

# OFFICIAL RECORD OF PROCEEDINGS

Thursday, 5 July 2001

The Council met at half-past Two o'clock

## MEMBERS PRESENT:

THE PRESIDENT

THE HONOURABLE MRS RITA FAN HSU LAI-TAI, G.B.S., J.P.

THE HONOURABLE KENNETH TING WOO-SHOU, J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, G.B.S., J.P.

THE HONOURABLE DAVID CHU YU-LIN, J.P.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE ALBERT HO CHUN-YAN

IR DR THE HONOURABLE RAYMOND HO CHUNG-TAI, J.P.

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE MARTIN LEE CHU-MING, S.C., J.P.

THE HONOURABLE ERIC LI KA-CHEUNG, J.P.

THE HONOURABLE FRED LI WAH-MING, J.P.

DR THE HONOURABLE LUI MING-WAH, J.P.

THE HONOURABLE NG LEUNG-SING, J.P.

PROF THE HONOURABLE NG CHING-FAI

THE HONOURABLE MARGARET NG

THE HONOURABLE MRS SELINA CHOW LIANG SHUK-YEE, J.P.

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE HUI CHEUNG-CHING, J.P.

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN

THE HONOURABLE CHAN KAM-LAM

THE HONOURABLE MRS SOPHIE LEUNG LAU YAU-FUN, S.B.S., J.P.

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI

THE HONOURABLE ANDREW WONG WANG-FAT, J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG

THE HONOURABLE WONG YUNG-KAN

THE HONOURABLE JASPER TSANG YOK-SING, J.P.

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG, B.B.S.

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH

THE HONOURABLE LAU WONG-FAT, G.B.S., J.P.

THE HONOURABLE MRS MIRIAM LAU KIN-YEE, J.P.

THE HONOURABLE AMBROSE LAU HON-CHUEN, G.B.S., J.P.

THE HONOURABLE EMILY LAU WAI-HING, J.P.

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

THE HONOURABLE TIMOTHY FOK TSUN-TING, S.B.S., J.P.

THE HONOURABLE LAW CHI-KWONG, J.P.

THE HONOURABLE TAM YIU-CHUNG, G.B.S., J.P.

DR THE HONOURABLE TANG SIU-TONG, J.P.

THE HONOURABLE ABRAHAM SHEK LAI-HIM, J.P.

THE HONOURABLE LI FUNG-YING, J.P.

THE HONOURABLE HENRY WU KING-CHEONG, B.B.S.

THE HONOURABLE TOMMY CHEUNG YU-YAN, J.P.

THE HONOURABLE MICHAEL MAK KWOK-FUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE LEUNG FU-WAH, M.H., J.P.

DR THE HONOURABLE LO WING-LOK

THE HONOURABLE WONG SING-CHI

THE HONOURABLE IP KWOK-HIM, J.P.

THE HONOURABLE LAU PING-CHEUNG

THE HONOURABLE AUDREY EU YUET-MEE, S.C., J.P.

**MEMBERS ABSENT:**

DR THE HONOURABLE DAVID LI KWOK-PO, G.B.S., J.P.

THE HONOURABLE FREDERICK FUNG KIN-KEE

**PUBLIC OFFICERS ATTENDING:**

MR LEE SHING-SEE, J.P.  
SECRETARY FOR WORKS

MR THOMAS TSO MAN-TAI, J.P.  
SECRETARY FOR PLANNING AND LANDS

**CLERKS IN ATTENDANCE:**

MR RICKY FUNG CHOI-CHEUNG, J.P., SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

## MEMBERS' MOTIONS

**PRESIDENT** (in Cantonese): Two motions with no legislative effect. I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates. As Members are very familiar with the time limits on speeches, I will not repeat them here. I just want to remind Members that I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Reviewing the compensation policy on land resumption.

### REVIEWING THE COMPENSATION POLICY ON LAND RESUMPTION

**MR ALBERT CHAN** (in Cantonese): Madam President, I move that the motion under my name in the Agenda be passed.

Today, on the way while I was coming in, a Member told me that Typhoon Signal No. 3 had been hoisted and that the Observatory would change the signal to No. 8 before 4.30 pm. He therefore asked me to be brief with my speech and hoped that not many Members would speak so that the motion could be passed before 4.30 pm. In fact, if you all agree, we can take a vote on this motion immediately. *(Laughter)*

Madam President, first of all, I would like to tell a true story. In 1991, when the Government commenced works on the Chek Lap Kok Airport, many families had been engaging in farming at the site already. However, one of the families was reluctant to give up farming when their land was resumed. After a great deal of hardships, they found a plot in Yuen Long to continue farming, though, of course, it was a plot much smaller than what they previously had. This family, together with the dogs they kept, moved to Yuen Long. One of the dogs, missing the old home and finding it hard to adapt to the new environment, kept barking every night and refused to eat for a whole week. It subsequently died of starvation. At the same time, given the great difference in air quality between Yuen Long and the pollution free island, the old farmer also developed respiratory problem after moving to Yuen Long and became very depressed and eventually died.

There are innumerable cases where the living of the citizens is affected as a result of the resumption of land by the Government. The story above shows just the tip of an iceberg. Ordinary citizens, like ants, are powerless to put up a fight. In the whole process of land resumption, not only had such issues as compensation and the timing for removal given rise to conflicts between the Government and the citizens, the lack of resettlement had also been the cause of anger amongst the citizens, factory owners and shop operators. Not long ago, when the Government had to resume land for the flood prevention works at River Indus, farmers from the surrounding villages who were not satisfied with the compensation and resettlement arrangement got into clashes with the police. Similarly, when Wah Kai Industrial Centre in Tsuen Wan had to be cleared for the West Rail project, the series of protests by the owners and factory operators turned the problem white-hot.

The current land resumption policy of the Government is based on the relevant legal provisions, for example, the statutory powers provided by the Lands Resumption Ordinance, Roads (Works, Use and Compensation) Ordinance and Railways Ordinance, so that private land can be resumed for public projects or railways, while easement and other rights can be created on private land. Those ordinances provide that the authorities would put forth compensation proposals to those eligible and affected by the resumption, but if they find the proposals unacceptable, they may claim statutory compensation.

When the authorities order resumption of land under any ordinance, it will publish a notice in the Gazette and the notice will usually last for three months, from the date of the notice. On expiration of the notice period, the land concerned will be reverted to the possession of the Government.

There are two major issues relating to land resumption and factory relocation. First, in relocating an enterprise, especially one that involves high technology and mechanical equipment, operators in general have to plan ahead and to arrange for sufficient time and finance to install all the equipment before operations can continue. Strictly speaking, many owners and factory operators can only move out half a year after receipt of compensation, some may even take one or two years before they can make arrangements for moving out of the original factory. However, it is unreasonable of the Government to ask the factory operators to move out within such a short notice, that is the three months' notice mentioned above.

Moreover, the current amount of compensation is in fact not sufficient to enable the affected businesses to continue their operations. When the Government resumes commercial properties, the end-user owners may be compensated with an amount commonly known as "premises shell price", which is equivalent to the market value of other properties in the same district. Other than this, occupiers of properties may also claim for disturbance compensation and compensation in respect of lost businesses or opt for *ex gratia* payment. The way the payment is calculated takes into account the rent during the removal period, removal expenses, decoration expenses, stamp duty and legal fees.

The purpose of making this compensation is to simplify the administration work involved in land resumption so that construction projects can proceed promptly and smoothly while those affected will also find it more acceptable. I fully agree to the purpose and principle behind it, but I cannot bring myself to accept its actual implementation and the related arrangement, especially in relation to the fixing of the price.

At the moment, the amount of compensation paid for a property is assessed and calculated by the surveyors of Lands Department. As the method of calculation involves a lot of technical problems, the Government has not provided any detail explanation to the owners as to how the price is set, thus seriously affecting the rights of the factory operators and owners. Moreover, given the type of plant, interior installations and technical requirements involved, removal costs can vary greatly. The disturbance compensation flatly offered by the Government cannot reflect the actual removal costs of the different factories. I can quote the case of the owner of an electroplating factory in Wah Kai as an example. In his plant, besides the \$800,000-worth of sewage treatment equipment that was required by the Environmental Protection Department, there was an expensive electroplating tank. The equipment and interior installation for this type of factory would cost more than \$1 million, but the Government only paid disturbance compensation at a flat rate of \$150 per feet, which definitely was not enough for the operator to find another factory to start his operation again.

Another administrative problem is about the procedure and timing for the release of compensation payment. It is the current practice of the Lands Department to resume the property for investigation, photo taking, video taking and calculation, before making a compensation proposal to the owner and operator. If the person concerned considers the compensation unreasonable, he

can make a claim to the Lands Department. If the Department disputes the amount that the person claimed, the applicant will have to lodge an appeal with the Lands Tribunal. Though the Lands Tribunal expresses that a hearing will usually take place three months after an application is made, actually counting from the time after making an application to the completion of the relevant proceedings, a case may take as long as two years. Thus, on the one hand, the release of compensation would take too long; on the other hand, the operators might face financial difficulties because their business is stopped and they lack the financial means for removal to resume business.

The claim by the Government that the factory operators can obtain bank loans to temporarily foot the removal bill not only shows that it does not want to take up the responsibility of helping the operators, but also exposes its ignorance of and indifference to the current business environment. With the industrial sector now declining, if the operators are not able to provide their goodwill for security, banks usually would not approve of any mortgage. Even theoretically the owners and operators can apply to the Lands Department for compensation in respect of the interest cost on the loans, if they cannot provide the necessary support for the loans, any "compensation" would become meaningless and removal would be out of the question.

From the Wah Kai incident it can be seen that many years have been spent on planning the northwestern railway, but severe mishandling is revealed in land resumption that caused the operators to be treated unreasonably. In fact, had proper administrative arrangement been made by the Government to ensure that the owners and operators could first be reasonably compensated for relocation and resumption of business, clashes between the Government and the public could be avoided and there is also no need for the operators to fold up.

To minimize the effect of land resumption on the operators, the Government should follow the principle of "first compensation, then removal" instead of sticking to the practice of "first compensation, then claims". Past experience tells us that if businesses, especially those in the heavy industry and special industries, were to be relocated, they have to spend a lot of money and time. Hence, the Government and the operators must go through repeated discussions so that they can have sufficient time to reach agreements on problems relating to compensation and removal.

Besides adhering to the principle of "first compensation, then removal", the Government, I think, should be more proactive in helping the affected operators to find new premises for relocation. In the seventies and eighties, when the former District Office was in charge of the administration of land, the Government had helped many factory operators in the New Territories to search for other sites for relocation so that the Government could resume their land for development. I can quote a living example. In 1979, in order to construct the Mass Transit Railway in Tsuen Wan, properties at Sai Lau Kok, Tsuen Wan had to be cleared. There were operators of Chinese wine factories, foundries, and the like. As factory buildings were unable to accommodate such operations, they had to look for some flat level sites for relocation. With the assistance of the District Office, 23 of the operators were arranged to move to the hillside above Route Twisk, that is District 40 now, to continue their operation.

Now 19 years since then, and after informing the operators at District 40 that the land rented for their operation was to be resumed for developing low-density residential properties, the Government subsequently auctioned off the land. However, the Government expressed that other than paying the ordinary compensation, it was not obliged to provide any assistance to these operators, who were just to pack up and leave. While 20 years ago, officials of the District Office under the British Hong Kong Government could take the trouble to look for relocation for the factory operators, the SAR officials now, oblivious to the sufferings of the public, only said that they could only act as what the law has provided and carry out orders from their superiors.

As to the amount of compensation, I suggest that the Government should amend the method for calculating the disturbance compensation. Different levels of compensation can be fixed in accordance with the type of businesses and the financial requirements for relocation. The amount of compensation paid should increase proportionally with levels. For example, given that the costs of machinery and equipment installation are higher for some high-tech industries, relocation costs should be higher. The disturbance compensation paid for land resumption should also be increased accordingly. Before resuming any land, the Government should carry out comprehensive and in-depth survey of the affected operators. In fact, the Government has already carried out work in this area, and to a certain extent it should have some understanding and assessment of the financial needs of the operators if they are to relocate. The Government may also make reasonable compensation payment with reference to the needs of the operators, which should not pose any technical problems.

Moreover, with regard to the mechanism for claiming compensation and instituting appeals, I propose that the Government should set up an independent and fair land adjudication mechanism to provide free litigation service in relation to land and property price adjudication. Such a mechanism not only can reduce the financial burden of the operators, but can also minimize the delay in litigation as well as the frustration and financial pressure that the operators may suffer when their litigation may drag on for years.

Based on precedent cases, it can be seen that the case of Shiu Wing Steel is the most successful in land resumption and received the best treatment from the Government. In 1991, the Government announced that Rennie Hill was to be cleared and that the site occupied by Shiu Wing was to be partitioned for residential use. Given that Shiu Wing had substantial contribution to Hong Kong's industries, the Government had not only made a compensation of \$650 million, but had also granted it, in the form of private agreement, a site in Tuen Mun to rebuild its plant. This is a very preferential treatment. Of course, a land premium has to be paid for that site in Tuen Mun. However, if contribution to Hong Kong economy should be a merit for consideration, are those operators at Wah Kai not also the core of Hong Kong's manufacturing industries? Moreover, of those operators affected by the clearance of District 40 in Tsuen Wan, many have also contributed to Hong Kong economy.

Madam President, success does not come by as a matter of course. Hong Kong's economic success relies on the contribution of all trades and businesses, especially that of the small and medium enterprises. It would be an inexcusable crime if the small and medium enterprises were nipped out of their existence.

With these remarks, Madam President, I beg to move.

**Mr Albert CHAN moved the following motion: (Translation)**

"That, as the resumption of land by the Government for infrastructural projects or development will affect the original agricultural, industrial or commercial development on the land and will even lead to the closure of many enterprises, this Council urges the Government to expeditiously review the compensation policy on land resumption and the relevant administrative arrangements in order to assist as far as possible the operators who are affected by the resumption and reduce its impact on them, thereby ensuring that they can continue with or resume their operations."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Albert CHAN be passed.

**MR LAU WONG-FAT** (in Cantonese): Madam President, I must first declare that I am one of the owners of land title in Hong Kong.

Since the return of Hong Kong to China and the coming into effect of the Basic Law, Article 105 of the Basic Law provides for a new criteria in respect of compensation for lands resumption, that is, the compensation offered for resumed property should be equivalent to the current actual value of the property. However, the Government has still adhered to the Lands Resumption Ordinance, which is the former Crown Lands Resumption Ordinance, as the basis for compensation. The mechanism provided is very restrictive and unreasonable, especially section 12(c). For years Heung Yee Kuk has been working hard for the interests of the titleholders, but the authorities just stay unmoved, insisting that the potential value, accessibility, area and surroundings of land are not factors for consideration in relation to compensation, thus resulting in a wide gap between the amount of compensation put forth by the Government and the market value. The titleholders are the ones who suffer.

Heung Yee Kuk learns that in the recent judicial review of a case about land resumption compensation at the High Court and in two cases heard by the Lands Tribunal, it has been determined that section 12(c) of the Lands Resumption Ordinance is no longer applicable, and that the potential value, accessibility, area and surroundings of lands must be considered for the calculation of compensation. Thus, in the future, the Government must abide by the provision of Article 105 of the Basic Law and the relevant case laws to calculate the actual value of lands. The best way is for the Government to draw up a new formula for calculating compensation and to set up the relevant compensation mechanism after conducting a general consultation that involves Heung Yee Kuk, so that there is something to go by when land is to be resumed.

Madam President, after Hong Kong's return to China, Heung Yee Kuk has on a number of occasions asked the Government to invoke Article 105 of the Basic Law as the basis for calculating land resumption compensation. However, the Government considered that there was no need for any change; and the titleholders were thus misled into believing that the compensation offered by the Government was reasonable and legal, and subsequently into signing the

compensation agreement, without seeking any review by the Lands Tribunal. Heung Yee Kuk therefore asks the Government to rectify the situation so that for all land resumption cases after 1 July 1997 and that were compensated in accordance with section 12(c), compensation should be made in accordance with Article 105 of the Basic Law and the case laws mentioned above; moreover, the titleholders should be paid the difference and interest to make up the full compensation.

Madam President, while practising colonial rule in Hong Kong, the former British Hong Kong Government inevitably neglected the interests of the locals. Even though those affected by land resumption might lose all their possessions and assets, the compensation given for resumption and relocation was always calculated in accordance with the policy already in force. Past cases include constructing reservoirs, cutting water sources, preventing farmers to farm on their own land, leaving land unused, which forced many residents of the New Territories to leave their homes and work overseas. Recent cases include land resumption at Thirteen Villages in Kowloon where home factory operators, being unable to provide proof of profit as a result of the change in economy on their operation, could only receive compensation that was significantly lower, and some even received nothing, thus forcing them to fold up their operation.

The compensation policy as currently adopted by the Government was drawn up some 20 years ago (that is, in 1978) with reference to the Report of the Study Committee on Resuming Urban Land in the New Territories (or the "Kenneth Kan Report" for short), and was based on the distance and categorization as shown in the new town blueprints. Undoubtedly, as the policy was pertinent to the actual situation in the New Territories then (there was yet to be any policy on town planning), its implementation was quite effective. However, time has changed, in 1991 when the Government forcibly include general land use planning in the New Territories in the Town Planning Ordinance, the uniqueness of lands at the New Territories was officially abolished. In other words, the policy of new town blueprint for the New Territories exists only in name now. So why, in making relocation compensation as a result of land resumption, does the Government adhere to the criteria set more than 20 years ago, instead of working on the basis of planned land use and the potential value of land? I think that the current policy for calculating such compensation is outdated and unreasonable, it even has a smack of the Government robbing properties from private citizens.

Since the High Court and the Lands Tribunal have already established the criteria for calculating compensation as a result of land resumption, the time is apt to review the related policy.

With these remarks, Madam President, I support the motion of Mr Albert CHAN.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, as the wording of the motion focuses mainly on discussing businesses affected by the Government's land resumption, which include the development of agriculture, industries and commerce, we should therefore focus on the condition of those operators, factories or shops affected by land resumption. Now on exhibition at the Thematic Gallery of the Hong Kong Heritage Museum is "Hong Kong Comic World", which, through the lively and interesting comic world, shows the development of the society of Hong Kong, and the reconstructed street stalls help us recollect memories of the past social culture of Hong Kong. However, what lies behind this sea of changes is the loss of Hong Kong's geographical and regional characteristics. The life of our agricultural, industrial and commercial developments have been sapped by the Government's uniform and lifeless development model. Much of our tradition has gone.

Furthermore, in the course of Hong Kong's development, land belongs to the Government, which may, under the Lands Resumption Ordinance, resume land from lessees for development. However, on being leased, land becomes private property, in which citizens or operators may have lived and operated for decades. The decision of the Government to resume lands and properties would have profound effect on them.

The above two points (I would only concentrate on these two, as I might have to talk for a long time if all the details were covered) can be summed up as our regret that the one-dimensional social development has destroyed our pluralistic social culture and caused some traditional businesses to fold up and traditional art to disappear under the giant wheel of history. Another issue that has been my concern and that also been aching me is that in the course of development, land resumption has resulted in many clashes between the Government and the public. When the Government has to resume land for development, the public, instead of objecting to the resumption, can only dispute the amount of compensation and the loss of business. How can we have one

single ruler to measure the amount of compensation and loss of business? Both the public and the Government have their own criteria, and very often conflicts are the result of such differences.

Madam President, from cases of land resumption by the Land Development Corporation to the public clashes over Wah Kai Industrial Centre, one can see that the Government could have been more open and shown more human concern in its compensation policy and administrative arrangement. In fact, any resumption of property right by the Government is an invasion of an occupier's ownership or lease right and the disturbance caused to the occupier and operator should be minimized so that they can continue with their operation. However, in a recent case of land resumption, some of the affected operators or traditional family businesses expressed that the current *ex gratia* payment was inadequate for them to rebuild their families and businesses.

Madam President, from the clearance of Tai Hom Tsuen and Tung Tau Cottage Area and the redevelopment of old district and public housing estates, with which I am quite familiar, I have a very strong and bad feeling about the actions involved. The Government only cared about resuming land for development, without any regard to the living space of those small operators. In fact, there are two areas in the Lands Resumption Ordinance that I find very inadequate. First, according to the Ordinance, claimants of statutory compensation must provide document proof, which will put greater burden on the administrative procedures, thus complicating the process of compensation application. Take for example the case of Tung Tau Cottage Area, which was very similar with that of Rennie's Mill, residents of both districts were emigrants from China after the war and had established their homes here. While, because of some political factors at Rennie's Mill, the Government might have to give political consideration to these at Rennie's Mill in its decision-making, there were no such considerations in the case of Tung Tau Cottage Area. Residents of both districts met the conditions for applying to the Government for land to rebuild their homes and should be compensated in the same way when their sites were cleared. However, the Government required them to produce documentary proof, and in the Legislative Council, we could see at that time the historical background of those affected by the resumption. All political parties of the Legislative Council unanimously agreed that the Government should give basically reasonable compensation to those affected by the clearance. Despite so, Madam President, we regret that up to this moment, the Government still insists that those residents had not produced the required documentary proof.

Madam President, just imagine those post-war days back in the fifties, other than government officials, would ordinary citizens have a say? Despite that the Government has time and again changed its policies, the citizens could hardly put up a fight, and now these people were asked to produce documentary proof. To be frank, even the government department at that time also questioned the reason for the difference in treatment for these two similar cottage sites. This clearly showed that the Government just neglected the existence of this group of people. Not only so, it has even coldly pointed out that those affected would not be given any compensation if they could not produce any documentary proof. Notwithstanding that the Legislative Council had repeatedly passed motions that these people should be given the same treatment in relation to compensation, the Government still stuck to its ground. These questions made my colleagues and me feel rather furious.

Moreover, I would also like to point out another area of inadequacy in the Lands Resumption Ordinance and that is, it shows no human concern. Other than the compensation as provided by law for the owners or tenants affected by resumption, the Government has not provided any land or found suitable sites for the operators to continue with their businesses. In fact, in the course of making compensation, the Government had created a number of blunders. Factories were given the same compensation no matter if they were of the heavy industry or light industry; retail shops would even be compensated much more than the compensation for the industries. On these issues, it seems that we were having an ongoing struggle with the Government. After repeated clearance incidents, why does the Government still remain the same as it was? Why, after every clearance or redevelopment, would the Government leave some small operators with an inability to continue with their business, making them join the league of the unemployed? Why must it be like this? Why, with the unemployment situation deteriorating, must the Government still be so unreasonable with some of its policies?

Madam President, some of the comics on displayed at the Hong Kong Heritage Museum created a montage of shops of the old days with street scenes of the present day. However, I cannot see if there would be any chance for traditional businesses to continue their operations under the current Lands Resumption Ordinance when the Government redevelops the communities. Hong Kong will only have the single mall-type operations in the future, and will be lacking in the pluralism of our culture and economy. All these are nipped by the Government. If, in course of the land resumption, the Government would

not give consideration on a people-oriented basis, that would, I think, become a very sad state of affairs. Unlike other countries or cities, we would no longer have a pluralistic and lively culture.

With these remarks, Madam President, I support the motion. Thank you.

**MR KENNETH TING** (in Cantonese): Madam President, with the economy on the growth, the number of cases where land was resumed for infrastructure works and development would increase accordingly. Many of the factory operators affected by land resumption are small and medium enterprises (SMEs) and have been operating on their premises for quite some time already. Given the huge investment that is made in the production equipment and machinery, a land resumption order would mean complete evaporation of the years of effort that these operators put into running their factories. Under the current economic condition, however, it is easier said than done if an operator could rebuild his business with the amount of compensation that can hardly reflect the actual loss!

Hoping that they could obtain reasonable compensation, many factory operators held protracted talks with the Government, but still the result was that they were forced to close down. I want to specifically point out that it was not only the operators who had to suffer, but their employees too, who were forced to join the league of the unemployed, with a series of foreseeable social and family problems tagging behind. Though, in the resumption of land, it is the purpose of the Government to achieve a better result for the economy as a whole, the process of land resumption just worked the other way, making it difficult for the affected factory operators to resume business, and indirectly causing damage to the economic and social interests of Hong Kong.

On the amount of compensation, the sum that the Government paid for the land and properties resumed was very low, which very often could not reflect the current market value. The owners were forced to sell their properties at an exceptionally cheap price, or had to engage professionals or surveyors to haggle with the Government before the Government could make a little budge on the price. All these make one feel that the Government is trying to intimidate the small owners.

On estimating the loss of business, though there is no legislation that expressly provides for a calculation formula, the profitability of a business, as shown in past court cases, has been used as the criteria. However, since the financial crisis, the performance of ordinary SMEs has been far from satisfactory, in fact, many of them are even struggling for survival. The assessment of any loss of business would as a result tend to be too low, making the compensation completely unrepresentative of the actual loss and greatly raising the possibility for these operators to fold up.

On the determination of special allowance, using a per-foot rate to calculate the lump sum compensation does not take into account the equipment and installation characteristics of the individual industries. Take an electronics factory as an example, the cost involved in relocating a production line is completely different from that of relocating any ordinary machinery. Some of these machines, if taken apart, are very hard to put back again; some of these equipment even have to be replaced anew. How can the loss be properly compensated with that small amount of removal payment?

To the ordinary SMEs, the most severe blow is the uncertainty in the timing of land resumption, which often drives SMEs into financial crisis and subsequently down the path of complete closing down. Very often, long before the Government has gazetted the resumption of a plot of land, the banks have already learned of such resumption and, expecting that these enterprises would have lost their "brick and mortar", would reduce the loan finance to the SMEs concerned. Without the support of the banks, it is not uncommon for these SMEs to fold up before even removal. The various departments of the Government should in their administration try to minimize the uncertainty in the timing for land resumption, and a notice of land resumption should be gazetted as soon as possible so that the affected operators can have a clear notion of the timing and have more time in arranging the finance, operation, removal and resumption of business. As soon as land resumption is to go ahead, the Government should handle the operators' application for compensation as quickly as possible. Should the Lands Department be understaffed in this area, consideration must be given to outsourcing the work concerned to avoid any unnecessary delay.

In a word, the Government should review its formula and mechanism for calculating and determining compensation for land resumption, especially in relation to the making of *ex gratia* payment for industrial properties so that the

compensation the owners get can be more reasonable and reflect the actual loss. Despite that the Government may not have the absolute responsibility to assist the affected operators to resume or continue with their operations, the Liberal Party considers that the Government, while resuming land for public use, must also take into account the private property right of the owners and the effect of land resumption on their businesses, and render as much assistance as it can to those operators who want to continue with their business to resume operation. This will help clear some of the resentment among the public. At the same time, the Government should also minimize the economic loss arising from land resumption, thereby avoiding aggravating the unemployment problem.

With these remarks, I support the motion.

**MR WONG SING-CHI** (in Cantonese): Madam President, the discussion on a review of the compensation policy for land resumption brought back to me a lot of memories. At the end of 1999, when I was giving assistance to some powerless residents of Shek Wu San Tsuen, I was arrested for obstructing the police. I was subsequently found by the Court to be just a mediator, who was assisting the residents to conduct reasonable and proper negotiations with the Government. I was just a go-between. Notwithstanding this outcome, I still had to put aside a lot of important work and attend the Court for a month's hearing. However, the plight of the residents was even worse. There was a Mr SHI, who, with the arrangement of the Government, obtained a five-year lease on a plot of land. He spent \$1 million on decoration and put in a lot of planning for a beautiful house. The Government told him that he could live there free of any disturbance for five years, and that the lease could be renewed for another five years. However, two years later, the Government told him that the land was to be resumed and a year later the house was demolished. For the million-dollar decoration, the Government said that it would only pay a compensation of \$100,000. Mr SHI's family of five originally was living happily together, but under such a situation, he was forced to fight back. Regrettably, because he had resorted to using a little force during a struggle, he was arrested by the police and charged with obstructing the police. Mr SHI was then given a 12-month sentence and he is still in prison. I have visited him and he asked me that I must give an account of the incident in the Legislative Council. Up to this moment, Mr SHI still cannot obtain any reasonable compensation. The Government has only paid him \$110,000. Not only is the money he spent on decorating his house has gone forever, his family is also greatly affected by the incident.

As Mr Albert CHAN has already pointed out, what we discuss today is mainly on how industries and businesses are affected by the Government's land resumption. Apparently, it is impossible for large-scale factories like Chinese wine breweries and smelters to move into factory buildings, as they require large open space for their operations.

Many operators apply to the Government for lands in the New Territories to construct their factories, but in the course of application they often meet with all sorts of obstacles. Under the existing policy, the operators concerned may apply for Short Term Waiver, or "STW" for short, from the Lands Department, so that private land can temporarily be used for industrial purpose. The Lands Department usually takes nine months to approve, and other departments like the Environmental Protection Department also have to carry out assessment to ensure that the operations meet the environmental protection legislations.

In fact, operators who have experience in these matters told us that the Government would usually reject their applications. An operator in the ship-repairing business told me that he had applied to the Lands Department for an STW, hoping that he could open his factory in Hung Shui Kiu or Tsuen Wan, but was rejected because the Government planned to develop an environmental new town, hence industrial land use was restricted. As to land use in Tsuen Wan, because of a catchment area in the vicinity, factory land use was also rejected. Though there were good sites in the northern district, given that the ship repairing trade had to use high-temperature smelters and heavy equipment, any flood in the district could affect the operator's livelihood or even cause industrial accident. The operator finally had to give up the idea.

Also in the case of Shek Wu San Tsuen, there was a large wood furniture factory with over a hundred workers. On resuming the property of the factory, the Government only compensated it with the price of that plot of land. Despite that the factory would like to apply for another piece of land in the New Territories to rebuild its operations so that the workers could continue with their work, the Government only told the factory that it could make the application and up to this moment the application is yet to be approved.

For those small and medium enterprises that would very much like to continue with their operation but for the shortage of land, the Government should, I think, actively provide land information to them, like information on rural land use for both government and private land in Hong Kong, so that the operators can apply land from the Government or purchase land from land owners for

relocation. This way, it will enable the operators and workers to continue with their occupation. The Government should also list any restriction on future land use for lands in the vicinity of industrial sites so that the operators can make their choice appropriately.

In order to minimize the conflict between industrial development and environmental protection, the Government should encourage the operators to choose sites from areas that have been marked for industrial use. For example, the area around Tong Yan San Tsuen, Ping Shan is devoted mainly to industrial use like workshop, open-air storage or warehouse. While benefiting the operators economically, this can also avoid the mixing of industrial and commercial land use with residential land use, which may affect all concerned.

In fact, the most important thing is for the Government to shorten the approval time and to co-ordinate the work of various departments so that the application and approval procedure for Short Term Waiver can be simplified. As long as the environment and the living of the residents are not affected, the Government should help the operators find appropriate sites to continue their businesses.

With these remarks, Madam President, I support the motion.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, I gather my experience about land resumption actions taken by the Government mainly from a number of cases: first, at Wah Kai Industrial Centre of Tsuen Wan; second, at Hung Shui Kiu; and third, at Tuen Mun and Yuen Long. The experience, as many Members have already talked about, shows the sort of problems the Government is having in general when it resumes land: first, complex procedure; second, messy administration; and third, inadequate relocation and compensation. If the Government has still refused to look squarely at these problems, and given that the Government is now actively launching a number of engineering and other development projects, it would, I am afraid, aggravate the public's grumbles and grievances towards the Government.

Just now Mr WONG Sing-chi has quoted a number of cases; in fact, I have also a whole host of cases to quote. The one I have the deepest memory of is that of a farmer at Hung Shui Kiu. He did not have the slightest idea that his farmland would be resumed by the Government. He went to the Agriculture, Fisheries and Conservation Department (AFCD) to apply for a farm licence.

On being issued the licence, he spent one to two million dollars on renovation and a lot of other facilities. However, before the renovation work was completed, the Government told him that his land was to be resumed. His situation was very pitiable. The Government had said that it had conducted thorough consultation, and consulted the views of the residents and held press conferences. Such so-called consultation was a complete fake. Why I say it was fake? It is because there were only residents listening to the Government, but not for the Government listening to the views of the residents. No matter what the residents had said, the Government just turned a deaf ear. The Government subsequently said that it had already held meetings with them and the matter was submitted to a certain committee for discussion. In fact, during the discussion, the Government simply repeated the residents' views, for example, relating that they objected, but it could not relate the true reasons for their objection. Finally, on the grounds of public interest, a decision was reached. Now, let us look at all these. Investments had really been made and facilities bought, what was the investors to do with all these?

As to compensation, of course, as Mr WONG Sing-chi has said, it was far from satisfactory. The result was a very harsh one: the farmer could not have time to sell off his thousands of pigeons, which subsequently had to be gassed by officials from the AFCD. What a cruel thing they had done! It was all because of mismanagement on the part of the Government and the unreasonable compensation given. It was very easy for the Government to say that if the residents were not satisfied with the compensation, they could appeal. However, we all know that (I will touch on this later) lodging an appeal is a gruelling process, so to the ordinary citizens this action is virtually futile.

With land resumption, the Government has in its hand that imperial sword — the Lands Resumption Ordinance. It can do whatever it wants, without any room for negotiation. Though, when deciding on resuming a plot of land, it might have discussions and hold meetings, they are mere work of façade. The Government would only say that as the time has come, it has to resort to the Ordinance to resume the land concerned, and if the residents were not happy, they could litigate. Look at the Wah Kai incident, instead of going to litigation, the operators only sought a judicial review, but the expense involved was hard to calculate. Up to this moment, there are still operators being sued by the West Rail for legal fees because they had instituted proceedings. It is really like getting thirty spans before even seeing the judge. They really do not have the means to litigate with the Government over compensation. You can all see how harsh the result is when the Government resorts to invoking the Lands Resumption Ordinance.

I would like to talk further on the issue of compensation. The Government said that if anyone is not happy with the compensation, he can bring the matter to the Lands Tribunal. I would like to use the Wah Kai incident as an example again. This incident took place about a year ago, but it took the Lands Tribunal more than a year to begin hearing the case. With the vast amount of public funds at its disposal, the Government need not worry about how long a case might drag on, but the operators do not have such resources. There was a case where the operator was only trying to recover tens of thousands dollars, but during the first three days of the Lands Tribunal hearing, the Government lawyer only put questions to the operator about his business more than 10 years ago. The case dragged on for more than 10 days and had not yet come to the core of the matter. Just imagine, as a claimant, he cannot guarantee that he would win the case and therefore would have to consider the consequences. After more than 10 days' hearing, how could he bear the lawyer's fees, not to mention that he might have to pay the Government's legal fees as well? He might not be able even to pay his own legal fees. He was not making a large claim, just some tens of thousands dollars, so what could he do? He is still not very sure what he should do, and asked me a few days ago if he should press on with the case.

The problem lies with the Government in that there is no clear communication among the departments. How could a department have no knowledge that a certain piece of land was to be resumed within a short period of time? The residents have arranged their living or work according to their own plans, but the result was what have shown up now. I feel that Miss CHAN Yuen-han's "people-oriented basis" is well said. But what is considered to be a "people-oriented basis"? When the Land Development Corporation became Urban Renewal Authority, the Government had considered a number of issues and would very often listen to the views of those affected and show some concern for community development. However, in the cases of land resumption in the past, the Government had not considered these issues in any way. Can the factory operators continue their business? Can the residents continue living in the same district? The Government had not given any consideration to these issues. It just pressed on with its land resumption action, caring not a bit about the views of the residents. If rehousing were required, it would be for the Housing Department to handle, or it would be for the residents to find a solution themselves; it has never been a concern for the Government to co-ordinate the work of various departments. I feel that the Government must give serious thoughts to this and should not allow work to be split up among so many departments. Under the present circumstances, those in charge of rental would

only look at the rental business, while those in charge of compensation would only look at compensation issues, thus resulting in a mess. I hope that the Government can take a one-stop shop approach to these problems and that would be much better.

**PRESIDENT** (in Cantonese): Mr LEUNG, your time is up.

**MR LAU PING-CHEUNG** (in Cantonese): Madam President, first of all may I declare my interest. I represent the Construction, Surveying and Town-planning Functional Constituency and I am a professional surveyor myself. Assessing land and property value is part of the work of a professional surveyor. I am also on the Board of the Urban Renewal Authority.

Despite its small size, Hong Kong is home to 6.8 million people. To adequately provide clothing, food, shelter and transport for this number of people, it is necessary to continue our programme of development and construction. And in the course of development and construction, land must inevitably be acquired from private citizens. Under the premise of public interest, I recognize that individual titleholders are forced to make a certain sacrifice. However, these individuals must also be given reasonable compensation. Now the question is, what is reasonable compensation? Can we or can we not set down any objective standard for calculating a reasonable compensation? It is only after we have an objective standard for reasonable compensation then the party making the offer would not feel that the titleholders are making exorbitant claims and the titleholders would not feel that they were robbed.

Now when the Government or a public agency has to acquire private land, the compensation given basically is based on the market value of the land resumed. If compensation were simply based on the market value of the land concerned, it would be unfair to the titleholders of private land, as the value compensated has not taken into account the sacrifice they have made for the public. We might still remember when the last Legislative Council examined the Urban Renewal Authority Ordinance and when the Finance Committee examined the criteria for determining the home purchase allowance, the point of our argument in fact was on the compensation other than the market value. Since we did not have a proper reason for that compensation, so the argument dwelled on whether compensation should be based on the age of the building as one of five years or seven years.

Moreover, different types of land are treated differently. Like the residential units that I just mentioned, the owners could receive home purchase allowance, but no allowance was given in respect of industrial or commercial units. One explanation the Government might give is that the affected businesses could apply for compensation for loss of business. However, many businesses could not provide a complete set of books to apply for the compensation.

The key issue, however, is that there often seems to be a severe chasm between the Government and the titleholder of commercial property over the valuation of the property concerned. Many past cases show that even if the titleholders engaged professional surveyors to appraise the value of the units resumed, the Government might not be willing to accept the result of the appraisal. There might be a lot of other issues involved. One of the commonest issues is that because the characteristics of certain shops may make them particularly suitable for certain businesses, the value of such shops would be raised. However, the Government would not consider such a factor. For example, shops that have a higher ceiling may, if used for laundry, allow more clothes to be hung up, or some operators that need to operate heavy industrial machinery may, because of their special weight requirement on the floor, only find shops on the ground floor suitable, thus the value of such shops would accordingly be higher.

On the controversies over property valuation, when the Urban Renewal Authority Ordinance was being examined by the last Legislative Council, the Secretary for Planning and Land had promised that the Director of Lands Department would issue a set of valuation guidelines. Regrettably, it has been about a year since that promise was made, but nothing has realized. In fact, it is important to have a set of generally recognized standards, which at least provide a reference for both parties when appraising a property and help minimize any misunderstanding. I hope that this guideline can be issued as soon as possible.

Of course, under certain situation, even if the Government were willing to compensate, the titleholder may still find it not acceptable, especially when the business run by titleholder is stable and making money. Mr Albert CHAN therefore added in his motion that the Government be urged to review the relevant administrative arrangements in order to assist as far as possible the operators who are affected by the resumption, thereby ensuring that they can continue with their operations. Now, in the New Territories there are many businesses that require a lot of space for their operations, such as those related to

container transport. Once the need for development is identified, the Government would begin the process of acquiring land and would not assist the operators to relocate and continue with their operations. As the land use for most of the New Territories has been frozen, unless the operators illegally change the land use, it is very hard for them to find any suitable site to resume their operations. They are thus forced to close down.

On the issue of compensation for land that its use has been frozen, though I originally would like to propose an amendment, Madam President ruled that my amendment has exceeded the scope of the original motion, I therefore do not want to dwell on this further. However, I would like to point out that if the policy of freezing land use were not to be relaxed, the Government would have very little room for administrative manoeuvring in relation to assisting the affected operators to continue with their businesses. I am not trying to create a dent for the businessmen with this proposal so that they can misuse the land in the New Territories and cause damage to the rural environment of the New Territories. In fact, freezing land use has not only caused loss to the titleholders, but has also left land lying barren.

I would like to cite an example here. When the Housing Department cleared the squatter huts at Diamond Hill last February, a businessman grew orchids there. Because of the clearance and the inability to find a suitable place for relocation, he subsequently closed down his business. Madam President, I am not an orchid lover, but I do feel sorry when, as shown on TV, the orchids were scattered all around and being trampled on. Growing orchids may be partly commercial and partly agricultural, but it certainly would not cause any great damage to the environment, so why not give it some exceptional consideration?

With these remarks, I support the motion.

**MR TOMMY CHEUNG** (in Cantonese): Madam President, when, for the purpose of infrastructure or development, the Government has to acquire land, to those affected it would be futile to do anything as the popular saying goes: "If heaven wishes it to rain or your mother to remarry, there is no way to stop either of them". However, the current arrangement has much to be desired and there are areas of unreasonableness. Many operators are even forced to fold up their businesses, losing everything they have. I want to talk about the views of the business sector, especially those of the restaurant and catering sector.

First of all, the government and some of the public corporations often use "public interest" as the excuse for acquiring land, but full consideration is given to the "public interest" when it comes to the policies for calculating compensation and making administrative arrangement. The current method for calculating compensation is just like "an iron sheet", that is, the market value of the property or lease plus removal cost plus the severance pay for the workers. All operators were given compensation based on the same formula. Such a rigid approach has not taken into account the special situation of different businesses, and some businesses may thus be treated unfairly. I think that the Authority should consider setting up another mechanism whereby compensation is calculated with reference to the actual operating situation of different business, and those operators, affected by land resumption and forced to close down their businesses, are encouraged to resume operation in another district as soon as possible.

Take the restaurant business as an example, many of the installations in a restaurant, like air-conditioners, ventilation system, and refrigerators in the kitchen, are fixed to the wall and cannot be moved. On the other hand, shops like shoe shops or fashion boutiques can have their shoe racks, clothes wardrobes and hangers removed easily and re-used. I think that in calculating compensation, the Government should consider the actual situation of different businesses, with special attention given to those businesses which have equipment and tools that cannot be removed and re-used.

Moreover, when a restaurant moves to a new place to continue operation, it has to apply for all the necessary licences again, which means a large sum of administrative and application fees. Until it has obtained its business licence, a restaurant cannot operate. However, most restaurants employ a large number of staff. Thus, while waiting for the Government to issue the business licence, a restaurant would have to shoulder a hefty bill of rent and staff salaries. This is very different from other businesses, which the Government should consider as well.

In fact, the restaurant industry has on a number of occasions reflected the above views to the Government and the Land Development Corporation (LDC), but the situation shows no improvement. Now, with the LDC becoming the Urban Renewal Authority, I sincerely hope that the Authority and other public agencies would, when calculating compensation for land resumption in the future, seriously consider these suggestions, so that some improvement can be seen in the existing policy on compensation and in the administrative arrangement.

There is also one point I would like to raise. Some of the affected business operators may opt to retire, while others would like to find a new place to continue with their operation. As the Government encourages entrepreneurship and employment, it can treat these two types of cases separately when it is to consider the amount of compensation. For those who are to continue with their operations, they may get a preferential compensation, which can be seen as an incentive for them to continue with their operation and help them create more jobs for the locals.

Madam President, the Liberal party understands that the compensation offered for land resumption can never satisfy everyone. When it comes to using public funds, the Government would never be too generous. The result would be the one who pays would never want to pay more, and the one who gets paid would always find the payment insufficient. Between making payment and receiving payment, the Government must find a balance by giving consideration to the special mode of operations of different industries. The restaurant industry is not asking the Government to raise the compensation to a level so that an operator can carry out renovation and put in a new set of equipment. I propose to set up a mechanism for calculating the rate of depreciation so that the residual life of all equipment can be calculated and a reasonable compensation be made. Moreover, an operator must be encouraged to find another place to continue operation and keep Hong Kong employed.

With these remarks, Madam President, I support the motion.

**MR TAM YIU-CHUNG** (in Cantonese): Madam President, many of the public works in recent years involve acquisition of urban land by the Government to construct transport, housing and community facilities so that the quality of life of the citizens can be improved. However, in acquiring land, the Government has often caused much controversies and disputes and may even force small business owners to close down their operation or dismiss their employees.

As the old saying goes: "Pull one hair and the whole body would be affected," so given that the small enterprises are running on a limited capital and small staff and that the economy is pretty slow, they would easily be forced to give up their operations if, when being asked to move by the Government, they are not given sufficient compensation and assistance. The clearance of Wah Kai Industrial Centre at Tsuen Wan not long ago, which drew much resistance from the factory operators concerned, is a typical example. Among the 358 factories

at Wah Kai, as many as half of them, that is, a total of 176 of them, considered that the compensation given by the Government was not sufficient to cover their loss and had to make a claim. However, from 1999 up to now, only 60 cases had been dealt with; the remaining 116 operators are still haggling with the Government. In the past two years, while having to take care of the day-to-day running of their business, the owners of these small enterprises also had to make arrangement for their removal and deal with the Government's complex compensation procedures. How can they have the energy to develop their business?

### *Review the Compensation System*

In his policy address, the Chief Executive put forth three themes in relation to helping the small and medium enterprises, and they are assistance offered "to start a new business, to build up a new business, and to promote a business". With respect to the policy on land resumption, I feel that the theme on "assisting to build a new business" should be more specifically implemented. The Government, therefore, should aim at helping the operators to resume their operations as the basis for calculating compensation. In handling compensation for Wah Kai Industrial Centre, the Government's proposal included an amount to cover the land interests as assessed with reference to the open market value, and an amount that covered two parts: an *ex gratia* payment for disturbance caused and the business loss, which is calculated according to a special rate. The point of providing disturbance compensation was to relieve the economic hardship that the operators suffered as a result of removing their businesses from the affected building. The *ex gratia* payment that each operator received was calculated at a rate of \$2,190 per square metre of the actual floor area occupied. The Government pointed out that this rate was applicable to all industrial buildings in Hong Kong that were affected by clearance, and that consideration had also been given to the costs of removal, rent of the new property during decoration, basic decoration cost and the intermediary costs in relation to the purchase of a new property. However, over half of the operators did not accept this method of compensation and went ahead with a claim. At the moment, in relation to compensation given to resuming private residential properties, the Government will assist the owners to purchase similar-sized properties within the same district. If applied to the factory operators, this principle should have provided sufficient compensation to enable them to resume their operations. The Government should therefore further review the calculation of *ex gratia* payment, which was updated last March, and consider giving the operators an *ex gratia* payment that is sufficient for them to resume their operations.

*Establish an interim loan*

In relation to the current compensation for land resumption, the value of land interests is calculated with reference to the open market value. However, with the significant drop in property price in recent years, many operators that are forced to move immediately find themselves affected by the effect of negative equity in their assets. Though, according to transaction records, most of the operators at Wah Kai bought their properties at a relatively low price some years ago, they mortgaged their properties to the banks for loans when the property prices were at their peak. If compensation were calculated with reference to the market value, the appraised value would be far lower than the loan value. The compensation that these operators obtained would thus be enough only to repay their bank loans and they would not have the capital to find another property for their factories. In fact, these small enterprises also experienced difficulties when applying for bank loans, as a bank must consider the condition of these operators' business before providing them with a loan. Given the current depressed state of our economy, many operators do not fare too well in their business and find it hard to obtain loans to keep their business afloat. Once the Government has to resume their land, even if compensation were given according to the market value, it would be impossible for them to stage a comeback in their business. The Government must therefore formulate a plan as soon as possible so that, by providing interim loans, those affected owners or occupiers can be helped to regain their footing to continue with their operations.

*Expedite the handling of claims*

Under the existing mechanism, if operators affected by land resumption do not agree to the proposed compensation, they can lodge a claim with the Lands Department asking for an increase in the compensation or claiming disturbance compensation, provided they furnish all the necessary evidence. The Department would then process each claim with reference to the arguments provided. If a claimant cannot reach an agreement with the Department, the claimant may refer his claim to the Lands Tribunal for a final decision. The Government issued its compensation proposal to the owners or occupiers of Wah Kai Industrial Centre in July 1999, but up to now, in relation to compensation, only 8% of the owners have accepted the Government's proposal, with the rest still awaiting hearing by the Lands Tribunal. As to *ex gratia* payment, there are still 35% of the operators making their claims. The drawn-out claim procedure is very disruptive to the normal operations of the operators. When it is to

acquire land, the Government should increase its staff to process the operators' claims as soon as possible. The procedure should also be more flexible. As some operators may not have a clear and systematic set of accounts, they may find it hard to obtain full compensation. With respect to some special cases, the Government should aim at helping these operators to resume their operations and be more flexible in the processing of such cases.

There is nothing we can complain strongly about if land is resumed for the construction of public facilities; however, if we just let the affected factory operators close down or get so frustrated in the process, it would create much instability within our society. The Government therefore should not drag its feet any more on a review of the compensation system. Accordingly, I so submit. Thank you, Madam President.

**MR ALBERT HO** (in Cantonese): Madam President, what most of the Members discussed just now was on how businesses were affected by the Government's land resumption. While we are discussing this motion, I would like to take this opportunity to discuss initially, under certain conditions, if the Government has sufficient legal grounds to resume land, especially land in the New Territories. I feel that this is an issue of extreme importance, as this is an issue that should be dealt with first before any discussion can be made about compensation, or what sort of compensation is reasonable.

I would like to give a real-life example. In 1999 when the Government announced that a smokeless environmental city was to be built at Hung Shui Kiu, Yuen Long, a great deal of controversies began to crop up. The Government planned to develop a new town of population 160 000 at Hung Shui Kiu, which would include low-density residences, parks, roads and a logistic base for containers. Places affected by this development include many villages, like Ping Sun Tsuen, Tan Kwai Tsuen, Yik Yuen Tsuen and Tin Sum Tsuen, and a total of 2 000 households or more than 5 000 residents would be affected by the clearance. Whether the development of this environmental city can achieve the purpose of environmental protection has in fact already been queried by many people; and I also doubt if there is really appropriate legislation under which the Government can effect the resumption of land. Let us first not talk about the Urban Renewal Authority Ordinance, which is not applicable to rural areas, at the moment, when the Government has to acquire private land for public use, the legislations that the Government usually uses include Lands Resumption

Ordinance, Roads (Works, Use and Compensation) Ordinance, Railways Ordinance and Water Pollution Control (Sewerage) Regulation. If the Government wants to carry out certain projects for public use, including the construction of roads, sewers, river management or even development of public housing, it would have to invoke the above legislation. However, for the environmental town at Hung Shui Kiu, the Government relies on Town Planning Ordinance, using the procedure for town-planning to freeze the development of land. However, how land is to be resumed in the future, the Government still refuses to disclose anything. In fact, from past cases, like at Tsuen Wan, the Government had resumed land under the Lands Resumption Ordinance, and one tenth of the land resumed was used for road construction, while private developers exchanged for the remaining nine tenths of the land under Exchange Entitlements for private development.

I remember that the Government had resumed land at Lam Tei with a small portion of it for sewerage use, while the majority of the land is used to rebuild the local residents' village. So is this appropriate? Can the Government use these legislations to rebuild the rural towns? I have great doubts. Even though the Government would make compensation, that does not mean that it can resume whatever land it likes. I therefore hope that the Government can give a clear reply on this. For urban areas, the Government can resume land under the Urban Renewal Authority Ordinance to redevelop the old districts. However, for rural areas, is there a need for the Government to pass a piece of legislation on rural land development so that it can resume land according certain procedure and plan, and make appropriate and reasonable compensation and relocation arrangement for the affected residents, including the farmers, businesses and residents? How can the Government, while considering that it is not necessary to have such legislations, resume whatever land it likes under the Lands Resumption Ordinance and the Roads Ordinance? This is my greatest concern.

Just now, a Member pointed out that resuming agricultural land has also led to a lot of problems because the Government gave no reasonable assistance and relocation arrangement. For example, when we hold discussion with the Government officials over the Agricultural Land Rehabilitation Scheme, which is supposed to help the farmers, it was just like a farce as the plan would just be too difficult to implement. The farmers have to find a similar plot of land themselves, then the Government would lease the land to them. There is little chance, I think, for the plan to be successful.

Now the qualifications for getting resettlement housing have been tightened again. After 1998, one must pass a means test. As to the amount of compensation, it is way below the level that can be considered reasonable by those affected. For example, the affected residents would be compensated with only \$128 per square metre of their living unit. As most of them are living in village houses or on land under a licence from the Government, a sum of a hundred thousand dollars or so would not be of much help in finding another home? For problems in the urban areas, Mr Albert CHAN and other colleagues have already stated very clearly. The Government's arrangement for industrial buildings is even ridiculous and unreasonable, making one doubt if those business operators, who sacrifice themselves for public interest, have been fairly treated by the Government? I feel that the Government has short changed those affected by land resumption.

I would like to point out one thing. We all know that after the passage of the Urban Renewal Authority Bill, the Government has already provided better terms of compensation and been more generous to the business operators. However, why should the Government find it hard to match the compensation criteria under the Lands Resumption Ordinance with these terms? Why has it still behaved so haughtily to those affected in the Wah Kai incident, leaving many of the operators feeling bewildered as to when they can resume their operations? Many affected people expressed that their miseries were caused the Government and felt helpless about their living. Is this what a responsible government would do? I therefore feel that the Government has the responsibility to conduct a comprehensive review of our legislation on land resumption with reference to the legal basis as well as the whole compensation policy for land resumption.

With these remarks, I support the motion.

**DR TANG SIU-TONG** (in Cantonese): Madam President, Hong Kong is a place which, though congested and densely populated, respects private property. If, for the purpose of works on infrastructure or public facilities, the Government has to acquire land from private citizens, it should not be criticized, in fact, we should rally support behind it. However, as the final decision-maker on the compensation policy for land resumption, the Government naturally will make it benefit the most from the policy, but the interests of many titleholders may have to suffer in varying degrees, causing some of the helpless titleholders resort to

violence and clash with the police. The mass media, while racing for time and having limited space, may put greater emphasis on the clashes in their coverage. The resulting effect may not be objective and the actual causes of the clashes have also become blurred. The ordinary citizens would thus mistake the titleholders as people who would breed troubles in order to exhort a large compensation from the Government. This would put these titleholders in a very disadvantaged position when they were to hold talks with the Government.

The Hong Kong Progressive Alliance (HKPA) thinks that in the process of acquiring land, the Government must work hard to maintain a balance between the needs of public construction and those of the titleholders, instead of just waving the public interest flag and sacrificing the interests of a small group of titleholders. In fact, establishing a compensation mechanism that is fair and reasonable to the titleholders not only can help prevent the clashes like those at Shek Wu Sun Tsuen and Wah Kai Industrial Centre, where the conflict between the Government and the citizens became protracted, it can also take care of the needs for social development and those of titleholders, making it faster and easier for the Government to begin public works.

The existing compensation policy is not fair to the titleholders. In fact, it is a catalyst for the clashes between the Government and the citizens. The inadequacies of the policy are as follows:

First, the Government only focuses on the need for carrying out public works, thus it very often acquires a large portion of a plot of land, leaving the small portion hard to be put to any use by the titleholder;

Second, the Government tends to resume land in phases and does not make known the long-term resumption plan. Such a practice of course allows the Government to flexibly plan the development, but it also makes the titleholders not knowing what to do;

Third, there were cases where the Government acquired private land at a low price, subsequently changed its land use and sold it at a high price. This made the titleholders feel that they were being cheated. The Tsuen Wan case quoted by Mr Albert HO clearly reflects the actual situation; and

Four, the existing compensation mechanism is basically based on the Lands Resumption Ordinance and the Railways Ordinance, which two types of

compensation: statutory compensation and *ex gratia* payment, however, these two types of payment can hardly be said to be fair and reasonable to the titleholders. Statutory compensation is calculated on the basis of the market value (that is, the premises shell price) as on the day that the Government's resumption notice is gazetted. This calculation basis is particularly unfair to those titleholders whose property depreciated in value as a result of the financial crisis. On the other hand, besides the statutory compensation, the titleholders may also, by applying for an *ex gratia* payment, negotiate with the Government for an additional, and without pre-set upper limit, compensation amount for the business and other losses. However, only a limited number of people can benefit from this. Many titleholders (especially those small owners), other than going to their lawyers to settle all matters relating to the deeds of their properties, have no knowledge of the need to engage surveyors to negotiate with the Government on the amount of compensation, not to mention their having no idea that they have to first collect relevant information and other evidence to support their application. Thus they always find themselves in a very disadvantaged position.

The HKPA thinks that the Government can improve the compensation mechanism in the areas as follows:

First, the Government should disclose all information relating to land resumption, including the area covered, time and the future direction, so that the public and the professionals can have a better understanding of the rationale behind any resumption.

Second, when acquiring land in the past, the Government often would negotiate with the titleholder on the area of land to be acquired, but now instead of making any prior contact, the Government would publish the resumption proposal in the gazette. For those who know little about the gazettal procedure, they would miss the deadline for lodging an appeal in respect of compensation. The Government should reinstate the old system by negotiating with the titleholders and assisting them to find another location for the continuation of their operations, and enable the titleholders to fully understand their rights and what appeal channels are open to them.

Third, at the moment, the Government usually takes about half a year to give a reply to the valuation reports that are submitted by the titleholders in respect of their own properties. The reply usually would only give the value as appraised by the Government, without any detail information, making it hard for

the titleholders to assess whether or not the Government's valuation is objective and reasonable. If the titleholders ask the Government to provide further details, that often would mean waiting for another half a year. In the face of such a cumbersome process, there is really a need for the Government to simplify and expedite the valuation process and provide, in the first instance, the rationale behind the Government's valuation so that the titleholders can have a basis for them to engage agents to negotiate with the Government on their behalf or submit their case to the Lands Tribunal for adjudication.

Fourth, when the Government makes compensation payment, a lot of red tapes are often involved and the necessary documents are often not delivered on time, thus delaying the payment of compensation, causing the mobility of the operators to arrange resumption of business or to switch to other business as early as they can. The Government should be responsible for assisting business operators affected by land resumption to resume their operations or switch to other business so as to maintain Hong Kong's economic prosperity.

As the Government plans to begin a number of public works in the coming 10 years, it is inevitable that the Government has to acquire a large amount of land from private owners, and it is also inevitable that the Government has to negotiate compensation arrangement with the titleholders. The Government must therefore formulate a compensation policy that is fair and reasonable, rendering the Government, the public and the titleholders all winners in the process.

With these remarks, Madam President, I support the motion.

**MR IP KWOK-HIM** (in Cantonese): Madam President, in his 1999 policy address, the Chief Executive pointed out that the Government would use more than \$200 billion to begin a series of infrastructure projects, including a number of railways and roads, with a total length of 160 km. The Urban Renewal Authority is officially established and will, in the coming 20 years, carry out more than 200 redevelopment projects in the old districts. The Government also plans to carry out large-scale town-planning projects on the reclaimed land in Southeast Kowloon and Western Kowloon, on both sides of the Victoria Harbour and at a number of other places. They are to provide a comfortable living environment for the millions of local residents, and a tourist spot with its own characteristics and attractions. I believe that Hong Kong will turn into a new face soon.

I remember when the Urban Renewal Authority Bill was discussed, the various political parties of the Legislative Council and the Government reached a consensus that we must stick to a "people-oriented" policy. To achieve this, besides providing a better living, working, recreational and entertainment environment, we must ensure that none of the parties involved would have to suffer any unnecessary loss as a result of the development. The Democratic Alliance for Betterment of Hong Kong (DAB) has repeatedly stressed this point on a number of occasions. Regrettably, the Government's existing compensation arrangement is still far from satisfactory. The DAB feels great regret over the clashes between the Government and the residents over land resumption.

Madam President, as Mr Albert CHAN's motion today focuses mainly on the compensation issue of non-residential property, I will therefore speak mainly on the compensation given to business operators. My colleagues have already talked about the compensation for industrial property. On the issue of compensation paid to residents, the DAB's position is known to all.

Under the existing arrangement, the Government, when resuming land under certain legislation, would pay the owners of commercial properties a compensation that is equivalent to the market value of the properties on the day they are resumed, plus an additional compensation. If those affected could provide sufficient evidence, the Government would compensate them for their lost business, otherwise the Government would pay them an *ex gratia* payment, which includes one month's rental, removal costs, decoration costs and other expenses. However, we can all see that a lot of disputes would arise in the course of handling such compensation. It is because very often those affected cannot furnish a certain data regarding their past operations, thus creating a lot of variables in the compensation process or rendering them unable to be compensated for what they have lost.

Madam President, in calculating the *ex gratia* payment, the Government can be said to be very harsh in the past. There was even a greater difference between the Government and the Land Development Corporation (LDC), which is now no longer in existence. Records show that for a 50 sq m street-level shop, which had a market value of \$2 million, if the owners could not prove any business loss, the Government would only pay a compensation of \$2.13 million, and the *ex gratia* payment would only be 7% of the market value. The *ex gratia* payment paid by the LDC was 35% of the market value, which, after all the

calculations, meant that the total compensation could be as much as \$2.7 million. As to the compensation made to rental tenants, the difference between the two was even greater, because the LDC might pay a compensation as high as five times the *ex gratia* payment offered by the Government. It is unacceptable that the same plot of land, when resumed by different agencies, could result in such a huge difference in compensation. It is no wonder that every time the Government resumes land, it would lead to clashes between the Government and the residents.

Last March, the Government put forth a new compensation arrangement by raising the compensation level paid to the owners and tenants of commercial properties. According to the proposal, the owners may get back the open market value, plus four times the rateable value of the properties concerned as *ex gratia* payment. Using the example above, those affected would receive a compensation of \$600,000, which is about 30% of the market value. The compensation that a tenant may obtain is three times the rateable value, which is about \$440,000. Madam President, the DAB always thinks that, in acquiring land for development, the Government should, as regard the level of compensation made, not be lower than the LDC. The new proposal, or new arrangement, from the Government, though already raising the compensation the owners can get, obviously is still worse than that provided by the LDC in the past. The DAB therefore thinks that the new arrangement still needs to be improved.

Madam President, the DAB supports Mr Albert CHAN's motion. The Government should, without delay, review the compensation policy for land resumption, rectify the situation whereby different agencies pay different rates of compensation, and try its best to help those affected to continue with their operations.

With these remarks, I support the motion.

**MISS CHOY SO-YUK** (in Cantonese): Madam President, with the burst of the bubble economy, the Chief Executive and a number of officials of the SAR Government stressed on a number of occasions the key effect of the small and medium enterprises (SMEs) to Hong Kong economy, and proposed plans in different forms, hoping that assistance could be given to the SMEs that were in deep troubles and putting Hong Kong economy on a firmer basis. Ironically, the Government's compensation policy for land resumption has just gone against

this. Business operators affected by land resumption often found themselves forced to close down their business because the compensation given was so little that they could not find another location close by to resume their operations. These people have nowhere to let off their pent-up anger, and it is no wonder that the clashes between the Government and these people that have dogged every land resumption plan are getting more and more fierce. The mismatch in policy not only damages our economic basis and undercuts our competitiveness, it also aggravates the conflict between the Government and the business operators and intensifies social antagonism, creating a much worse scenario.

Madam President, as I have been assisting the factory operators in government factory buildings to negotiate their legitimate interests, I would therefore like to talk about the hardship these operators are facing and the unreasonableness of the existing compensation policy.

Factories in government factory buildings are mainly run as family businesses, which, in the sixties and seventies, helped set a firm foundation for Hong Kong's economic development and had made major contributions to our economic takeoff in the seventies. Though with the restructuring of Hong Kong economy, many of our local industries have moved northward, there are still quite a number of factory owners who, because of their own economic condition or some other reasons, have not moved their production lines into China; rather, they elect to put up with it in Hong Kong. These small factories do not have much of an effect on Hong Kong's current economy, for after all, in the eyes of the SAR Government, there are only rich businessmen and trans-national companies. The small businesses have no place in their eyes, not to mention obtaining any assistance from the Government to enable them to rebuild Hong Kong's economic foundation. However, while Hong Kong is undergoing economic restructuring, these small factories employ tens of thousands of senior grass-roots workers so that they do not have to rely on Comprehensive Social Security Assistance for their living. These small factories certainly have made their contributions. Regrettably, the Government has not only refused to assist and support them, but has on the issue of land resumption cared more about making money than the life and death of these operators. The Government is doing the harshest and meanest it can, with the Housing Authority coming out as the meanest of them all.

Take Cheung Sha Wan Factory Building as an example, the Housing Department suddenly announced a change in the land use of the original site, and

turned it into land used for constructing commercial and residential buildings, thus making huge economic gain. However, the *ex gratia* payment offered to every factory was pitifully little, with the highest only a hundred thousand dollars or so. With this compensation, a factory operator would fail not only to find another place in the same district to resume operations, but he will also find that if he were to close down his business he would not have enough to pay even one employee's severance pay. In fact, from the past records, the compensation level as paid by the Housing Department to factory operators at Cheung Sha Wan Factory Building remains relatively the same over the past 10 years. Can such a compensation policy that would kill off our only industrial basis be said to be supportive of SMEs?

Now, besides the operators in Cheung Sha Wan Factory Building, operators in other government factory buildings also have similar experience. The Housing Department often stresses that the rent at the above government factory buildings is already very low. This is only their one-sided view of the situation which is misleading. We have to note that the units that the operators first moved in did not have any facilities. Not only did it have no electricity and water supply, a so-called factory unit, except for a few pillars, did not even have walls, doors or windows. Before beginning the operation of their businesses, the operators had to fork out a large sum of money to install electricity cable and water pipes, build walls, doors and windows. All the basic facilities that a unit needs had to be taken care of by the operators themselves before they could begin their business. The facilities as provided by the factory buildings were minimal; of course they could not be compared with the modern factory buildings, but some even did not have such basic facilities as passenger and delivery lifts. Those on the top floors would have to push their goods up the long slope in a handcart every day. You can imagine the difficulties of transporting goods in and out of the factories. Regrettably, the Housing Department cared nothing about the poor facilities at these factory buildings; and turning a blind eye to the fact that for the past 10 years the rent at other factory buildings is falling, it just keeps on increasing the rent 25% every two years, causing the rent for some of the units to be as high as \$6 to \$10 per foot. This level of rent is such a heavy burden to the operators that they are moaning and groaning under it.

Madam President, all these cases show that despite all the work that the factory owners in these government factory buildings had put into the factory units, they were not getting the sort of respect and recognition that they deserved. Now, when it comes to redevelopment for profit, the Housing Department shows

no sincerity in negotiating with the factory owners about their compensation and insists on only a fixed rate for compensation. Such a high-handed approach to resume the factory building has completely brushed aside the efforts that the operators have put into their units. Of course, such an approach would not be acceptable to the operators and would deal a heavy blow to these operators who have all along been contributing much to this society.

With these remarks, Madam President, I support the motion.

**PRESIDENT** (in Cantonese): Does any Member wish to speak?

(No Member responded)

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam President, I am very grateful for the valuable advice which Honourable Members have put forward in relation to this motion. I think Honourable Members are well aware that the reason why land is resumed has nothing to do with causing distress and inconvenience to the public, but that land is resumed in the interests of the public. We are making a review of the compensation policy on land resumption and the procedures for land resumption. At the same time, we are studying into how assistance can be given to operators affected by the resumption and how they can continue with their business. Therefore, the motion debate is a timely one.

Many Honourable Members have mentioned in their speeches many details on compensation arrangements and I do not want to repeat them here. However, before replying to the questions raised by Honourable Members, I would like to explain briefly the concepts behind the current compensation arrangements on land resumption. I would like to explain the major types of compensation briefly.

The first kind is statutory compensation. At present, owners whose property or land is affected by resumption are entitled to a sum of statutory compensation. Under the Lands Resumption Ordinance, statutory compensation includes the open market value of the property or land being resumed and the statutory right to make a claim for disturbance payment. First of all, the open market value of the property or land being resumed refers to the

reasonably expected transaction price when the owner sells the property concerned in the open market out of his own free will. In addition, operators affected by the resumption, including owners using the land for their own use or the tenants, are all entitled to making a claim for disturbance payment. Disturbance payment covers compensation for loss of business, removal expenses and service fees charged by professionals. Claims must be substantiated by written proofs.

Another major type of allowance is known as *ex gratia* allowance. In order to provide proofs to substantiate their claims for disturbance payment, operators of commercial, industrial and agricultural undertakings often have to spend a lot of time and efforts. In some cases, the affected operators find it hard to produce sufficient written proofs to show that their business has been affected. This point has been mentioned by some Honourable Members earlier. In view of this, the Government will pay out an *ex gratia* allowance to owners using their property for their own use and the tenants concerned. Under such an arrangement, the affected operators may choose to receive the *ex gratia* allowance as part of the statutory claim they are entitled to or as all of the compensation claim. In the latter case, the amount will be deemed as the final compensation.

As for compensation with respect to commercial premises, we have made a review of the *ex gratia* allowance paid out to owners or tenants of commercial premises affected by resumption. Under the new policy passed on 30 March this year by the Finance Committee of the Legislative Council, the amount of *ex gratia* compensation payable to owners and tenants of commercial premises will be four times and three times respectively of the ratable value of the premises resumed. Owners of leased or vacant flats will receive an *ex gratia* allowance equal to the ratable value of the property resumed.

As for industrial property, the review I have mentioned which was made in March this year did not include the *ex gratia* allowance paid to those owners of industrial premises and factories or their tenants affected by resumption. However, we have pledged to make a speedy review of this allowance.

Currently, the *ex gratia* allowance paid out to owners and tenants of industrial premises and factories is calculated according to a formula. The formula includes items such as rental payable during the period of renovation, removal expenses, basic renovation fees, stamp duty, solicitor fees and estate

agent's fees and so on. We are of the view that the current formula for *ex gratia* allowance should be reviewed and adjusted to suit the needs of the times. Presently we are making a review of this and we hope to submit recommendations to Honourable Members within a short time.

As for the number of issues and recommendations raised by Honourable Members earlier, I would like to make a brief response here. In this motion debate, some Honourable Members urged the Administration to make a review of the compensation policy on land resumption. I have mentioned earlier that we have begun work in this aspect. Also, as I have mentioned, we have completed a review of the *ex gratia* allowance payable to owners and tenants of commercial premises this March and the findings have been submitted to the Finance Committee for deliberation. We hope to finish the review of the *ex gratia* allowance payable to owners and tenants of industrial premises and factories in the near future. When the review is finished, we will consult the relevant Panel of the Legislative Council.

In addition, some Honourable Members urged the Administration to make a review of the relevant administrative arrangements of the payment of *ex gratia* allowances. We are conducting a review of the issue. We hope that by simplifying the application procedures for disturbance payment and speeding up the compensation for land resumption, we can offer assistance to those operators affected by land resumption so that they can continue with their operations.

As to the question of the *ex gratia* allowance paid to those owners and tenants of industrial and commercial premises being insufficient to help them find another location to resume their business, some Honourable Members have suggested earlier that a loan scheme should be set up to provide some interim relief loan to those affected. We are in favour of this approach and we are presently studying into the possibility of setting up a loan scheme for the operators of small and medium enterprises affected. I hope work in this respect can be completed by the end of this year.

In sum, both the Administration and the Honourable Members are very much concerned about the hardship faced by operators affected by land resumption. We will conduct a review of the compensation policy and procedures on land resumption with a view to simplifying the process and shortening the time taken, hence helping those affected to continue with their business.

I would like to take this opportunity to thank Honourable Members again for the valuable advice which they have given, especially for the people-oriented approach which they have raised, and the proposal to strike a balance between the requests of those affected and the need to spend public money sensibly, as well as pursuing the interests of the public. My colleagues and I will consider the proposals raised by Honourable Members and we will look into the feasibility of each of the proposals before submitting our recommendations to the Legislative Council for deliberation.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr Albert CHAN, you may give your reply, and you have one minute 30 seconds.

**MR ALBERT CHAN** (in Cantonese): Madam President, many thanks to the 12 Members who have spoken and supported this motion. As it is very hard to arrive at a consensus in the Legislative Council nowadays, it is certainly a miracle for my motion to have garnered such strong consensus.

Madam President, this miracle in fact reflects an objective fact, and shows that the problem which has been in existence generally is pretty serious, otherwise it would not be possible for Mr LAU Wong-fat, who is known for his real estate background in the New Territories, and many other regional Members to express similar experiences and opinion in relation to the problems of land resumption that many small factories or family factories are facing. In other words, there exists much unfairness, unreasonableness and even dubious legal basis when the Government goes about with its land resumption programme.

I hope that the Government can really conduct a review and come up with some reasonable proposals and decision. Many trades and industries are now facing extinction. Simply put, by 2011, the log pond at Yam O will be completely resumed by the Government. Many of the rare industries in the New Territories will also become extinct soon. If the Government is willing to protect rare species, I hope that it will also help these industries. I hope that I can receive some good news from the Government later.

Thank you, Madam President. I also wish to thank all Members for their support.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Albert CHAN be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think that the motion is agreed by a majority of the Members present. I declare the motion passed.

**PRESIDENT** (in Cantonese): Second motion: Expeditiously improving flood prevention and relief work.

## **EXPEDITIOUSLY IMPROVING FLOOD PREVENTION AND RELIEF WORK**

**DR TANG SIU-TONG** (in Cantonese): Madam President, I move the motion standing in my name as printed on the Agenda.

With regard to the flooding problem in North West New Territories, I, as early as the time of reunification, in this Council asked the Government to speed up the progress of flood prevention works. However, after four years since the passage of the motion, the work done by the Government in implementing and monitoring the progress of major flood prevention projects in the New Territories has been disappointing. What is more, there have been cases in which flooding got worse during rainstorms because of the flood prevention works itself. This is even more objectionable. Hence, I again move a motion today calling upon the authorities to make due response to this Council's request to expeditiously improve flood prevention and relief work. I am going to explain in detail the wording of the motion.

Madam President, with various major flood prevention works in the New Territories scheduled to start or be completed within the past two years, these

two years should have been worth celebrating. Paradoxically, over the past two years, there have been floods often attributable to the piling up of sand, mud and construction materials as a result of poor regulation of sites where flood prevention works are carried out and even to the blockage of drainage channels consequent upon the collapse of make-shift iron bridges. Last year, in its report on the flooding that occurred on 14 April 2000, the Works Bureau (WB) pointed out that contractors of the Territory Development Department (TDD) had built temporary earth bunds within the area of the Tin Shui Wai Main Drainage Channel, thus raised the water level in the channel and consequently caused flooding. How about this year? There has been no improvement in the situation, which has in fact taken a turn for the worse. In places like San Tin, Chuk Yuen and Yau Tam Mei in Yuen Long, sand and mud from TDD work sites blocked up drainage channels, and the discharge of flood water was obstructed by make-shift iron bridges. As a result, the whole area of San Tin was turned into a flood plain. At Tsat Sing Kong, Kam Tin, there was even a case where a drainage channel was being blocked by the collapse of a temporary road bridge. Similar situations prevailed at the work sites along River Indus in Sheung Shui. With their sand and mud not properly covered as required by regulations, earth mounds earmarked for the construction of river banks were washed away by heavy rain, causing blockage to make-shift drainage channels and thus aggravating the flooding along the river.

Recurrence of such incidents is indicative of the Government's remissness in monitoring work sites! The Government ought to learn a lesson from such bitter mistakes, and take remedial measures, which should include more vigilant visits to work sites before the approach of heavy rain to ensure that contractors do implement flood prevention measures in accordance with contract terms. In addition, there ought to be strict stipulation requiring contractors to make arrangements well in advance so as to be able to deploy enough staff to man work sites at times of heavy rain in order to deal with emergency. For flood prevention works to cause flooding is too ridiculous. If it is allowed to occur again and again, it will only arouse people's wrath.

Madam President, the Drainage Services Department (DSD), when reporting on the flooding incidents last month, stated that the various major flood prevention projects can only be completed one after another beyond 2003. In this connection, Madam President, please let me quote from the paper, "widespread flooding in the New Territories is, regrettably, not unexpected". However, on referring back to the information presented to this Council by the WB, it can be noted with "regret" that the Government has all along been causing

delays to flood prevention works! According to the information, of the 18 major New Territories flood prevention projects on which the WB reported to this Council in 1998, half of the lot already experienced delays by the year 2000, the worst being a delay of two and half years! In 1997, in response to my motion, the then Secretary for Planning, Environment and Lands vehemently stated that the flood prevention works at Sha Po Tsuen in Kam Tin could be completed by the end of 1998. However, last year, that is to say, in the year 2000, that place was again turned into "an ocean of water."

Probably because of poor performance by the contractor for works on River Indus, the Secretary for Works eventually might blame the contractor for the delay. But who is responsible for monitoring project progress? Whose duty is it to regularly check contractors' financial standing and to ensure the smooth progress of works? Government departments responsible for monitoring just cannot pass the buck in the event of delays in works due to contractors' problems in those areas.

Other project delays not attributable to contractors' performance total seven items, all in North West New Territories. The Government habitually puts up excuses such as the time-consuming nature of land resumption consultation, objection from landlords, or opposition to the works from residents and shop-operators, saying that it is hard to resume land! Has the Administration reviewed its long-used policies on land resumption, compensation and rehousing, which have already become unreasonable and rigid? On this, a lot of valuable opinions have been put forward by many Members in our motion debate earlier on. The Government should look into them. Has the Government considered adding flexibility to the rehousing arrangements relating to land resumption so as to avoid the recurrence of "the Shek Wu San Tsuen incident of confrontation between government officers and the people" in November 1999? Has consideration been given to the fact that residents giving up property rights to give way to flood prevention works ought to be given more compensation than those in the case of land resumption for ordinary development? Can the Government, for the sake of society's overall interests, increase the compensation for property owners? Has consideration been given to deploying additional resources, as far as possible, to build drains by means of the less disturbing trenchless techniques so as to win support from residents and shop-operators? Is it not true that earlier on the Government, on realizing that urban redevelopment was a matter brooking no further delay, resolutely put forward brand new compensation and rehousing schemes? Why cannot the Government

make a little breakthrough in flood prevention-related land resumption and rehousing? Being confronted with problems such as difficulty of getting works started, slow progress and delays in completion, can the Government only complain that "it is hard to resume land", or put all the blame on the contractors? Is this the solution to the problem? It is hoped that the Secretary for Works can offer some new answers in delivering his reply later.

Madam President, in addition to the management and progress of flood prevention works, floods in the New Territories also have much to do with the district's persistent over-development and the extensive existence of inappropriate and unauthorized developments. The original natural drainage system in the district once functioned very well. However, for the development of housing projects or infrastructure, a lot of farmland was levelled up to form higher sites. To make room for outdoor container storage areas and workshops, rivers and streams were filled up. The natural drainage system has been severely debilitated or even ruined. Furthermore, as a result of extensive developments, some rural areas are being surrounded by developed areas on higher ground formed by filling, thus becoming areas of man-made lowland. So, whenever it rains, there come floods. Regarding these causes of flooding, the ones stemming from both lawful and unlawful developments, some have to be solved by flood prevention projects. However, scattered around the district and obstructing the discharge of flood water are many "environmental blackspots". It is necessary for the authorities to expedite their clean-up. Unfortunately, because of lack of co-operation from site operators, the progress of the clean-up of blackspots in recent years has been affected and insitu remedial works have slowed down. Moreover, under the current Town Planning Ordinance, penalty for unauthorized development is too lenient, thus rendering the law's deterrent effect inadequate. Consequently, it is hard to eradicate the problem of unauthorized development. The Government should try to improve such a state of affairs and reduce the evil sequel of flooding.

Madam President, because of geographical and climatic factors, rainstorms can hit Hong Kong speedily, with uneven distribution. Very often some places can record 10 mm of rainfall within five minutes. It is, therefore, necessary for flood warning and contingent works to be efficient. At present, the Administration already has a set of system to cope with flooding. It is, however, apparently not good enough in dealing with the above emergency. For instance, currently not all places highly prone to flooding or those flooding blackspots are equipped with "flood warning system". It is possible that while

some places only merit the Amber Rainstorm Warning, the rainfall in certain areas has already reached the level of the Black Rainstorm Warning. Many residents are just unable to get timely warning. Furthermore, given the immensity of the New Territories districts, the DSD just has not got enough contingency teams to meet the demand when there are drainage complaints coming from different areas at the same time. In the event of a breakdown of pumps or a blockage of channels by landslides, the DSD work teams, understaffed and ill-equipped in terms of technology and tools, will be very much at their wit's end even when they are notified. Last month's flood in Pok Wai, San Tin, is an example. At that time, the emergency hotline provided by the contractor was not manned. Though contact with the DSD was established after several hours' hard efforts, the officers concerned did not know how to operate the contractor's pump. So, time just slipped by as it was necessary to wait until the contractor's site workers arrived to start the pump to pump away the water. As a result, relief work was delayed. It is, therefore, necessary for the newly-formed inter-departmental task force to conduct a review to see if the existing system can adequately handle emergencies.

Madam President, with regard to the wording of the motion, I wish to speak on one final point. As the flooding of last month involved both the DSD and TDD, and has something to do with their performance in monitoring works, I think that for the sake of fairness it is necessary to conduct an independent investigation so as to identify the responsibilities of all parties, including the DSD and TDD. Furthermore, flood victims do not have site information. It is also difficult for them to get assistance from experts for the determination of causes of the flooding. They, therefore, face a lot of difficulties in pursuing their compensation claims. I am of the opinion that on completing the investigation, the flooding investigation team is obligated to assist the affected residents in claiming reasonable compensation from the parties concerned.

Madam President, I so submit.

**Dr TANG Siu-tong moved the following motion: (Translation)**

"That, as the Government has failed to effectively monitor the implementation and progress of flood prevention works, resulting in residents in various districts of Hong Kong (especially the North and North West New Territories) suffering losses due to serious flooding, this Council requests the Government to expeditiously improve flood prevention and relief work, including:

- (a) closely monitoring the implementation of various flood prevention projects, which include preventing the blockage of drainage channels by mud and gravel from work sites, temporary facilities, construction materials and machinery, etc;
- (b) improving the existing mechanisms for land resumption, compensation and rehousing, and allocating additional resources to speed up the flood prevention projects while, at the same time, adopting measures to safeguard against delays of such projects due to the shortage of funds and inadequate technology on the part of the contractors;
- (c) thoroughly investigating the causes of recurrent flooding in various areas over the years, and formulating a comprehensive contingency plan covering flood forecasting, flood prevention and relief work;
- (d) identifying the responsibilities of the parties concerned for the recent occurrence of widespread flooding, and assisting the affected residents in seeking reasonable compensation; and
- (e) expeditiously cleaning up the environmental blackspots which affect the flood prevention projects in the New Territories, and stepping up maintenance and clearance works on drainage systems before the approach of the rainy season."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr TANG Siu-tong be passed.

**PRESIDENT** (in Cantonese): Mr WONG Sing-chi will move an amendment to this motion, as printed on the Agenda. In accordance with the Rules of Procedure, the motion and the amendment will now be debated together in a joint debate.

I now call upon Mr WONG Sing-chi to speak and move his amendment.

**MR WONG SING-CHI** (in Cantonese): I move that Dr TANG Siu-tong's motion be amended, as printed on the Agenda.

Madam President, today I move an amendment to the motion of "Expediently improving flood prevention and relief work" because I want to express the disapproval and disappointment felt by myself and the Democratic Party regarding the scanty attention the Government paid to the flooding problem over the years and the way in which the problem is being handled. It is our hope that the Government would not again and again frivolously blame the flooding on natural factors such as the amount of rainfall and the low-lying terrain while neglecting flood prevention work and allowing the departments and individuals suspected of dereliction of duties to slip away or pass the buck.

At the same time, I want to propose to the Government via the present amendment that pragmatic assistance be given to those living in badly flooded areas, and arrangements be made for eligible villagers to be allocated with public housing flats. It is hoped that we can all see that a few officials going to the districts to offer consolation or the Chief Executive reading the map cannot solve the flooding problem at all. As a matter of fact, the Government is actually "putting the blame on heavy rain while being negligent in flood prevention, and pretending to be concerned while being incompetent in helping the victims". We are now discussing the flooding problem. It is likely for the flooding problem to strike again this evening. Today, fellow Members might be saying that the Government is not doing things properly. Let us wait until tonight to see what government officials will do to deal with the forthcoming serious flood.

According to a survey conducted by the Democratic Party a week ago, 65% of those polled consider flooding in Hong Kong to be serious. Some 70% of the people think that the flooding affecting many districts in Hong Kong in early June had something to do with human errors and that the Government should be held responsible for that. The survey reflects the seriousness of the flooding problem and underscores the Government's persistent negligence and remissness over the years.

Ever since the major flood that hit the North District in 1993, it has been a routine for places near River Indus and River Beas to have several major floods every year during the rainy season. Still fresh in our minds are the scenes of 26 September 1993, when firemen and policemen mobilized helicopters and rubber boats to rescue flood victims. We were then informed by the Royal Observatory that it was a downpour which only occurred once in 50 years. Furthermore, no improvement works had ever been done to the river courses, and Shenzhen was also discharging flood water. All these brought 7 ft or 8 ft of

water to several flooded areas in the North District. However, by the time of the flooding in June this year, the repairing and improvement works of River Indus were already close to completion. The Hong Kong Observatory told us that the downpour in early June was one that occurred once a decade. And on that occasion there was no discharge of flood water from the Shenzhen Reservoir. However, on that day, the water was 8 ft or 10 ft deep. It took 10 hours or even longer for the water to recede. We were also informed by the Territory Development Department (TDD) and the Drainage Services Department (DSD) that some 200 cu m of sand and mud, according to estimate, got swept into the river course as debris had been accumulated on both sides of the river course. Surely the Government does not think that the debris accumulated on both sides of the river course is the chief culprit responsible for the flooding problem. However, we apparently do not believe that flooding has nothing to do with the debris. Even after Tsat Sing Kong bridge in Yuen Long gave way to torrents, the Government told us that the water had not washed away any sand, something that wind can blow away. What a lie!

The downpour of last Wednesday again turned North West New Territories into a flood plain. It has come to the notice of some villagers that sand and mud accumulated beside River Indus still remains uncovered with protective canvas sheets. According to the Government, contractors will be asked to do so as soon as possible. As sand and mud keep dropping into the river, its water level may rise at a quicker speed. What is more, the flooding last time in the North District was equally severe because of the discharge of flood water from Shenzhen River. In the final analysis, we can see that the problem stems from two factors: First, the slow dispersal of water in the river due to delays in contractors' works, and second, contractors being under no actual government monitoring. Turning now to the debris accumulated on both sides of the river course. The Government has not evaluated the gravity of the hazard; nor has it strictly required contractors to use canvas covers; nor has it been able to address the situation of contractors delaying works.

Because of the contractor's miscalculation of the depth of the rock stratum below River Indus and the inadequacy of the human and material resources deployed, works originally scheduled for completion this September or next year have to be extended beyond the original date by half a year. In fact, the project at River Indus is not unique in this respect. Certain individual projects, such as the village flood prevention projects at Yuen Long's Shui Pin Tsuen and Tai Kui, can not be completed until 2005. In the wake of the last flood, I personally

visited the work site of River Indus. It has come to my notice that nobody has been working there over the past few days. Only a few workers were seen moving the debris away.

Up to this day, the Government still stresses that the task force chaired by the Secretary for Works will ensure that flood prevention works will be completed as scheduled, and that all government departments have been asked to step up efforts in monitoring the progress of works. However, if contractors are short of funds, then they may even be "unable to make their way to the end." The Government is now at a loss as to what to do and is totally helpless. There is likely to be legal difficulty for the cancellation of contract. Even if a contractor does relinquish the job and asks for permission to quit, the Government still will have to invite tenders afresh. The tendering period will have to last at least eight months. Furthermore, it is necessary to wait until the contractor has cleared the site. So, it is possible for the works to remain unfinished even after a lapse of two or three years. The Government is so "toothless" that I really do not know what the Government should do to address the situation now. Obviously, the Government had made some mistakes in dealing with these works. I, therefore, have to sound my condemnation.

According to government definition, a district of serious flooding or a badly flooded district denotes a district with a flooded area measuring over 100 hectares, or one socially or economically suffering seriously from flooding. According to a report from the DSD this April, Hong Kong has seven blackspots where flooding is on a serious level. They include Tin Ping Shan village, Shek Wu San Tsuen, Yau Tam Mei Tsuen, and Lam Tsuen Valley Basin in the North District of the New Territories.

As a matter of fact, for eight years or even longer the North District in the New Territories has been affected by flooding. Whenever it rains, many villagers suddenly find a swimming pool in their homes and they are not the only objects that swim in it, for their refrigerators, television sets, VCD players and even furniture also float around them. I have been in touch with many villagers. In fact, many of them are unwilling to give up their homes for public housing units. In the first place, they do not want to pay rent. In the second place, they will have to take the trouble to move. Basically, they do not want to leave. However, the flooding problem will be around for several years. Torrents can instantly destroy their homes, and pose imminent danger to human lives. Under such circumstances, how can they afford not to move away? In order that they

can get permanent and safe residences, we urge the Government to relocate these people to public housing units as soon as possible, people who are living at places already deep under water but not yet on fire.

Coming to the last point. It can be noticed that with regard to stepping up regulatory control over land use, the Government still leaves much to be desired. Many villagers or landlords have raised the level of their land by filling. It seems that the Government finds it hard to take prosecution actions. I call upon the Government to review this. The Government should actively take prosecution actions to stamp out the problem if it is found that the flooding of a district has been aggravated by landlords, farmers or any persons who have the level of their land raised by filling.

Madam President, it is hoped that the Government can indeed discharge its due responsibilities so that people in districts affected by flooding can get on with their lives happily. I so submit. Thank you, Madam President.

**Mr WONG Sing-chi moved the following amendment: (Translation)**

"To add "strongly condemns the Government for turning a blind eye to flooding problems over the years, and" after "this Council"; to add "expeditiously rehousing eligible residents of seriously flooded areas in public housing," after "(b) improving the existing mechanisms for land resumption, compensation and rehousing,"; to delete "and" after "and assisting the affected residents in seeking reasonable compensation,"; and to add"; and (f) stepping up regulatory control over land use, and prosecuting cases of unauthorized developments so as to stamp out such developments" after "and stepping up maintenance and clearance works on drainage systems before the approach of the rainy season"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr WONG Sing-chi to Dr TANG Siu-tong's motion, be passed.

**MR TAM YIU-CHUNG** (in Cantonese): Madam President, as a result of successive downpours in early June, different parts of Hong Kong, especially the rural areas in North and North West New Territories were badly flooded. We

can tell from scenes appearing on television and newspapers that those villagers are seriously threatened by torrential water and suffer tremendous property losses. Their situation is indeed pitiable.

After the rainstorm, I went to Yau Tam Mei Tsuen in Yuen Long and Tai Kong Po Tsuen in Kam Tin to visit flood victims together with some village representatives in a bid to understand their situation after the floods. What I saw was like this: large stretches of vegetable fields were damaged in the floods; fish ponds gave way to torrents, resulting in most of the fishes and fries being washed away; with roads and bridges commonly used by villagers ruined or damaged by torrents, villagers experienced great inconvenience and danger getting in and out; people found most of their furniture and utensils either washed away or hopelessly water-damaged; vivid on the walls were stains left behind by waist-deep water of that day. It is evident that huge damage has been done to these villages by the floods on that day.

According to the villagers, the flooding on that occasion was, of course, mainly due to the heavy rainfall. However, they also complained that on the day of the flooding, the speed at which flood water subsided was very slow. They suspected that the drainage channel works between Ngau Tam Mei and Yau Tam Mei Tsuen currently undertaken by the Drainage Services Department and the Tai Kong Po Tsuen section of the training works of Kam Tin River were the "accomplices" responsible for the flood. This is no surprise at all. The reason is that the villagers told me that this flood was one unprecedented in all the decades during which they lived there. Once the projects got started, their houses and properties got into trouble right away.

According to what I saw at the flood scene, there was a very "droopy" make-shift bridge. When the water level of the river rose, it was difficult for the water to drain away quickly. I also noticed the new river courses under construction on both sides of the bridge. As the project has yet to be completed, the two sides are not connected. So a detour has to be made to divert water from the original river course. As an alternative, facilities to drain away river water under normal circumstances are installed at the outlet of the original river course. The villagers blamed all these for obstructing the draining away of flood water. Whether or not these were the causes and whether or not the blockage was due to silt dug up in the course of work being washed away by torrents because it had not been properly covered are accusations pending investigation and explanation by the departments concerned. If the conclusion

of the investigation is that there are human errors, then the parties concerned will have to be held responsible.

There are downpours every year and there are floods year in year out. I think that the Government is determined to solve this problem, which has caused tremendous sufferings to the villagers. Some flood prevention works in North West New Territories were started in 1999. What we want to know is whether the responsible government departments and contractors had taken any contingency measures while working on the projects in preparation for heavy rain so as to be able to effectively drain away torrential water in the river. It is hoped that government departments in charge of the projects can be mindful of factors that may affect the environment in the course of the works.

Finally, I wish to reflect the problems concerning the mechanism for compensation. Among those flood victims whom I visited on that occasion were some fish farmers raising ornamental fish. They are mainly engaged in the breeding of koi, gold fish, and so on. As a result of the flood, they, like fish farmers raising food fish, lost a lot of ornamental fish and fish fries. However, when they approached the Agriculture, Fisheries and Conservation Department (AFCD) for help, they were not given *ex gratia* allowance. They very much worried about their livelihood in the days to come. After my visits, I respectively informed the Works Bureau, the Environment and Food Bureau and the Home Affairs Department of the situation. Later, the AFCD did give *ex gratia* allowance to those ornamental fish farmers. I hope that this is not just a measure for once. The Government should officially include ornamental fish farmers as eligible for assistance.

Madam President, Typhoon Utor today is going to hit Hong Kong directly. Some people say that it may be necessary to hoist even higher typhoon warning signals this evening. I hope that the above situation would not occur again. It is also hoped that the government departments concerned can sum up their experience, get prevention work done properly, and comprehensively review both the measures adopted in the course of the works and follow-up actions so as to make improvement and do good to the villagers. This will indeed be an act of boundless beneficence.

With these remarks, I support the original motion.

**MR LAU WONG-FAT** (in Cantonese): Madam President, in the ancient history of our country, "Dayu thrice travelled past his home without going in whilst

combating floods." To refer to this touching anecdote today indeed stirs up one's feelings. Just imagine Dayu, way back in those ancient days, leading his men and using primitive tools, bravely combated against huge river torrents. The difficulty and immensity of the project are not measurable. To travel past his home thrice without going in simply amplifies the virtues of this great flood-combatant, namely, being a person showing concern for public interests above other things out of a wish to deliver people from grave hardship, and being totally selfless.

Now, after a lapse of several thousand years, floods still occur in a tiny place like Hong Kong. What is more, this flooding problem has been around for some 10 years, its gravity getting worse and worse year after year. This is something unheard-of from every angle and by every standard. To our legislature, this flooding problem is a topic that sounds stale. It can be recalled that ever since 1987 there were already a few motion debates on this matter by this Council and its predecessor, let alone the many questions raised. Facts show that all the comments and suggestions from legislators, and all the explanations and promises from government officials are, more or less, just futile. We still have to live with the flooding problem. There is a Cantonese common saying that goes like this: "Dried shrimp falling into water — it still could not make it even on reaching the bottom".

Madam President, I am of the view that if this is indeed a responsible government, then it should come up with an honest explanation. Flooding can be just as disastrous as the avian flu. It is sheer luck amidst such calamities that so far there have been no serious casualties. However, there is no guarantee that Lady Luck will always favour us. Is it true that the authorities would not take the matter seriously, not until many people get drowned?

Hong Kong is so tiny a place. Those so-called rivers are diminutive in terms of length and width. However, the authorities have gone so far as to say that the river training works is required to be done by three stages, one for the upper stream, one for the mid stream and one for the lower stream. So there comes a 10-year plan. This is absurd, and one just does not know whether to weep or to laugh at it. Those not knowing the facts might think that we are dealing with major flood prevention projects similar to those for the Yangtze River or the Yellow River!

In short, the fact that the flooding problem remains unsolved even though it has been bothering us for years is indicative of the failure on the part of the

authorities concerned to pay due attention to the issue. It is ridiculous for the flooding problem to get worse and worse because of repeated blockage of drainage channels by flood prevention works underway. This only serves to prove time after time that the authorities concerned are inadequate in monitoring, ineffective in discharge of duties, and void of crisis awareness.

Madam President, Hong Kong is a world-class financial centre as well as a cosmopolitan city. Being endowed with very rich financial reserves and being so small in area, yet served by a Civil Service renowned for its quality and efficiency, its combat with floods is surprisingly too long drawn out and has turned out to be a big mess. This is really a big laughing stock as well as a total disgrace. But this is also a great tragedy for those badly hit by floods whenever it rains heavily. They will find themselves living in great fear and will have to run for lives whilst their personal belongings will be damaged by water. According to a sad account given by one of the victims of last month's big flood, over the past 10 years he has replaced his refrigerator six times, but never dare to get a new one. Will those in charge of the authorities blush on hearing these words, which embody much misery, helplessness, sorrow and anger?

Madam President, I am already tired of speaking on this topic here in this Chamber. Perhaps it is time for our Ombudsman to initiate investigation to see what is wrong with the authorities. Nevertheless, with the state of affairs like that now, it is high time any government acted resolutely and urgently in a manner befitting a crisis situation, and gave top priority to the allocation of resources required in order to press on and complete river training works at top speed, so as to deliver from hardship as soon as possible those people living in flood-affected areas. If the authorities concerned remain absolutely unrepentant and just try to pass the buck around, then it is likely for them to end up in a situation where they will find it too late to regret and that they must face serious consequences.

With these remarks, Madam President, I support the motion.

**MR HUI CHEUNG-CHING** (in Cantonese): Madam President, it seems that once the annual rainy season sets in, flooding in North West New Territories invariably will hit the news. In fact, the Government has been carrying out flood prevention works for nearly 15 years. Initially in the year 1987, the Civil Engineering Department was assigned to co-ordinate and alleviate the flooding

problem. In 1989, the Drainage Services Department (DSD) was set up, and was given the full responsibility to oversee drainage works. However, over the last 10 years, other than some strategic studies of flood prevention and drainage works, only two substantial flood prevention projects have been launched, namely, the training works for Shenzhen River launched in 1995 in conjunction with the Shenzhen authorities, and the flood prevention works launched in 1996 for several villages in San Tin and Chau Tau Tsuen in the North West New Territories. Ever since 1997 the Chief Executive has again and again stressed in his policy addresses that it is necessary to solve the flooding problem affecting low-lying areas. Some places, such as Sham Shui Po and Mong Kok in West Kowloon, have made marked improvement. It, however, appears that the departments concerned have yet to actively carry out various flood prevention projects in North West New Territories. For instance, of the 18 items of flood prevention works proposed in 1998 for North and North West New Territories, nine experience delays ranging from two months to more than two years. Of these, eight items of works that concern blackspots of flooding in Yuen Long, Kam Tin and Ngau Tam Mei have yet to get started. Had it been able to complete the Rural Drainage Rehabilitation Scheme in respect of River Indus early this year as scheduled, instead of having it delayed until this September, then River Indus would not have been a major disaster site in the flood this time. With projects losing, not gaining, speed, it is going to take another 10 years before the whole system of flood prevention works can be completed. The damage and inconvenience to be caused to the residents during the rainy seasons of these years are immeasurable!

In the middle of last month, at a special meeting of the Panel on Planning, Lands and Works of this Council, the DSD mentioned in relevant papers that the widespread flooding in North and North West New Territories on this occasion "is not unexpected." If the authorities can indeed predict like a prophet, why cannot it, with so many years of experience in the selection of flood prevention works contractors, foresee possible delays of such projects due to the shortage of funds or inadequate technology on the part of contractors? Furthermore, the District Development and Environmental Improvement Committee of the North District did ask the Territory Development Department (TDD) to see to it that the contractors removed the debris from their work sites, or at least covered the debris with plastic sheets. How come there were still huge piles of debris when the floods came? Judging from the information available, contractors are, of course, the chief culprits responsible for the delays of flood prevention works. But how come the contractors can simply ignore those unfavourable inspection

reports repeatedly issued by the Government and the projects are allowed to drag on? According to the explanation given by the Government in defence, it is not advisable to terminate those delayed projects as it is going to require extra time if tenders are to be invited afresh, which may turn out to be even more time-consuming. However, the authorities just criticizes the contractors without taking actual actions to make them speed up the progress of works. Is that not even more time-consuming? Why did the authorities, already expecting extensive flooding well in advance, not arrange co-ordination among different departments beforehand to have flood forecasting and prevention measures ready in hand? This is equally disappointing. How come there were risky scenes in which children in the flooded area were being lifted up to helicopter from rooftops?

Because of all these, the authorities must, in the first place, carefully review land use planning in respect of different parts of the New Territories in order to avoid causing blockage to drains and step up monitoring so as to stamp out unlawful land uses. In the second place, real efforts should be made to monitor the progress of every flood prevention project. This includes preventing the blockage of drainage channels by mud and gravel from work sites, temporary facilities, construction materials and machinery; speeding up the clean-up of environmental blackspots which affect the flood prevention projects in the New Territories; and stepping up maintenance and clearance works on drainage systems before the approach of the rainy season. At the same time, for the purpose of enhancing monitoring, there should be a review of the selection criteria of flood prevention works contractors and a requirement that contractors should submit more financial information at the time of tendering and in the course of the works. Besides implementing flood prevention projects, the Government should also make good use of the method of flood storage so as to be more effective in dealing with intensive and lingering rain. In Singapore, the Government collects rain water in flood storage tanks, and uses it for irrigation and street-washing on a routine basis. In Hong Kong, filtered water is being used for street-washing and irrigation. On comparison, the former is more economical.

Madam President, I so submit.

**PROF NG CHING-FAI** (in Cantonese): Madam President, the flooding problem in the New Territories has been around for more than 10 years. Even Members have been discussing it for 10 years. All along the Government has

been offering some specious explanations, which include excuses such as technical problems, the act of God, remissness on the part of contractors, and the failure of the former Urban Council or the Food and Environmental Hygiene Department to clear away plastic bags and garbage. From a technical point of view, flooding in the North and North West New Territories can definitely be surmounted. The key lies in having the determination and putting in efforts to work faster.

According to some friends in the engineering sector, the slow progress of work by the Planning Department in the flood prevention project of River Indus is primarily attributable to several factors, such as the Environmental Impact Assessment Ordinance, land resumption and "the lowest bidder wins" guideline for the selection of contractors.

Originally, New Territories drainage projects are designed to improve the environment so as to free the residents from the threat of floods. If those projects are indeed delayed by the Environmental Impact Assessment Ordinance, then the whole thing is quite an irony. We should indeed reflect upon it. Is there really something wrong with the current procedures for environmental impact assessment (EIA)? Should there be a review? We have got to ensure that while the EIA requirements are being met, no delay is being caused to the projects.

The slow progress of land resumption not only has something to do with land resumption compensation. Is there adequate liaison between the Lands Department and the Territory Development Department? The efficiency of the departments concerned is also something that we should not turn a blind eye to.

To sum up, in Hong Kong today, major government projects often take a lot of time to complete. It is especially so when compared with cities like Singapore, Guangzhou and Shanghai. We should take a serious look at such a phenomenon as its continuation is going to be very unfavourable to our public administration, people's livelihood and economic development. I, therefore, am of the view that the Government should take the initiative to consult those involved in the EIA mechanism, and have more exchanges with Members of the Legislative Council so as to ensure that when papers on project funding requests are submitted to the Public Works Subcommittee, there is thorough information. This is to minimize delays due to the need to re-submit information. Moreover,

to look for effective ways to speed up works, a review of the working procedures of public works is also warranted.

Furthermore, coming under the most severe attack is the area of project monitoring. In recent years it has been usual for government projects to run into delays, some lasting for three months and some lasting for half a year or even one whole year. The Government has been giving people the impression that it is unable to ensure the smooth progress of projects. Even though projects apparently have run into delays, there seems to be nothing that the Government can do because of various considerations. Delays of works have long ceased to be strange as they are so common. Paradoxically, it is strange to be able to finish on time. To ensure that the works can progress as scheduled, the Works Bureau should bring in relevant terms and conditions when preparing contracts and review project monitoring procedures.

Besides carrying out effective monitoring to detect in time signs of project delays, it is also necessary to act more vigorously. Once it is noticed that a contractor has developed problems, strong actions should be initiated in accordance with contract terms so as to take back the work site. I understand that the Government has hired some so-called Term Contractors. If need be, these contractors will undertake minor works at places like hospitals. I suggest that the Drainage Services Department and the Territory Development Department consider hiring Term Contractors, who can take over the works immediately after the repossession of work sites, and get on with the works until their completion or the invitation of tenders afresh. In this way we can avoid bringing the works to a standstill. Furthermore, it can prevent unscrupulous wicked contractors from delaying the projects by taking advantage of loopholes in the area of monitoring.

The government departments concerned may also refer to the practice of the Hong Kong Housing Authority in setting up a similar system of quality contractors, so as to give recognition to good performances, and also suspend or terminate the tendering eligibility of contractors not complying with contract terms.

At present, with those long-term flood prevention projects yet to be completed, the Government must expeditiously clean up flooding blackspots in the New Territories. As noted by a Member, there will probably be another apex when the typhoon hits Hong Kong this evening. In the long run, the

Government must thoroughly investigate the pattern of recurrent flooding in various areas so as to formulate a comprehensive contingency plan covering flood forecasting, flood prevention and relief work. Furthermore, during the rainy season, it is necessary to make key personnel accessible around the clock so as not to commit the same mistake of the last occasion, when contact could not be established with the contractor concerned. Finally, I call upon the Government to treat this "old big headache" of solving the New Territories flooding problem as a major issue of top priority. If need be, an inter-departmental strategic committee should be set up to industriously, expeditiously and comprehensively solve the problem.

I so submit.

**MR DAVID CHU** (in Cantonese): Madam President, as a cosmopolitan city, Hong Kong measures up to advanced international standards in many areas. However, our flood prevention measures and relief work are not commensurate with the level of our development. In recent years, it has been common for many places in Hong Kong to have floods during the rainy season. It is especially true of the North and North West New Territories, which can easily be turned into flood plains. Firemen often have to use rubber boats to rescue those besieged by flood water. The residents, badly suffering from flooding year after year, are deeply troubled both financially and psychologically. Flooding is, of course, a natural disaster, but some "human" factors are also involved. The Hong Kong Progressive Alliance (HKPA) calls upon the Government to thoroughly investigate the causes of frequent flooding in various areas, and effect improvement as soon as possible. At the same time, sufficient assistance should also be given to flood victims.

The New Territories flooding problem is not one that crops up just today. Judging from different analyses the problem is attributable to the development planning of new towns as well as to delays or negligence in works. In the mid 1990s, the Government, to develop the new town at Tin Shui Wai, filled up the original river bed to form higher sites, thus turning places in the vicinity into man-made low-lying areas, which are prone to flooding as the water there cannot be drained away when it rains. Moreover, land in the New Territories is being developed too rapidly and put to different uses. Some of the rivers and rainwater drainage systems do not have adequate discharge capacities. So flooding easily occurs. The Government already has a series of plans to solve

the flooding problem. However, the Government has been slack in carrying out monitoring work, as a result of which some projects are being delayed, and individual contractors of some projects have been causing serious flooding by haphazardly dumping wastes, sand and mud, stuffs that may block up the river courses whenever it rains and eventually causing serious floods.

Madam President, to reduce the damage to the residents, the Government should, first of all, expedite the various flood prevention projects. According to the Drainage Services Department (DSD), in the next two or three years villages in different parts of the New Territories will still be subject to the threat from flooding as it is going to take another two or three years before various flood prevention projects can be completed one after another. In view of this, the HKPA calls upon the Government to expeditiously improve the existing flood forecasting system and the flood contingency mechanism. Whenever it rains heavily, the departments concerned and the project contractors must make quick responses by immediately sending out personnel to deal with the flooding, and help to evacuate residents there as soon as possible. Pok Wai Tsuen was flooded on this occasion. However, the contractor's engineering staff and pumping equipment were not sent there even after a long delay. As a result, great damage was done to the residents. Things like that definitely should not be allowed to happen again.

Finally, the HKPA urges the Government to comprehensively review the existing mechanism of tendering. When awarding works contracts, do not neglect quality of works because of price. To ensure that the works can measure up to standard and would not "fail to make their way to the end", the Government must take notice of the contractors' performance and their financial standing. If the contractor renders poor quality of work or causes delay to the project with the result of doing harm to the residents and society just because he has to tailor his work to suit the price, then the loss will totally outweigh the gain. It even goes against the principle of cost-effectiveness. It is hoped that the Government can learn a good lesson from "the incident of defective piling" of Home Ownership Scheme estates. Do not commit similar mistakes in the area of public works.

With these remarks, Madam President, I support the original motion.

**MR ALBERT HO** (in Cantonese): Madam President, both of the two motion debates conducted in this Council today have much to do with the livelihood of

the grassroots. The first motion, the one debated earlier on, is on the Government's unreasonable, or even high-handed, land resumption policy. It can be noticed that, because of the Government's unreasonable policy on land resumption, many small enterprises engaged in industrial, commercial and farming activities are unable to stay on. Many of those who could have lived and worked in peace and contentment have lost their homes because of the policy on land resumption. All these definitely have something to do with "man-made" factors.

Turning now to the flooding problem, the topic of the current debate. Superficially, it appears to be an uncontrollable natural disaster. However, judging from the information and facts just presented by some fellow Members, we can see that this in fact also involves a lot of man-made factors. Furthermore, it has something to do with errors in government planning, inefficient policy-making, or, as Prof NG Ching-fai has said, the lack of determination on the part of the Government, or perhaps unwillingness to put in adequate resources. As a result, there has been no success in containing floods. All these lead us to the suspicion that the Government is indifferent to grassroots' livelihood. Should the Government discharge its duties and look upon people as of prime importance by improving its land resumption policy and alleviating the flooding problem?

Madam President, after listening to the speeches of fellow Members, I think I need only to add a few points. There are two causes that bring about flooding. Natural factors constitute the first cause. Some low-lying areas with inadequate drainage systems may easily come under the threat of floods or be affected whenever it rains heavily as the rivers do not have sufficient drainage capacity. Of course, this is due to the slow progress seen in government projects. Fellow Members have just spoken on this. As a result of the completion of various redevelopment projects recently, some villages have become low-lying areas on the urban fringe, which will inevitably turn into blackspots of flooding in time of heavy rain. As far as I know, the Government plans to build pumping stations for those areas to help drain away flood water so as to solve the flooding problem. But why are the projects progressing so slowly? According to schedule, the Government will altogether build 12 big pumping stations. So far, only three have been completed. When can the other nine be completed? As we all know, many villages get flooded several times every year. Can the Government speed up the construction of pumping stations? Why cannot the works be expedited? What explanation can the Government offer to those affected? This is my first point.

My second point is on the illegal conversion of land uses. Under the Town Planning Ordinance, illegal works such as leveling down land, and forming higher sites are not permissible. However, the Government is often unable to get the persons concerned to reinstate the sites. As those persons have illegally changed land uses, then are they duty-bound to reinstate the sites? Why cannot the Government exercise control? The fact is that there are so many such illegal constructions that drainage is being affected, leading to the danger of flooding.

Here comes the third point, which has already been covered by a number of fellow Members. With regard to residents of low-lying areas who have long been tortured by the flooding problem, the Government has the duty to rehouse them as many as possible at the fastest possible speed, so as to deliver them from such a painful and inhumane living environment.

The second cause of the flooding is some of those major projects now underway. Recently, the construction of the West Rail can be said to be the biggest project. Even though many plans are formulated to forestall flooding in the course of the works, they are often not effectively implemented because of inadequate project monitoring. Whenever it rains heavily, the works itself may lead to the blockage of drainage systems, thus bringing about flooding at various locations. As a matter of fact, a downpour in April last year brought floods to as many as 60 locations in the northwestern areas. Following my personal visits to several villages, I noticed that many villages are adjacent to some work sites of the West Rail. That being the case, I have reason to believe that the construction of the West Rail has much to do with the flooding on many occasions.

Though we consider many of the flooding incidents to be attributable to the works of the West Rail, the burden of responsibility has not been established. This is most unacceptable to the people. The West Rail company just referred all the complaints and claims to the contractors, who, in turn, forwarded them to insurance companies. These insurance companies then called up some so-called adjusters (that is, surveying firms). After dragging on for two years, the problem still remains unresolved. So far, compensation has been given to only one village. Yet, the Government is still unable to supply data to clearly establish responsibility. I am of the view that in this respect the Government's responsibility is unshirkable. The Drainage Services Department should have sufficient capability and information to help those residents lodge reasonable claims.

Madam President, generally speaking, I think the original motion will certainly be passed. I call upon the Government to get things done properly right away so as to solve the problem of livelihood for the people .....

**PRESIDENT** (in Cantonese): Mr HO, your time is up.

**MR ALBERT HO** (in Cantonese): ..... I so submit, thank you.

**DR RAYMOND HO** (in Cantonese): Madam President, over the last eight years, it has been common for the North and North West New Territories to have floods during the rainy season. Flooding causes property damage and inconvenience to the residents. It also poses grave safety hazard to them.

In June, that is last month, the rainfall was over 1 000 mm, breaking the Hong Kong Observatory's record since 1884. Because of consecutive downpours, low-lying areas in the North and North West New Territories naturally experienced extensive flooding, even rendering it necessary to dispatch the Government Flying Service to rescue those besieged by flood water. As a matter of fact, last month's downpours also caused serious flooding to other places, including Belvedere Garden in Tsuen Wan and the villages around Tai Po.

Although the Government in recent years has had a series of flood prevention works started, the flooding problem remains unsolved, especially in the case of the North and North West New Territories. Given the fact that local drainage systems and storm water drains cannot keep abreast with the pace of developments, some rapidly-growing new towns are also under potential flooding risks. Poor progress of relevant drainage and flood prevention works is often due to delays arising from issues concerning land resumption and compensation. Furthermore, there may be a lot of technical problems at the start of works. For instance, public utilities such as underground cables and pipelines can add to the difficulty of drainage works. Members of the public probably do understand the difficulties of the authorities concerned. However, this does not give the Government the excuse to let the flooding problem deteriorate.

In view of the severity and urgency of the flooding problem, I think the Government should pinpoint the problems and improve the current procedures

and mechanism for land resumption so as to be able to launch some of the more important flood prevention projects. In addition, the Government should allocate more funds so as to, on the one hand, expedite flood prevention works, and, on the other hand, step up the cleaning up and dredging of river courses.

In the light of the experience stemming from the delay of the training works for River Indus, I suggest that the Government adopt a milestone arrangement for payment, under which a contractor can get paid only if he manages to complete a specified stage of works within a specified period. In this way, contractual issues and delays due to problems on the part of the contractor that may render it necessary for the Government to take back work sites, replace the contractor and arrange another tendering exercise can be avoided.

At the same time, to forestall impact on the drainage capacity of nearby drainage channels consequent upon poor management in the course of works, the Government should step up the monitoring of various flood prevention projects. As pointed out by me at a special meeting on recent flooding incidents held by the Panel on Planning, Lands and Works, a more effective arrangement is for the Government's flood prevention projects not to begin before the start of the rainy season, so as to avoid having projects likely to cause blockage to river courses or drainage channels. To lower the likelihood of flooding, those projects should, as far as possible, be completed before the rainy season. On the other hand, it is also necessary for the Government to keep a closer watch over land uses and take prosecution actions against offenders. The reason is that those illegal developments often ignore the problem of drainage, with some even contributing to the blockage of drainage channels. Furthermore, the authorities concerned must also put in more efforts to maintain and clean up drainage channels so as to reduce the likelihood of flooding by ensuring their drainage capacity.

Madam President, the flooding problem has indeed troubled Hong Kong for a long time, especially so for those victimized. To eradicate the problem, the Government should take up the responsibility without delay and identify the causes of flooding. I so submit in support of the original motion whilst opposing the amendment. My opinions above are shared by some fellow Members, including Mr Eric LI, Mr NG Leung-sing, Dr LUI Ming-wah, Mr Bernard CHAN, Dr LO Wing-lok and Mr Abraham SHEK. Thank you, Madam President.

**MR HOWARD YOUNG** (in Cantonese): Madam President, because of on-going downpours over the past few days, different parts of the North District in the New Territories are flooded. With low-lying areas suddenly turned into flood plains, residents in the North District are besieged by flood water, losing all their belongings to torrents flooding their homes. Again and again before our eyes were telecast scenes showing firemen and rescue teams heroically saving lives in torrents. The bravery and selflessness shown by those rescuers invariably earn my deep respect. At the same time, I cannot but wonder what causes such sufferings to those residents in the North District over the years, and why it is often necessary for our rescue teams to risk their lives to save lives in the torrents, often staging scenes reminiscent of the emergency rescue operations seen in "The Burning Flame".

According to some New Territories residents, the heavy downpour that only occurs once in a decade was not the sole arch criminal responsible for the recent serious flooding. The Government's massive training works for the river course of River Indus in the New Territories over the past few years should be one of the "prime culprits" too. We can see from television newscast that some contractors piled up on river banks silt and garbage dug up in the course of the works, thus creating earth bunds measuring some 10 ft in height. However, the contractors neither sent away the silt or garbage dug up nor handled the silt properly by, say, covering the debris with plastic sheets so as to prevent rain water from washing it away. When the heavy rain came, rain water mixed with silt simply found its way down the river course, making it even shallower and narrower, which ultimately brought about this serious flooding incident.

It is the hope of many local residents that the authorities can keep a proper watch over contractors so as to prevent the occurrence of similar incidents. We also notice that every year in the wake of such incidents the Government will invariably "swear to the gods" that improvement will definitely be made to the flood prevention works so as to have the rain water drained away more effectively and forestall the recurrence of flooding. It is, however, disappointing that the situation of flooding in the North District, instead of improving, appears to be getting worse year after year. The Liberal Party is of the view that in this matter the Government's responsibility is unshirkable.

According to the Government, a task force chaired by the Secretary for Works LEE Shing-see is going to review the flood prevention programme, and study ways to improve flood prevention facilities and the relevant monitoring

system, so as to reduce the risks of flooding. We are, however, of the view that, with regard to the delays of flood prevention works, the Government cannot pass the buck, but must shoulder the responsibility for the poor management of flood prevention works and learn a lesson from that so as to enhance its monitoring of contractors. The Liberal Party holds that it is necessary for the Government to strengthen in all responsible departments the monitoring process, the quality and safety of projects by, say, conducting more surprise checks or setting up in the departments teams specially responsible for the monitoring of projects. This is to ensure that abnormalities, such as delays or poor quality, can be detected and remedied as soon as possible while the projects are underway.

Secondly, another principal factor contributing to the flooding of all these years is the delays of flood prevention projects. As we all know, flood prevention works are usually mammoth projects often involving many issues, such as land resumption, public consultation, environmental impact assessment, and a series of complicated legal procedures. At present, under the Home Affairs Department's policy on rural projects, there cannot be any land resumption; only letters of consent can provide the avenue to go ahead. In cases involving property interests of private lots, it is often hard for a project to proceed just on account of failure to obtain enough letters of consent. So, the Liberal Party strongly supports improving the existing mechanisms for land resumption, compensation and rehousing, and allocating additional resources to speed up the flood prevention projects.

Furthermore, officials of the Territory Development Department (TDD) admitted that the project to widen River Indus is three months behind schedule because the contractor is short of funds, and that the ultimate completion date will probably be deferred to the end of next year.

The Liberal Party understands that it is normal for works to take time. However, shortage of funds and technical difficulty just cannot provide the justification for the project delay as they are not unforeseeable. The departments concerned, such as the TDD, should have foreseen such obstacles to the works well in advance, and ought to have asked the contractor to make improvement before it was too late. We are of the view that the departments concerned should be held responsible for failure to exercise effective monitoring.

It is learnt that the Government is considering taking back from the contractor charged with the flood prevention project of River Indus some of the

works not yet in progress for re-tendering so as to hire another contractor. We welcome such a move by the authorities. It is hoped that the joint efforts of two contractors can speed up the river training works and solve the flooding problem, one that has troubled the North District for years, before the onset of next year's rainy season.

Madam President, I so submit and support the amendment as well as the original motion on behalf of the Liberal Party.

**MR LAU KONG-WAH** (in Cantonese): Madam President, since this morning, I had continuously sought to know if the meeting today could be held as scheduled. However, to the residents of Tin Ping Shan village, their question since this morning is whether or not they can sleep in peace.

Ever since 1998, I have been paying visits to the village around this time of the year to take a look of the aftermath of the flooding, and visit flood victims to note their sufferings. In 1998, when I made my first visit to the village, I was told by the residents that at the time of the flooding the water level raised up to the waist. So they used many shelves higher than the waist level to keep their cooking utensils. However, when I visited them this year, I was told that the flood water was more than 5 ft deep, that is to say, taller than a person. It can, therefore, be noticed that this year the situation is worse than what it was before the start of the flood prevention works.

As I have stated at a Panel meeting, the fact that the situation of this year is worse than that of last year is characterized by a few points. Firstly, in the past, vegetables in vegetable fields were not covered with mud and sand after a flood, but they were this year. Whence came the mud and sand? Secondly, in the past when different stretches of the river course around Tin Ping Shan village overflowed, the flood would not spread beyond Tai Po. However, in the case of this year, the flood almost covered the upper reaches at Tai Po. Why? Improvement works has been underway, but there has been no improvement and the situation is even getting worse. What problems are being reflected by this? Officials from the Territory Development Department (TDD) told us that the impact from sand hills created by flood prevention works was very little. I almost jumped up on hearing that. The reason is that when we took a look from the rooftop of Woodland Crest, we clearly saw four sand hills 30 ft in height standing on both sides of the river. These sand hills constituted a very

important reason why the flood occurred. Surely, if the TDD officials had issued warnings but the contractors failed to comply with all the requirements, then the contractors should be held responsible. However, if there had been neither warnings nor preventive measures beforehand, then the TDD should be held responsible.

Later I asked North District Council members, who are also members of the Democratic Alliance for Betterment of Hong Kong (DAB), to find out whether or not there were prior warnings from the TDD, and whether or not they had held discussions with the officials. They told me plainly that they had unequivocally mentioned to local officials well in advance that those sand hills might cause blockage in time of rain, and that at that time the TDD officials took no notice. Who should be held responsible under such circumstances? Of course, now the Secretary for Works has come forward and stated that an investigation will be conducted. Madam President, the Government is to spend two months on the investigation. Then how about those residents tonight? Surely, it is necessary to conduct investigation, but it takes too long. What will be the situation tonight? Can the Secretary for Works let us know?

As a matter of fact, I deeply share the views just expressed by Mr LAU Wong-fat. If foreigners are told that it takes 10 years to train a river here, they definitely will think that the river is as long as the Yangtze River. If they come to take a look and find out that the river course is so short, they will probably be very surprised that even though the training work will have to be done by stages over a period of 10 years, the whole thing still does not work out. I cannot but wonder what is wrong with our officials and projects, and why it is necessary to take so long to train the river course. I remember that when this Council granted approval to fund the training works of different river courses, I raised queries at the meeting to find out whether or not the training works of that stretch of the river course should take four years, and whether or not it was possible for the authorities to have the works condensed. I understand that there is flooding every year. We probably do not feel that keenly as we do not live there. However, given the floods that come every year and the fear that is felt every day, those actually living there are bound to have anxiety. But at that time the officials said that nothing could be done about it. Why so? Why is it necessary to take four or even 10 years to train that stretch of the river course? The Secretary for Works must give an explanation.

Besides the efficiency issue, there is, I think, definitely a need to quote what Mr WONG Yung-kan once said, and that is: "A year ago, when the Tai Po

District Council discussed the flood prevention plan for Wai Tau Tsuen, the official concerned actually thought that the river at Wai Tau Tsuen emptied itself into Lam Tsuen River before merging with Tolo Harbour. In fact, the river at Wai Tau Tsuen empties itself into Ma Wat River via Tai Hang Heung and then flows into Shenzhen River. The official responsible for the training works of river is so "blurry" about the direction of the river flow. How can his design prevent floods?" The situation in Tai Po is like that.

Thus, the so-called efficiency issue is also one involving planning. When I looked down from the rooftop of Woodland Crest, I clearly noticed that Woodland Crest was totally out of the flooding threat, and that the works were well done. However, the area nearby had been totally turned into a flood plain. At that time I asked the officials concerned why the planning work of that area, one made up mainly of government land, was not properly done, and why it was not possible to rehouse those residents. All these have something to do with the planning done in the past.

One final point, Madam President. I consider government officials, especially those charged with river training works, to be often "negligent, looking hither and thither and worrying about this and that". However, we must concern ourselves with the safety of the residents. We should regard their safety and daily inconvenience as top-priority issues. When tracing responsibility, we must still give top priority to residents' safety.

Finally, I want to raise questions on behalf of the residents: Can the authorities help those residents tonight? Can the authorities complete the works before next year's rainy season? Thank you, Madam President.

**PRESIDENT** (in Cantonese): Does any Member wish to speak?

**MISS EMILY LAU** (in Cantonese): Madam President, I speak in support of the original motion of Dr TANG Siu-tong and the amendment of the Democratic Party. In fact, many Members have already made mention of a lot of illustrative cases. I am not going to repeat. I hope that today, when the weather is going to be windy and rainy, this Council can convey explicitly to Mr LEE, the Secretary for Works, and his colleagues a message, namely, that Members can no longer put up with these, matters that bring disgrace to Hong Kong.

Madam President, I remember that last month the Chief Executive, when visiting Belvedere Garden, Tsuen Wan, said to reporters: "I have told the officials concerned that such things are not allowed to happen again." However, today it is likely for those things to happen again. I wonder how the Secretary for Works is going to account to us for that. How did he, after getting the Chief Executive's instruction, ensure the non-recurrence of those things? We, in fact, all understand that it is not possible to bring a total end to all these. However, the authorities should do something as soon as possible.

Madam President, Hong Kong does have enough resources to carry out relevant works. Surely, we are not going to spend wastefully. Given the fact that the flooding problem has been around for years, it is hard for us to face up to those living in the New Territories. I agree with what Dr TANG Siu-tong said with regard to the point that it is necessary for the Government to conduct an independent investigation. Madam President, if we were not having a task force looking into the issue concerning defective piling works, it might have been necessary for us to form a task force to look into the flooding problem. Though we are not going to set up such a task force right away, I think the Secretary for Works should still give explanation, and, in due course, conduct a thorough independent investigation to trace responsibility and state clearly the criteria for compensation. Many residents, I believe, have repeatedly suffered damage. They ought to be compensated. I hope that the Secretary for Works can elaborate upon this in his reply later on.

In fact, there is no need for me to repeat as fellow Members have already quoted so many illustrative cases. The Secretary for Works must account for this today. Must we wait for another two years, or three years or even five years before there can be any improvement in the situation? If it is said that the work of the contractor concerned is bad and we have to take back the project for retendering, then, given all the existing problems, how are we going to account to the residents for all that? Must we make use of the resources already available to work out some solutions as soon as possible? Should the authorities instruct the personnel concerned to man their posts continuously? Also asked by Dr TANG Siu-tong is the question why the hotline was not answered when the residents tried to phone it. All these are things that can be accomplished now. With regard to the next few years, when the works have yet to be fully completed, should the Government find ways to minimize the residents' sufferings as far as possible?

With these remarks, Madam President, I support the motion.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak?

**MR ALBERT CHAN** (in Cantonese): Madam President, I wish to focus on one case, which can prove that the Drainage Services Department (DSD) is riddled with problems. Because of human errors in management or because of poor co-ordination among departments, Belvedere Garden has this flooding problem. First of all, I have to declare an interest. I live in that district, where my daughters were born.

Madam President, just in one single month of June, Belvedere Garden was flooded thrice. It can be said that it ranks first in Hong Kong as a flood scene. Downpours in June occurred one after another, bringing floods to different places on each occasion. However, according to all the information that I have read, only Belvedere Garden was flooded three times. No such flooding had ever been experienced there in the 10-odd preceding years. In my opinion, those floods were 99% attributable to human factors; that is to say, they are different from floods in other places where floods are caused by some special factors. I am going to speak on the specific circumstances.

Flooding came for the first time on 9 June. It was said at that time that rocks swept down from the hills by storm water blocked the stormwater drain. The DSD sent workers to the scene to carry out the clean-up, but did not quite finish it. It was flooded again at around 10 o'clock on 11 June, when the rain grew heavier. Had the DSD eradicated the factors responsible for the flooding of 9 June or had their workers worked throughout the night of 9 June and 10 June to clear away the rocks, the flooding of 11 June could have been avoided.

On 11 June I made an appointment with the DSD officers for a site visit to ascertain the situation. On that occasion, also present there to brief the DSD officers on the flooding of 9 June were some residents of Belvedere Garden. According to a resident, it could be seen from his home that water was rushing down from the catchwaters on the hills like bursting mountain torrents, sweeping across Tuen Mun Road, and flushing down the road surface like waterfall. Belvedere Garden is located in a valley in the hills, where water was also rushing down like bursting mountain torrents. Beside the drainage channels are some residential structures, schools and low-rise village houses. By the side of the drainage channel is a DSD-built 10-foot-high retaining wall. But the level of the mountain torrents was even higher than the retaining wall. Never before in the preceding decade or two had I encountered such a chilling scene.

At 3 pm on 11 June, I talked to the DSD representatives about the issue. Residents of Belvedere Garden also told them what it was like at the time of bursting mountain torrents. The DSD representatives said that they would contact the Water Supplies Department (WSD) immediately as the WSD was totally responsible for water rushing down from the hills, which was not caused by the DSD works. Regarding problems with the catchwaters on the hills, it is because over the past two years or so, there have been a lot of hillslope and catchwater works going on. In fact, we have made site visits, and are aware of the blockage of catchwaters due to works done for hillslopes. On 11 June I explained clearly to the DSD representatives all the causes and problems. At that time they said that they would arrange to spray chunam plaster on the parts of the hillslopes that had collapsed.

The DSD representatives said that actions would be taken. But on 23 June there came a downpour which was not too heavy. Madam President, that was just a downpour experienced once in a decade or two. It was not heavy enough to be a rainstorm. As a matter of fact, in many cases the design of new towns can withstand rainstorm experienced only once in 50 years. That is to say, there should be no flooding if it is not a rainstorm experienced only once in 50 years. However, there was another flood on 23 June and the causes for that were similar to those of the last two occasions, that is water overflowing from catchwaters and rushing down to Tuen Mun Road from the hills. The situation on that occasion was even more serious. At about eight o'clock some boulders got swept down to Tuen Mun Road, fortunately causing no traffic accidents. That was indeed sheer luck amidst calamities. It so happened that I drove past Tuen Mun Road at half past eight and noticed that by the side of the road was a boulder measuring about 2 ft by 3 ft. The police had just closed the road.

Had the DSD taken all the necessary actions after obtaining all the information on 11 June, then the flooding of 23 June would not have happened. That day a child was swept away by torrents. Fortunately, an estate manager risked his own life to save the child. Falling boulders can be deadly too. The incident of a child being swept away by torrents in a town centre just sounds ridiculous even though the place is in a housing estate, not in the downtown area.

Afterwards, we had further site visits, discussions and meetings with the DSD officers. It is our hope that the DSD can improve both their internal attitude in dealing with things and their code of practice. The department was well aware of the blockage affecting drainage channels and the fact that the rain

would continue. Why did they not carry out the clean-up throughout the night? I explained everything at the meeting on 11 June. But there again came the flooding on 23 June.

The DSD has again and again mentioned to me that the department has formulated a plan on flood prevention tunnels that is going to require several billion dollars for the construction of flood prevention tunnels at different places. When so informed, I told the Secretary for Works that, given the fact that not even such a minor matter was handled properly, he should not hold any hope that the Finance Committee would approve the appropriation of several billion dollars to let the DSD build flood prevention tunnels if the department under his supervision had been so remiss in discharging its duties with regard to administration and the handling of problems as that was indicative of the department's incompetence. Even more ridiculous is that for several consecutive weeks there has been flooding. For some 20 days, 70% of the roadside drains in the Castle Peak Road area around the factory buildings near Belvedere Garden were totally blocked. I had to ask my secretary to phone the DSD to ask them to send their workers to unblock the drains.

The DSD has been totally remiss in discharging its duties, whether in respect of minor issues or contingency and crisis management. If the Secretary for Works is unable to deal with matters in the department properly, then do not consider implementing any flood prevention plan, for the DSD will only keep wasting taxpayers' money. The problem can only get worse if it is still left under the leadership of incompetent officials.

**MR WONG YUNG-KAN** (in Cantonese): Madam President, it can be recalled that in 1991 the Government, at a cost of several billion dollars, launched a 10-year flood prevention programme in the wake of a serious flood in North New Territories, confidently stating that the programme would be able to alleviate the flooding problem of North New Territories. Ten years have gone by. However, North New Territories still looks like a flood plain whenever it rains heavily. People often say that "a geomancer may fool you for eight or 10 years." It is unthinkable that officials in charge of flood prevention have also fooled us for 10 years.

In order that flood prevention works in the New Territories can be done properly, it is necessary to formulate a set of well-planned measures of

substantial projects, which, however, must be supplemented by measures of non-substantial projects. On taking a comprehensive view of the Government's flood prevention efforts over the decade, it can be noted that whilst the plan for substantial projects is not thorough, measures of non-substantial projects are nothing serious. As a result, the safety and properties of New Territories villagers are put at risk.

Now on substantial projects. Flood mitigation projects should be a system issue. It is necessary for the authorities to take charge of the water system of one whole district. At the time of project design it is necessary to take an macroscopic view to see if the flooding will go somewhere else upon the completion of flood prevention project at a certain place. However, the Government tends to act with the mentality of only "treating the symptoms but not the diseases". Take Tai Po's Tai Hang Heung as an example. Given the fact that the flood prevention project for that village was completed in 1996, the flooding problem previously affecting the area around the village office ought to have been eliminated. However, it is now turned into a flood zone.

Measures of non-substantial projects refer to government mechanisms for land resumption, compensation and rehousing, flood prevention measures as well as the Government's monitoring system. If measures of non-substantial projects are no good, it is still futile despite flawless planning for substantial projects.

Madam President, the Government often blames delays of projects on the difficulty to resume land, thus implying that landowners have been making things difficult. How come the Government does not review its land resumption procedures, which are so complicated that in some cases it takes 18 months to resume the land?

Now underway in North New Territories are many civil engineering projects. Sand and mud dug up and piled up beside the river often create potential hazards likely to bring about flooding. According to North District Council members who are also members of the Democratic Alliance for Betterment of Hong Kong (DAB), at a committee meeting of the North District Council held two months ago, they conveyed the point regarding the potential safety hazard posed by sand and mud dug up from the river bed of River Indus and piled up along both sides of the river course by the contractor of River Indus. According to the contractor, it was not possible to remove those sand and mud

then as they were needed for other purposes. At that time some committee members suggested that those sand and mud be covered by canvas sheets so as to reduce the risk of their being washed away by rain. However, officials of the Territory Development Department (TDD) present at the meeting totally ignored members' opinions, which partially contributed to bringing about last month's serious flooding. Not even the contractor training the river, not to mention other contractors, heeded the risk he brought forth! I am of the view that those TDD officials should be punished as their bureaucratic behaviour is responsible for this man-made calamity.

Moreover, following last month's flooding, I, together with Mr LAU Kong-wah, went to take a look at the disaster scene along River Indus. We were informed by a worker working at the work site that it was common for workers to have wages in arrears. In his case, his wages were half a year in arrears. This is indicative of problems existing in the contractor's internal administration that can cause delays to the works. Departments responsible for screening and monitoring contractors indeed cannot get away with this.

Madam President, it is not uncommon for the Government, when building transport infrastructure in the New Territories, to cut off access roads passing through villages without providing remedial measures. In this way, villagers' rights to go outside are jeopardized, and rescue operations in time of flooding, fire and medical emergency are also hindered. The sole access road to the outside world for the four villages at Kau Lung Hang, Tai Po, was cut off in the early 1980s to make room for the Circular Road and the tracks of the electric train. The Government just deepened the river bed under the railway bridge to provide the only access road to the outside world. On normal days, the said road is not even accessible to fire engines. When there is a rainstorm and water starts gathering, it will become a river course again. At the time of last month's flooding, rain water swept cars into the river; firemen and television reporters almost ran into grave danger too. I call upon the Government to honour its promise and make use of the opportunity offered by the widening works of Tolo Highway to build a proper rescue road for the four villages at Kau Lung Hang as soon as possible.

In Dr TANG Siu-tong's motion are several suggestions, which, in my opinion, do hit the bull's eye. I totally agree with him and would like to add a point. My suggestion is that the Government should establish a system requiring all parties, whether government or private developers, wishing to

launch development projects in a flood-prone zone in the future to carry out assessment to see if the items of development are likely to damage local flood prevention systems or not. If yes, a remedial plan will then have to be provided.

According to legend, Dayu took 13 years to combat flooding. Our combat against flooding has been in progress for 10 full years, but to no avail yet. I wonder if the Government, after the debate in this Council today, can promise to, first of all, put into effect short-term measures to alleviate flooding within the next three years, and then, thoroughly complete all the flood prevention works.

Madam President, I so submit.

**MR LAU PING-CHEUNG** (in Cantonese): Madam President, in June this year, the Hong Kong Observatory recorded a rainfall total of 1 083 mm, an all-time high record in the history of Hong Kong. At the same time, the Observatory altogether issued five Red Rainstorm Warning signals and 17 Amber Rainstorm Warning signals. Because of the continuous downpours, different areas in the western and the northern parts of the New Territories were flooded. More than 100 villagers were besieged by flood water and had to be rescued by firemen and members of other disciplined services. If the flooding incident was really a natural disaster, then we definitely should not blame God and man. However, it can be observed on taking a closer look that the most badly flooded places are those with ongoing flood prevention works. The principal factor leading to the flooding was the failure on the part of those working on the projects to guard against flood water, which rendered it impossible to drain away the flood water in time, and thus had the disaster exacerbated. Is that not the greatest irony?

According to what villagers said regarding the flooding at Pok Wai Tsuen, Yuen Long, on 7 June, flooding was first noticed at 4 am. Non-stop attempts were made to lodge complaints with the Drainage Services Department (DSD) and the project contractor by phone. Not until about 7 am did the DSD engineer manage to establish contact with the contractor and get the latter to go there to start the pump to pump away the water. The whole process took more than three hours.

As a matter of fact, it was foreseen before the start of the project that Pok Wai Tsuen would come under the threat of flooding in the course of the works.

So arrangements were made to provide a temporary pump and deployment of stand-by engineering staff. However, neither DSD staff nor the contractor had any sense of crisis awareness, and thus failed to take the threat of flooding seriously. As a result, no immediate notice was given even though the telephone number for contact had changed; the rainstorm warning from the Observatory went unheeded. When informed by the villagers of the flooding, they still took a site visit in compliance with the procedures, and notified the contractor only after verifying the flooding incident. Such procrastination rendered all arrangements ineffective. Paradoxically enough, the contractor manned the work site with stand-by staff throughout the night after the problems came to light. Sure enough, the above arrangements functioned very well in the next few days of rainstorm, and there was no serious flooding.

There was flooding too at Tin Ping Shan village, Sheung Shui, where river training works have been in progress. According to report, the contractor proceeded at a very slow speed before the flooding incident. It is also reported that shortage of funds and technical problems on the part of the contractor also caused delays to the works. Meanwhile, the contractor had been dredging the river course and piling up silt beside the river, but failed to remove the silt in time or take stopgap protective measures. In the wake of the flooding, villagers found a lot of sand and mud along the river course. They suspected that it was the silt swept back into the river by rain water that brought about the flooding. I do not want to jump to a conclusion immaturely. However, the flooding at Tin Ping Shan village brought to light another problem. Let there be a comparison with similar dredging works undertaken by private parties. With regard to stopgap arrangements during the course of the works, the Government's requirements for private development projects are very strict. For instance, it is not permissible to accumulate too much sand and mud and it is necessary to build temporary retaining walls and temporary drainage channels and so on. By this incident, the Government has given us the impression of playing double standards by "being strict with others but lenient with itself".

The Government should also give the public an explanation. Are the temporary measures required by the Government to be done by consultants and contractors good enough to prevent flooding? The reason is that some of the temporary measures seen by villagers tend to narrow the river course, and greatly increase the threat of flooding in the course of the works. Has the Government ever sent officers to check the project at Tin Ping Shan village after contracting it out? Have the consultant and the contractor been asked to provide

temporary flood prevention arrangements, such as regularly clearing the work site of silt and junks, installing enough temporary drainage pipes, covering silt not taken away with makeshift plastic sheets or by hydroseeding, and heightening the makeshift river banks? All these are problems of project management, and must not be taken lightly.

Both Dr TANG Siu-tong and Mr WONG Sing-chi ask the Government to allocate additional resources to speed up flood prevention projects. I am of the view that a more fundamental approach should be adopted to deal with this issue. In the past I queried the Government, asking the Government to divide the projects into smaller items for participation by more contractors, so as to effectively speed up the projects. However, the Government has been saying "no" to this with some lame arguments. Take the river training works at Tin Ping Shan village as an example. Had the project been broken up into smaller units, then there would not have been excessive reliance on one single contractor, and delays, if any, could have been detected earlier. Not until now, with the problem already surfaced, does the Government indicate that it will consider taking back part of the project for re-assignment to other contractors. This wastes both time and efforts, to say nothing about the extra spending to be incurred for the project.

Surely, if projects are to be broken up into smaller units, it is going to be necessary for government departments to keep a closer watch on the progress of works and arrange co-ordination among contractors. However, I am of the view that, in order to ensure the progress and quality of works, government departments should have greater involvement in the works. To do so is, after all, better than to trace the responsibility after things have already gone wrong.

Finally, I have to point out that the overall land use in the New Territories is also a principal factor bringing about flooding. As pointed out by me earlier on in the motion debate on "Reviewing the compensation policy on land resumption", as a result of a freeze on most of the land uses in the New Territories by the Government in the 1990s, many freight-transport-related trades were unable to find suitable sites for their use, and had to operate illegally, causing damage to the original foundations of sites, making it hard for rain water to drain away quickly and thus bringing about the flooding problem. According to the criticism recently made by a famous local businessman openly, the freeze on land uses is a very stupid measure as it neither satisfies economic needs nor solves the problem. We, in fact, should actively consider the needs of the

freight transport trade, and draw up appropriate plans which, while setting aside enough land, must require the operators to put in place drainage systems dovetailing with the Government's overall flood prevention system.

Let the consideration be one for the whole society. Every year there come floods differing in magnitude that bring with them threats of infectious diseases like cholera, digestive infections and even the rare Leptospria Interrogans. The whole society has to pay for all these. Madam President, four years have gone by since the recovery of sovereignty over Hong Kong. It is my hope that members of the Civil Service can be more duty-conscious in dealing with their daily public affairs. According to the Secretary for Works, the Government has spent \$7 billion to carry out flood prevention works in the North New Territories. However, it may not be possible to solve problems in consequence of procrastination merely by spending money on projects.

I so submit.

**MR HENRY WU** (in Cantonese): Madam President, according to information from the Drainage Services Department (DSD), Hong Kong's average annual rainfall stands at about 2 200 mm, placing Hong Kong among the most rainy cities along the Pacific rim. However, as pointed out by the Chief Executive Mr TUNG Chee-hwa earlier on at a Question and Answer Session of this Council, plans were drawn up by the authorities as early as in 1993 to deal with the flooding problem in the New Territories and that in Kowloon at a cost of about \$7 billion and \$5 billion respectively in the following decade. How come after a lapse of eight years, the low-lying areas in our northern part and some old urban areas are still flooded seriously during the typhoon season or in time of rainstorm?

There are other factors other than those said by the authorities, namely, the long delays and non-completion of drainage improvement projects. I am of the view that there is a more fundamental factor and that is, the flood protection standards of the drainage works concerned being unable to cope with the actual situation.

According to the DSD information, different drainage systems have different flood protection standards capable of withstanding severe flood events at the so-called "Average Recurrence Intervals". That is probably similar to

our oft-said flood event experienced once in 10 or 15 years. For instance, the flood protection standard for urban drainage trunk systems should be capable of withstanding flood event experienced once in 200 years; the urban drainage branch systems and the main rural catchment drainage channels should be designed with a flood prevention standard capable of withstanding flood event experienced once in 50 years; village drainage systems should satisfy a protection standard of once every 10 years; and intensively used agricultural land should satisfy a standard of once in every two to five years.

Madam President, I am not an expert in matters of drainage or flood prevention. It is beyond my scope of responsibility to determine the types of drainage systems or to set the flood prevention standards for the designs. Whilst the authorities often stresses that the flood prevention standard for major channels is one capable of withstanding flood event experienced once in 50 years, yet in recent years there have been serious floods year after year. People just wonder why it so happens that downpours supposed to occur at 50-years intervals have been coming back one after another to become "monthly events" in recent years.

There is another irrefutable fact, namely, that every year when flooding occurs, the worst-hit areas are places in the North West New Territories, such as Yuen Long and Sheung Shui. Residents in affected villages often find themselves suddenly becoming upstarts, each owning "a private indoor swimming pool". The water quality is, of course, not suitable for swimming. According to the flood prevention standards set by the DSD, the flood prevention standard of village drainage system surprisingly happens to be lower than that set for urban areas. Surely, when drawing up plans for drainage works, the Government must consider factors like cost effectiveness and the social and economic impacts of flooding. Given the fact that every year residents in North New Territories must face the plight of "having water at the doorway of their rooms" like being "besieged", it is really necessary for the authorities to comprehensively review flood prevention standards so as to ensure that they are congruent with the actual situation. It is especially so in the case of the New Territories, where, following rapid growth in recent years, new towns are growing in number and the population is growing in size quickly. However, the flood prevention standards currently in use are based on phase 1 of the Territorial Land Drainage and Flood Control Strategy Study, which was completed in 1990, and phase 2 of the Territorial Land Drainage and Flood Control Strategy Study, which was completed in 1993. However, it is believed

that the conclusions drawn by those studies were based on information of the late 1980s. It is beyond doubt that, when compared with the situation of the early 1990s, urban developments in the New Territories and the economic development of Hong Kong these days have undergone significant changes. Even though there is less and less agricultural land, the economic losses, the cost of rescue and follow-up operations and the Government's compensation payments to be incurred in the event of flooding are going to be much greater than what they were before. Anyway, people's safety should always be given top concern. Members of the public are put at risk while rescuers also have to run the risk of being swept away by torrents at any moment.

Though a lot of efforts have been put in over the years, the perennial flooding problem in the New Territories still remains unsolved. I think the authorities concerned should be held responsible, particularly blameworthy with regard to the progress of works and their monitoring. According to the estimates of the DSD, it is going to take another seven years before the flood prevention works in the North District of the New Territories can be completed even though they have already been in progress for eight years. The heavy rain that came early last month caused serious flooding to North West New Territories. Many villagers later criticized the authorities for failing to exercise effective monitoring, hindering the dispersal of rain water by allowing the contractors to pile up debris all over the place, and ultimately bringing about a even more serious flooding problem. I remember that at a meeting of the Public Works Subcommittee of this Council held in late May, an official pointed out that the drainage capacity of land was affected because some villagers had levelled and cemented their farmland for some other uses. Apparently, that was an attempt to pass the buck. Given the illegality involved in the change of land uses, why did the authorities not take actions earlier? This precisely is indicative of its failure to exercise effective monitoring and law-enforcement.

Following the serious flooding in North West New Territories in June, the authorities responded quickly to people's resentment with, for instance, a meeting immediately summoned by the Chief Executive, a team quickly set up by the DSD to investigate the causes of the flooding, and a task force established under the chairmanship of the Secretary for Works to review the flood prevention programmes. I, however, hope that this time the departments concerned and the task force will treat seriously matters concerning project design and monitoring. It is necessary to take appropriate actions on detecting negligence or some other human factors. It is because right in the centre of

downtown there is an even bigger flood hazard — Nathan Road in Mong Kok. A stormwater drainage improvement project for Nathan Road was completed in June 1999. However, at present it can only withstand downpour producing about 50 mm of rainfall an hour (that is, rainfall for the Red Rainstorm Warning). In other words, in the next three years, when the flood prevention works for West Kowloon have yet to be completed, Mong Kok may again become a flood plain when a Black Rainstorm Warning is issued. It is also going to be inevitable for shop-operators close to the blackspot to sustain economic losses unnecessarily. They will also suddenly become "upstarts" — with "private indoor swimming pools" inside their shops! So, the present situation brooks no delay. It is necessary for the authorities to put in place all the relevant flood prevention works as soon as possible.

Madam President, I so submit.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak?

(No Member responded)

**PRESIDENT** (in Cantonese): Dr TANG Siu-tong, you may now speak on Mr WONG Sing-chi's amendment. You have up to five minutes to speak.

**DR TANG SIU-TONG** (in Cantonese): Madam President, I am going to respond to the three amendments to my motion moved by Mr WONG Sing-chi.

In the first place, I am moving this motion primarily out of a wish to enable the Legislative Council to make more comments or recommendations on flood prevention measures so as to bring perfection to flood prevention efforts. I have considered using stronger wording. But I fear that the focus might be shifted to the question as to whether or not the Government should be "strongly condemned". If so, then the debate may be turned into a denunciation rally. Perhaps that would not contribute much to solving the flooding problem. Though major flood prevention projects do manifest problems of delay and inadequate monitoring, the Administration has, after all, got a lot of flood prevention works started and completed. It is a little too harsh to accuse the Government of "turning a blind eye to flooding problem over the years" and to

"strongly condemn" it for that. It is, however, necessary for the Government to find out where the problems are and put in efforts to effect improvement. This should brook no delay.

In the second place, also inserted in the amendment is a part that reads "expeditiously rehousing eligible residents of seriously flooded areas in public housing". What kind of residents does the word "residents" in the amendment refer to? Are they residents with homes permanently destroyed? Or are they residents affected as a result of their homes being flooded with water for a short time? For those in the former case, that is, those with homes permanently destroyed, under the current policy of the Housing Authority (HA), those losing their homes as a result of natural disasters (flooding included) will be quickly (normally not exceeding one month) rehoused in public housing. There appears to be no need to insert this point. How about those in the latter case? I agree that the HA should exercise discretion to speed up the applications from those persistently affected by flooding. If those living in "seriously flooded areas" are to be automatically allowed to move in public housing units earlier, then seemingly it is unfair to the other applicants on the Waiting List. Furthermore, because of this, many people, in a bid to move in public housing units earlier, may move to flood-prone zones. Such a broadbrush approach, will inevitably lead to abuses. I certainly agree that society should first of all take care of those living in flood-prone zones and facing imminent danger.

In the third place, the "environmental blackspots" referred to in paragraph (e) of my version in fact denote those environmental blackspots on sites classified as "Existing Uses" and those "Unauthorized Developments" in rural areas primarily handled by the Task Force (Black Spots) of the Lands Department and the Central Enforcement and Prosecution Section of the Planning Department. When reporting to this Council on their work, the two units mentioned above usually use a title that reads "Cleaning Up Environmental Blackspots in the New Territories". That being the case, I, therefore, use the term "environmental blackspots" to cover the two categories of land administration problems commonly seen in the New Territories. For the same reason, the cleaning up referred to in the original motion in fact includes prosecution actions. That being the case, I, therefore, believe that paragraph (e) of the original motion already covers paragraph (f) of the amendment. Only the way of expression and the choice of words by both of us are somehow open to question.

Madam President, on account of the above reasons, I will abstain from voting on the amendment.

**SECRETARY FOR WORKS** (in Cantonese): Madam President, we share very much the ordeal of the people affected by the recent flooding in the New Territories and feel deeply sorry for them. Our heart sank every time we saw people being trapped in the floods; we just wished that the flooding problem could be resolved immediately. But then, flood control and prevention is indeed a mammoth task that takes time to accomplish. Nevertheless, in view of the sufferings of the affected residents, we will certainly try our best to ensure the stringent implementation of our flood prevention projects and expeditiously complete all long-term and short-term improvement works. We will seek all practicable methods to speed up the various project works to bring relief to the affected villagers.

The aim of all our work is to tackle flooding and bring an end to the sufferings of villagers living in low-lying areas as soon as possible. We will certainly take note of the invaluable opinions and suggestions put forward by Honourable Members and constantly urge all relevant departments to adopt proactive measures to tighten up monitoring of the progress of anti-flooding works and site supervision, with a view to resolving expeditiously the flooding problem in the New Territories.

As a matter of fact, we have all along been very concerned about the long-term sufferings of residents living in the New Territories affected by floods. Since the early '90s, the Government has been proactively conducting a series of flood prevention studies and formulated, on the basis of those studies, a series of flood prevention measures at a total cost of over \$7 billion and the timetable for implementing such measures. As at present, we have already completed projects totalling about \$3 billion and improved the flood prevention capacity of the lower streams of major river channels. In addition to actively carrying out drainage improvement works in the midstream and downstream sections of major rivers at a cost of over \$2 billion, we are also planning improvement works for the upper stream of rivers currently. The remaining projects which cost over \$2 billion will also be commenced very soon.

Over the past years, heavy rain would often result in flooding in the low-lying areas in the New Territories. I believe Members all understand that flood water can only be drained to the sea via natural river channels. But since these river courses are mostly meandering and narrow, substantial amounts of floodwater cannot be speedily carried to the sea during rainstorms and flooding is thus resulted. The flooding will be even more severe when there are high tides.

Our first and foremost task is to straighten, widen and deepen the courses of natural rivers and to strengthen their capacity of draining flood water. At the same time, we also need to construct flood control pumping stations for villages in low-lying areas, so that flood water can be pumped out of the villages to the drainage channels nearby. As I said just now, river training as a whole is a mammoth task and so, it must be implemented in an orderly manner. Otherwise, the works involved will only serve to pose greater nuisance to the daily lives of the residents nearby. On the other hand, in order to avoid aggravating the flooding risk in the affected areas, drainage improvements must be carried out in sequence from the lower stream, through the midstream sections and then up to upstream sections to enhance the drainage capacity of rivers step by step.

Perhaps let me now give Members a brief account of the progress and initial results of the flood prevention works that we have carried out over the past years. We have already completed river training works costing about \$3 billion in the downstream sections of major river channels. In North West New Territories, we have completed the river training works in Tin Shui Wai as early as in 1995, enhancing the drainage capacity of about 10 km of the river courses in the area. In early 1999, we also completed the improvement works along some 10 km of the Shan Pui River in Kam Tin, Yuen Long.

In the North West New Territories, as Stages I and II of the Shenzhen River Regulation Project have already been completed, the flood prevention capacity of a total length of 10 km of the downstream section of Shenzhen River has been greatly improved. Since the completion of the downstream improvement works, initial improvement has been made to the flood water draining capacity of rivers in the northern and northwestern parts of the New Territories. As a result, the flood-prone areas in the vicinity of Tin Shui Wai, Shan Pui River in Yuen Long and Lo Wu have become smaller in size. Even though some of the areas there may still face flooding risks in the short run, the flood extent has been notably reduced and the flood water has receded more quickly. At present, tens of thousands of residents in these areas have been relieved of the threat of flooding. In the past, there were many flooding blackspots, such as Tsung Pak Long, Tai Tao Leng and Sheung Shui Tsuen in Sheung Shui; Tak Yuet Lau and Yin Kong in Lo Wu; Ho Sheung Heung; Kwu Tung; Sha Po Tsuen, Ko Po Tsuen, and Kam Hing Wai in Kam Tin; Lo Uk Tsuen, Sik Kong Tsuen, Sik Kong Wai, Kiu Tau Wai, Hang Mei San Tsuen and Fung Shui Lane in Tin Shui Wai; and so on. Since the completion of the

relevant flood prevention works there, these places are now relieved of the plights caused by flooding.

Nevertheless, our flood prevention efforts have never slackened. On the contrary, we have actively speeded up works at major rivers over the past two to three years. We are currently carrying out midstream and downstream improvement works at a cost of over \$2 billion, involving a total of 12 major projects. In North West New Territories, for example, the river training works in a 10 km long midstream section of Kam Tin River in Yuen Long are now well underway. Besides, we are also constructing some 8 km long drainage channels for Shap Pat Heung and Ngau Tam Mei in Yuen Long. As regards the North New Territories, having completed the improvement works in the downstream section of Shenzhen River, we have commenced the river training works in the midstream and downstream sections of River Beas and River Indus in early 1999 to improve comprehensively some 16 km of the natural river courses in the vicinity of Sheung Shui. Upon the completion of these projects in or before 2003, the flooding situation in the New Territories will be improved significantly, thereby relieving more residents living in low-lying areas of the plights of flooding.

Regarding the flood prevention projects for villages, in addition to building weirs around low-lying villages to prevent the influx of flood water, we will also construct flood control pumping stations to pump the rainwater collected within the weirs to the drainage channels nearby. That way, villages in low-lying areas will be shielded from flooding. Over the past few years, we have altogether completed 12 village flood prevention programmes in the northern and northwestern parts of the New Territories, providing protection for 16 villages in low-lying areas. These completed programmes are functioning rather satisfactorily and have effectively resolved the flooding problem for the villages concerned.

To further enhance the flood prevention capacity of the New Territories, we are now actively planning comprehensive river training projects for the upstream sections of certain natural river courses in the New Territories. Subject to the completion of the midstream and downstream river training works currently in progress, the flood prevention projects under planning at the moment will be commenced one after another, with a view to resolving completely the flooding problem in the New Territories in the long run.

Early last month, the Amber Rainstorm Warning has for the first time been issued on six days in a row. Besides, a Red Rainstorm Warning was also issued for a period of 5.5 hours by the Observatory on 27 June. The rainfall recorded in June this year is the highest in the past 100 years or so. On those few days when rainfall was the heaviest, severe flooding was resulted in the northern parts of the New Territories, including areas in the vicinity of Tin Ping Shan, Shek Wu San Tsuen, Man Kam To and Ta Kwu Ling.

In fact, just like Honourable Members, the Government is also very much concerned about the sufferings of residents affected by floods. As Members may know, the Government has already set up a special task force to review comprehensively the progress of the various flood prevention projects. Furthermore, the task force will also look into measures to ensure that the major flood prevention projects that have already been commenced will be completed by 2003, and that effective short-term improvement measures will be adopted before the completion of such projects to alleviate the flooding risk facing the New Territories.

The task force, chaired by me and comprises members including the Director of Drainage Services, Director of Territory Development and Director of Home Affairs, has held two meetings respectively on the 13th and 29th of last month to review the progress of the various flood prevention projects. The task force is confident that upon the completion of the river training works in the midstream and downstream sections of major rivers in 2003, the flooding situation in the New Territories will be significantly improved.

The task force is also aware that some of the flood prevention works carried out in the midstream and downstream sections of River Indus have indeed been delayed. Hence, the relevant works departments have been urged by the task force to adopt appropriate measures to overcome the difficulties facing them currently and to monitor more closely the progress of the projects, so as to ensure that the key parts of the projects will be completed before the rainy season of 2003 or even earlier, thereby alleviating expeditiously the flooding problem in the vicinity of Tin Ping Shan village.

Apart from that, the task force has also urged the works departments concerned to adopt various short-term measures to minimize the flooding risk in areas affected by the projects and works. These measures include stepping up site supervision to ensure smooth flow of river channels, strengthening ties with

residents living in the affected areas to ensure that rescue work can be commenced at the earliest possible time, as well as improving the logistic resources at work sites to cater for the emergency needs arising during foul weather conditions.

As regards the concern expressed by Members over the question as to whether or not the recent flooding cases were caused by the river training projects currently in progress, in-depth and thorough investigations need to be conducted to find out their causes. I have instructed the Director of Drainage Services to complete the report on the investigations before the end of August. We will also invite independent experts to review the report produced by the Drainage Services Department, with a view to ensuring that a professional, reasonable and fair conclusion can be reached. In the event of the report pointing out that certain contractors should be held accountable, the Government will definitely handle the matter impartially. We will require the contractors concerned to offer reasonable compensation to the affected residents on the one hand, and assist the affected residents to claim compensation from relevant contractors on the other.

In the meantime, a number of government departments, such as the Home Affairs Department, Agriculture, Fisheries and Conservation Department, Social Welfare Department, Housing Department, and so on, have, since the flooding incidents, provided the affected residents and farmers with various kinds of emergency assistance including cash grants from the Emergency Relief Fund, with a view to alleviating the economic hardships of the affected residents and helping them to resume their normal lives as soon as possible.

So far, the various government departments have granted a total of over \$6 million emergency assistance payments to residents and farmers affected by the recent flooding incidents.

Just now Members also discussed ways to expeditiously carry out the remaining flood prevention projects under planning. Actually, it is a common objective of both the Government and Members to expeditiously implement the flood prevention projects, and the Government will continue to listen carefully to the views and suggestions made by Members in order to step up efforts in this respect. I wish to stress again that the anti-flooding programme involves a wide range of areas; in addition to planning, design and implementation, we also need time to consult extensively the residents living in affected areas, resolve

environmental issues, and complete land resumption and other necessary statutory procedures. The relevant legal proceedings, for example, normally require two to three years to complete.

With regard to the resumption of private land, there are already mechanisms whereby matters like land resumption arrangements, compensation and rehousing can be handled. I understand that this Council has just passed a motion to urge the Government to review such issues as land resumption procedure and rates of compensation payments. I believe the departments concerned will certainly follow up the matter. However, under the present procedure, the amount of time required for land resumption is very often subject to both the provisions of the relevant ordinances and the limitation of the actual environment. Given that land resumption involves considerations such as public interest and public land use, the Government has to follow the statutory procedures provided under the relevant legislation to safeguard the interests of the public.

From the motion debate today I understand that Members are gravely concerned about the relief work and contingency arrangements that the Government has in place to deal with flooding incidents. In this connection, I do agree that relief work must be well planned beforehand. During rainstorms, the Drainage Services Department will activate the Emergency Co-ordination Centre to handle complaints of floods and adopt proper measures to alleviate the flooding situation. In order to minimize the losses that residents have to suffer due to flooding, the Drainage Services Department has set up regional flooding warning systems in seven flood-prone areas to warn residents of flooding risk when flood water reaches the pre-set alarm level.

In the recent flooding incident, I believe the various government departments, including the Police Force, Fire Services Department, Government Flying Service, Home Affairs Department, Social Welfare Department, Housing Department, Agriculture, Fisheries and Conservation Department and Drainage Services Department, have given full play to their team spirit in a concerted action to expeditiously provide rescue and relief services for the affected residents.

Another point I need to stress is the importance of preventive inspection to ensure the smooth flow and proper maintenance of drainage systems. The Drainage Services Department has formulated continuous preventive

maintenance programmes to ensure that the maximum drainage capacity of major drainage systems can always be maintained. Every year, the Drainage Services Department will enhance its efforts in this respect before and during the rainy season. The total amount of silt dredged from these drainage systems is over 110 000 cu m every year.

I understand that Members are very much concerned that unauthorized land use in the New Territories may become a factor aggravating the flooding risk. In fact, it is an offence under the Town Planning Ordinance (as amended in 1991) to make any unapproved alteration to land use or to arbitrarily carry out land formation work, and is liable to a maximum fine of \$1 million upon conviction. Both the Planning Department and the Lands Department have conducted inspections and exercised regulation and have instituted prosecution against unauthorized land uses. Further still, the Government will also order the relevant landowners to improve the existing facilities in line with the original land use, so as to ensure that such facilities can meet the various safety, environmental and drainage requirements. So far the Government has successfully terminated the authorized use of some 690 hectares of land or incorporated them into lawful uses upon approval by the Planning Department. The Government will continue to step up its effort in this respect to combat unauthorized land use.

Many Members have spoken on the importance of monitoring contractors during this motion debate today. We very much agree with Members. Perhaps let me spend a bit more time to expound the policy of the Government. It has been our long-standing policy to appoint contractors in an open and fair manner and in accordance with the value-for-money principle. Contractors have to meet the prescribed technical and financial requirements in order to be eligible to bid for public works contracts, and only those contractors with good performance will be hired by the Government. Moreover, we will also review the performance of contractors regularly. If we suspect any contractor of performing poorly or involving in serious incidents during the contractual period, or if we have proven that such is the case, we will review whether the contractors concerned are still eligible to bid for public works contracts.

Early this year, we formulated a set of measures to enhance the supervision over contractors. We will take regulatory actions against contractors that have received two consecutive unsatisfactory appraisal reports (rather than three such reports as in the past), such as suspending their eligibility

for bidding public works contracts, downgrading their qualification for bidding public works contracts. In more serious cases, we will remove the names of the contractors concerned from the Government's approved list of contractors and ban them from bidding public works contracts.

To ascertain whether or not contractors have the required financial capacity to carry out the public works concerned, we have raised the relevant capital requirements. Moreover, we will also analyse the profit-earning trend of contractors and assess their present financial situation in the light of their rates of loss in the past three years. We believe that the aforementioned measures will help us to monitor effectively the performance and conditions of contractors.

On top of the measures that I mentioned just now, we will also actively follow up the recommendations made by the Construction Industry Review Committee to ensure that the quality and progress of all government projects are duly assured.

Lastly, I wish to stress again that the Government has always attached great importance to the flooding problem in the New Territories and is very much concerned with the sufferings of residents under the threat of flooding. That is why we have formulated a comprehensive flood prevention programme and actively devoted substantial resources in resolving the flooding problem in the New Territories. The various projects and works are either under planning, design or construction currently. Such a large-scale flood prevention programme will take quite some time to complete fully. During the construction stage, we will certainly step up efforts to monitor the progress of the projects, push contractors to improve the management of work sites, and strive to complete the river training projects in the midstream and downstream sections of major rivers before the rainy season in 2003 or earlier, so as to alleviate the long-term flooding problem in the New Territories and to improve the living environment of residents living in low-lying areas.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr WONG Sing-chi to Dr TANG Siu-tong's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Dr TANG Siu-tong rose to claim a division.

**PRESIDENT** (in Cantonese): Dr TANG Siu-tong has claimed a division. The division bell will ring for three minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Kenneth TING, Mr James TIEN, Mrs Selina CHOW, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr LAW Chi-kwong, Mr Tommy CHEUNG and Mr Michael MAK voted for the amendment.

Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Miss Margaret NG, Mr Bernard CHAN, Mr Abraham SHEK, Miss LI Fung-ying and Dr LO Wing-lok voted against the amendment.

Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr WONG Yung-kan, Mr Timothy FOK, Mr Henry WU, Mr IP Kwok-him and Mr LAU Ping-cheung abstained.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN and Mr WONG Sing-chi voted for the amendment.

Mr NG Leung-sing and Prof NG Ching-fai voted against the amendment.

Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Ms Audrey EU, Mr YEUNG Yiu-chung and Mr Ambrose LAU abstained.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, 12 were in favour of the amendment, eight against it and seven abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 23 were present, 11 were in favour of the amendment, two against it and nine abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Dr TANG Siu-tong, you may now reply. You have six minutes five seconds.

**DR TANG SIU-TONG** (in Cantonese): Madam President, first of all, I wish to thank the 15 Members who spoke on this motion. All Members who spoke on the motion consider that in the area of flood prevention, the Government does leave much to be desired and there is the need for improvement. This is especially so with regard to its ineffective monitoring over flood prevention works, a factor leading to flooding affecting parts of Hong Kong, and becoming a huge laughing stock. All these are not expected by Members. It is hoped

that the Government, after losing a sheep, can mend the fold by making immediate improvement to its monitoring measures, comprehensively reviewing flood prevention works, and putting forward other remedial measures.

I am very pleased that the Secretary for Works has positively responded to Members' views concerning flood prevention works. According to him, a task force will be set up to enhance site supervision, improve water flow of river courses and foster contact with residents. It is hoped that Hong Kong people can soon be freed from the threat of flooding. However, as we all can see, a storm is coming tonight. All I hope is that nothing serious will happen tonight or tomorrow morning. As noted by Mr LAU Kong-wah earlier on, if helicopters and rubber boats are again used in rescue operations tonight, then the flood prevention works may really be far from satisfactory.

I again sincerely thank fellow Members for speaking on this motion. Thank you.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Dr TANG Siu-tong be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

**NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 9 am — I repeat, 9 am — on Wednesday, 11 July 2001.

*Adjourned accordingly at twenty-seven minutes past Six o'clock.*