he just asked Mr Stone to prepare a draft for him. He said he deleted the reference to federation as some form of merger already included federation. Professor Li also emphasized that there was flexibility in the road map and that some sort of an agreed end point of a merger included the reference to federation.

428. Professor Li reiterated that the Hong Kong Club dinner was not a negotiation session, but just for kicking around ideas. It was a pragmatic discussion about some form of merger or collaboration, and what programmes they were doing or planning to do. Professor Li said Professor Morris must realize that HKIEd could not maintain the *status quo* and that some form of merger was the only way to guarantee a viable future for HKIEd in the long term.

429. Professor Li also said Professor Morris was asking for a lot of things without giving anything back, but CUHK was not prepared to give up its Faculty of Education *per se*, thus leading to an impasse.

430. Professor Li denied that at the HUCOM dinner on 4 April 2006, he told Professor Morris that he would not continue as SEM after July 2007 and that Professor Morris had to leave HKIEd in September 2007. Around that time, as a number of institution heads were retiring, he

might have asked Professor Morris when his contract would expire.

431. Professor Li confirmed the short meeting with Dr Leung and Dr Cheng on 6 June 2006 when he was told that they could not proceed with the federation discussion, but would continue to explore deep collaboration. Therefore, the note kept by Ms Ma purportedly of the meeting was incorrect when it referred to the request to Professor Morris to announce a merger to staff. Professor Li also mentioned a follow-up lunch meeting on 1 September 2006 when he was told again that CUHK and HKIEd were not continuing with the federation discussion.

432. Professor Li emphasized that most of the graduates of HKIEd ended up being employed by the Government and therefore he was concerned about the quality of those graduates. Professor Li was referred to a letter dated 11 August 2006 from UGC in which reference was made to 2 + 2 programmes. Professor Li said the 2 + 2 programmes provided depth and breath as well as the skill to teach and were aspired to by him and the Government to be the way forward.

433. Professor Li defended the quality of students of HKIEd despite what he described as wrong and unfair perception of the public on the issue.

434. Professor Li said the numbers in the Start Letter were not that important as they were negotiable. In any event, he did not personally deal with numbers except to endorse them after they had been worked out. Professor Li said he decided to put the additional ECE number to tender because open tendering not only promoted competition, but was also the fairest way and was in line with the Government policy.

435. In answer to questions from Mr Yu SC, Professor Li said Professor Morris always felt that EMB was against him and was undermining HKIEd, particularly over LPAT and the IR. Professor Li was taken to the recorded telephone conversation he had with Professor Morris in November 2005. Professor Li said he was not targeting anyone in particular when he referred to “who is Professor Morris’s friend and who is not”.

436. Professor Li admitted that when he was still VC of CUHK and in a radio programme in 2002, he expressed the view that the Sutherland Report did not go far enough and suggested the integration of HEIs to create world-class universities. But as SEM, Professor Li said he had different priorities and his main concern was the long-term future of education and to have a good education arrangement for Hong Kong, starting from pre-primary to primary and secondary school and then university.

437. Professor Li said his comments as reported by newspapers in October 2002 were said in a joking manner and in jest. Nevertheless, on Mr Yu SC's question as to what he would do if institutions refused to engage in "merger" even though they had been given a lot of time to do it, Professor Li said he would have to take public interest at heart and if necessary, go through the LegCo to enact the necessary legislation. Professor Li made it clear that cutting funds to institutions for the purpose of bringing about a "merger" would not work.

438. Professor Li insisted that the message that he wanted to send out was that the Government wanted to do what was good for Hong Kong in terms of tertiary education, and he had taken the Sutherland Report one stage further and talked about mergers.

439. Professor Li denied the suggestion that at the meeting with Professor Morris in June 2002, he was making Professor Morris an offer. When confronted with an email message from Mrs Law to Mr Y C Cheng, the then Deputy Secretary for Education and Manpower, on 10 July 2002 in which it was stated that Professor Li "has made a personal offer to Paul Morris who is now less resistant about a merger in three years. I am not sure what position Simon Ip will take", Professor Li said he could not have made an offer to Professor Morris as the leader of the centre of teacher education in Hong Kong by merging HKIEd with CUHK.

440. Professor Li said the likelihood was that Professor Morris said he was for a merger, but the Council was against it and so he said "Under those circumstances, I'll be very happy and offer myself to your

Council and if there's any stick from your Council, they get at me rather than you.". Professor Li insisted at the first meeting he had with Professor Morris in June 2002, he was just in a listening mood when Professor Morris gave him the idea that he wanted to amalgamate with other TEIs.

441. Mr Yu SC also took Professor Li to the note kept by Dr Ip of the meeting they had on 19 July 2002 and Professor Li said the contents of the note were incorrect. Professor Li said he was saying they were not doing well and they had to seriously consider merging. He said he pointed out to Dr Ip that about 70 to 80% of HKIEd staff did not have a PhD. That criticism might have annoyed Dr Ip rather than what Dr Ip considered as the changed position of the Government in seeking a merger between HKIEd and CUHK. The suggestion was that Dr Ip was angry at his adverse comments about HKIEd, and not because of the complete change of the Government's position on the merger issue.

442. Professor Li insisted that when he telephoned Professor Morris on 21 January 2004, he was just telling him that the funding situation would be very bad, in the current year as well as in subsequent years and that HKIEd would be in a worse-off position because of various negative factors. He further told Professor Morris that he should seriously think about the future of HKIEd and as the Government provided a $200 million restructuring and collaboration fund at UGC, Professor Morris should think about it and should get moving.

443. Professor Li said he did not find Professor Luk offensive at their first meeting in February 2004 but he had a rather staring look.

444. Professor Li said he insisted on financing other providers for ECE with the available funds from cutting the C (ECE) places of HKIEd from 468 to 200 because ECE needed diversity and competition. He said HKIEd, being the dominant player, was very expensive, twice as much as that of VTC. He said he did not discuss it with Dr Leung.

445. Professor Li insisted that when he called up HKIEd on 29 June 2004, he hoped that they would come up with an official statement supporting the Ombudsman's decision to stop PAP and he had no reason

to be angry. He insisted that Professor Luk did not refuse to issue a statement but simply said he would have to talk to his colleagues. Professor Li said the negotiation with PTU was achieving results and did not break down, and there was no need to enlist Professor Luk's help. He was adamant that he had no reason to condemn the surplus teachers or PTU.

446. Professor Li said Mr Tsang shared his view. Mr Tsang wanted something done to raise the quality of teachers and liked to see more collaboration between HKIEd and other HEIs. Professor Li said Mr Tsang was also concerned about the quality of the students of HKIEd although he was not dismissive or critical. However, the consensus was that HKIEd should strive to improve itself.

447. Professor Li said he had a lot of faith in academics that they would put the community interest first before their own and therefore he was prepared to give HKIEd a lot of time to come up with a blueprint that would be good for Hong Kong. However, Professor Li was of the view that what HKIEd had been doing was not good enough and it had to work much, much harder and to have an agreed end point of some form of merger.

448. Professor Li suggested that funds for HEIs came from the public and the Government had the duty to monitor their use and therefore the Government was entitled to cut funds to HEIs if the cuts were justified. Professor Li, however, denied the suggestion that the funding cuts to HKIEd were designed to make it submit to a merger with CUHK. He further denied the suggestion that he and Mrs Law were participating in a "good cop, bad cop" scenario.

449. Professor Li said when he mentioned the closing down of HKIEd in the recorded telephone conversation with Professor Morris in November 2005, he was just putting forward a spectrum of possibilities and disbanding HKIEd was not an option.

450. Professor Li admitted that he did not inform Dr Leung of the decision to put the ECE programmes up for tender until September 2006

because there had not been a suitable opportunity and that the extra money for ECE training did not come in until 2006. Professor Li also said he did not want HKIEd to have the idea that he was putting pressure by informing them of the tendering decision.

451. Professor Li said he did not put any pressure on Dr Leung although he could understand his frustration when senior management of HKIEd was not responding to its needs. However, he informed Dr Leung of the Government policy of investing heavily in ECE, that there would be competition, and if HKIEd were to keep the *status quo*, they would lose out.

452. Professor Li reiterated the Government policy of following the recommendations in the Niland Report to encourage closer collaboration between HEIs, and that Dr Leung should be aware of the importance of moving ahead.

453. Professor Li confirmed that he made the decision of using the savings from the reduction in the C (ECE) and QKT places for HKIEd for ECE and then opening up ECE training for competition which was good for Hong Kong.

454. Professor Li admitted that he considered one way of improving the quality of teacher education was for TEIs to come together to form a centre of education and that a general merger was good for Hong Kong. However, he denied putting the proposal to Professor Morris on 26 June 2002 and insisted that he was just listening although he did go along with Professor Morris's idea. He said Professor Morris did not appear to think highly of other TEIs, except HKIEd and so he asked whether they should come under HKIEd to improve teacher training and Professor Morris agreed.

455. Professor Li denied the suggestion that he was opposing a university title to HKIEd in order to facilitate a merger, but that if HKIEd wanted such a title, it would have to make a case for it as every institution was different and must be considered separately.

456. Professor Li reiterated that it was not possible to unjustifiably cut the funding for HEIs without good reason because of the checks and balances as well as the LegCo. Professor Li confirmed that the ExCo had adopted the recommendations in the Sutherland Report in November 2002 as Government policy.

457. Professor Li accused Professor Luk of putting his political ambitions above the interests of his students by trying to appease PTU in the belief that he had a bad relationship with PTU when in fact their negotiation never broke down. He also reiterated that it was the HKIEd Council's decision not to re-appoint Professor Morris as President as the only EMB member sitting on the Council abstained from voting.

458. Professor Li denied the suggestion that he was unhappy because the Niland Report had not suggested full merger of HEIs and insisted that he would be delighted as long as they worked together. Professor Li insisted that it was Professor Morris who initially requested a "merger" with CUHK and that was why he was trying to facilitate it when CUHK was not co-operating. Professor Li said eight HEIs in Hong Kong were not too many and that was why he supported Shue Yan University in its application for university status.

459. It was suggested to Professor Li that his idea was to have HKIEd taking over CUHK's Faculty of Education to create a centre of teacher education and then tried to win over Professor Morris by offering him to head the centre as a pro-VC of CUHK. However, when that failed, Professor Li tried to achieve a merger of HKIEd with CUHK by threatening to allow Mrs Law to further cut the funding to HKIEd to be followed by the further threat of not re-appointing Professor Morris as President. Professor Li denied, saying that he had no right to make any appointment to CUHK and that whether Professor Morris would be re-appointed as President was a matter for the Council.

460. Professor Li, in response to questions by Mr Lee SC, explained that for application to have university title, every HEI's position must be separately considered. HKIEd had not yet obtained university status because its senior management simply failed to address

the different concerns and had not presented cogent arguments to support its case. In any event, until HKIEd made an application together with all the details, the blueprint and the means for addressing the concerns, he was not in a position to decide if it should be granted university title.

461. Professor Li concluded his evidence by suggesting that it was absurd to say that the Government would undermine any HEI. He emphasized that the Government had the legitimate right to present its views and give advice in order to ensure that public funds were used effectively. He lamented at the lack of trust in the Government and in the civil service as well as in people committed to public service.

Mr Andrew Poon Chung-shing

462. Mr Poon was involved in the planning exercise for the 2005-08 triennium and the 2008/09 roll-over year of HKIEd, including C (ECE) and the training courses for QKT.

463. Mr Poon went through all the records in connection with the zero provision in the First Start Letter of 21 January 2004 for part-time C (ECE) places for 2007/08 and confirmed that it was the result of miscommunication, and that 200 places were subsequently reinstated.

464. According to Mr Poon, his original recommendation was that only 150 places for part-time C (ECE) would be provided annually in the 2005-08 triennium, but Mrs Law increased it to 200. Mr Poon also confirmed the decision that the savings resulting from the decrease in provision of the C (ECE) places and QKT places would be retained for ECE. He was unable to say when it was decided that the additional ECE training places would be provided by open tender, but he said such a decision was related to the stakeholders at the meeting in March 2004. Mr Poon said he was unable to say why Professor Li or Mrs Law would have wanted to open up ECE training to tendering.

465. Mr Poon said the tendering was open to all HEIs. However he was unable to comment on the suggestion that the tendering process could not achieve diversity as the only three TEIs capable of running the ECE courses remained to be HKIEd, VTC and HKBU. He did say, however, that the purpose of the tendering process was to ensure other institutions interested in providing ECE training would be given the opportunity to take part as well and it would therefore achieve the object of diversity. He was able to recall Mrs Law mentioning the possible co-operation between CUHK and Poly U in running B Ed in ECE courses.

466. Mr Poon also said the cost of a three-year C (ECE) place was just half of that offered by HKIEd and that as a result of the open tendering, the original projected places of 400 was eventually increased to 760 to meet the Government policy. He confirmed that the declining student population was threatening the survival of the ECE sector and the Government policy of making ECE education as basic education would address the concern of the ECE sector.

467. Mr Lee SC asked Mr Poon why only certain HEIs were invited to attend the meeting with Mrs Law in May 2006 in connection with the expansion of the ECE training. He said HKIEd, VTC and HKBU were excluded because they were already running ECE courses and the idea was to explore other possible providers. He also said other HEIs, such as HKUST, were not invited because they did not have a faculty of education, whereas Poly U was invited even though it had no faculty of education because it had run B Ed in ECE programmes.

468. Mr Poon told the Commission that in the process of conducting a comprehensive review of ECE, EMB organized a number of meetings with the ECE sector, including TEIs. There were two meetings, chaired by Mrs Law, in May and June 2006 with three TEIs, i.e. CUHK, HKU and Poly U, to explore different modes to support ECE teachers and principals.

469. Mr Poon confirmed that HKIEd, HKBU, and IVE were excluded as they were already running various training courses on ECE, including C (ECE) and B Ed in ECE. He also confirmed that in the course of discussion, Poly U expressed interest in running a Bachelor course in Child Psychology and Development for ECE personnel, which required the adoption of a multi-disciplinary approach. In order to facilitate this, Mrs Law wrote to SG of UGC seeking a temporary suspension of the role differentiation of Poly U. Mr Poon said he had no knowledge why Mrs Law did not invite HKIEd to attend the meetings.

APPENDIX VI

SUMMARY OF SUBMISSIONS AND STATEMENTS OF WITNESSES WHO DID NOT GIVE EVIDENCE BUT RELIED ON BY THE COMMISSION

The Commission received witness statements from the following external Council members who voted on the question of Professor Morris's re-appointment, including Dr Cheung Kwok-wah, Mr Ma Siu-leung, Mr Cheng Pak-hong, Mr Pang, Mr Ng, Mr Cheng Man-yiu, Mr Chan Wing-kwong, Professor Leslie Lo Nai-kwai, Miss Bella Lo Sung-yi, Mr Lee Chien, Ms Wong, Mr Tai Hay-lap and Miss Catherine Yen Kai-shun. They all confirmed that they did not receive any communication from Dr Leung or any EMB official on the merger, or on the question of Professor Morris's re-appointment as President, or on any linkage between the two.

2. Mr Wu, who was present at the lunch meeting on 19 July 2002 said he had no recollection of being told that HKIEd must merge with another HEI or the mentioning of the word "rape" by Professor Li.

3. Mr Wu said he had a conversation with Dr Ip on 27 March 2007 when Dr Ip asked him if he remembered it was mentioned at the lunch that HKIEd "俾人閹" (would be castrated) if it did not accept merger. He said he could not recall such a word being used. Mr Wu said all he could remember was a talk of how to attract better students to HKIEd.

4. Dr Sankey, a member of the teaching staff at HKIEd between 1995 and 2006, was supportive of Mrs Law and said he had never experienced any improper interference by the Government. He said despite the support from Professor Li and Mrs Law, senior management at HKIEd had developed a deep-seated distrust and enmity against them.

5. Dr Sankey had very strong negative comments about Professor Luk. He said Professor Luk, was antagonistic to the Government. Dr Sankey also alleged that Professors Morris and Luk used HKIEd to advance their personal and political aims. He also provided the Commission with his responses to what Professor Morris said in oral evidence about his statement.

6. Dr F Cheung said the newspapers had correctly reported his view in May 2004 to the effect that PAP was unfair and should be abolished. Dr Cheung said no one asked him if the newspapers had misquoted him. He also said he was not aware of any discussion on the issue as he was not present at the senior management meeting of HKIEd on 30 June 2004.

7. Ms Wong said she raised with Dr Leung the question of whether the re-appointment of the President was linked to merger and Dr Leung denied it.

8. Dr Heung told the Commission that in early December 2005, Mrs Law expressed to her some negative comments about HKIEd and advised her that she should resign from HKIEd. Professor Mel Ainscrow, Professor of Education at the University of Manchester, suggested that Mrs Law made the remark to Dr Heung in an informal discussion. Two other visiting professors provided the Commission with statements in relation to Mrs Law's critical comments about HKIEd, which Professor Morris said were made to them.

9. Professor Lam told the Commission that the impression she gained at the First Retreat was that Dr Leung was aiming at a full merger of HKIEd with CUHK. Professor Lam took part in discussion with CUHK relating to the DCA and then discussion on the Federation Model. She said the discussion stopped when it was clear that CUHK aimed at a full merger as the end point after two or three triennia. She also provided the Commission with details of such discussion.

10. Professor Lam also described a meeting she had with Dr Leung in connection with the re-appointment exercise of Professor Morris. Dr Leung made it clear that it was not about merger and that he had no criticism of Professor Morris. However, HKIEd faced serious problem due to loss of student numbers in ECE, the poor perception of HKIEd by stakeholders and HKIEd's weakness in secondary education. Dr Leung also enquired about her contract of employment with HKIEd.

11. Hon Mr Cheung confirmed that he had a conversation with Professor Luk on Professor Li's request for the issue of a statement to condemn the surplus teachers and PTU. Hon Mr Cheung said he was unable to remember much about the conversation. Hon Mr Cheung could not recall Professor Luk had mentioned the alleged threat from Professor Li. He also gave his account of the events in June and July 2004 relating to the protests and hunger strikes.

12. Dr Ng also informed the Commission that he knew of the understanding between Hon Mr Cheung and HKIEd that PTU and HKIEd would not condemn each other. Dr Ng said he thanked Professor Luk because he was acting as a middleman between PTU and HKIEd in "the conflict between the protest performed by the surplus teachers and the complaint made by the graduates of HKIEd that year to the EMB and Ombudsman for unfreezing teaching posts".

13. Mr Yeung Yiu-chung, President of the Hong Kong Federation of Education Workers, told the Commission his relationship with Professor Luk and said that the Federation did not have any understanding with HKIEd on any education issue.

14. HKIEd staff members, who attended the First Retreat on 24 April 2004, said Dr Leung emphasized that HKIEd must merge with CUHK or it would suffer "death by a thousand cuts". Reference was also made to the previous concerns regarding the possibility that the re-appointment of Professor Morris had become entangled with the merger issue.

15. HKIEd's staff members who took part at discussions with CUHK on institutional integration all formed the idea that the end point of integration with CUHK would be a full merger, which was unacceptable to HKIEd.

16. Professor Lee said Mrs Law should be fully aware that Mr Ip was working in his department. The suggestion was that Mrs Law would not have asked Professor Mok to dismiss Mr Ip. Professor Lee said Mrs Law had never made any complaint to him about Mr Ip.

17. Mr Peter Cheung Po-tak, Former SG of UGC, told the Commission that he had no recollection of any communication from or with either Professor Li or Mrs Law in 2003 or before, which could have given him an impression that either Professor Li or Mrs Law did not want the IR on HKIEd to proceed as planned.

18. Mr Donald Tong Chi-keung, former Director of the Hong Kong Economic and Trade Office (Toronto), and Mr Cheung Kwok-choi, former Deputy Director of the same office, told the Commission the details of the Toronto luncheon on 23 May 2000.

19. Miss Wong told the Commission details of her involvement in relation to the Start Letters for the 2005-08 triennium and the 2008/09 roll-over year, and related matters.

20. Dr Cheng told the Commission what he could recall about the dinner on 10 May 2006, his meeting with Professor Li and Dr Leung on 6 June 2006 and the lunch on 1 September 2006.

21. There were witnesses who spoke favourably of Mrs Law and there were also witnesses who supported Professor Morris. Ms Doris Au, Founding Principal of the HKIEd Jockey Club Primary School, told the Commission that Mrs Law was one of the staunchest supporters of the school.

APPENDIX VII

LIST OF OTHER STATEMENTS AND SUBMISSIONS RECEIVED, BUT NOT RELIED ON BY THE COMMISSION

Dr Pang I-wah and Dr Lai Ming-hoi, who work in HKIEd, and Mr Yu Shu-tak, who works in the Hong Kong Examinations and Assessment Authority, have made submissions to the Commission. Having considered the submissions, the Commission did not designate them as witnesses in the Inquiry because the information in the submissions fell outside the Terms of Reference and was not otherwise relevant to the Terms of Reference.