have been reduced. I shall confine my attention to municipalities within my own province. The City of Melbourne's contribution of $236,209 would have been only $88,394 if it had been calculated on the New South Wales scale—a reduction of $147,814; Broadmeadows contribution of $48,447 would have been $18,130—a reduction of $30,317; Brunswick's contribution of $39,491 would have been $14,778—a reduction of $24,713; Bulla's contribution of $834 would have been $316—a reduction of $517; Essendon's contribution of $55,290 would have been $20,691—a reduction of $34,599; Keilor's contribution of $34,960 would have been $13,082—a reduction of $21,877; and Whittlesea's contribution of $14,443 would have been $5,404—a reduction of $9,039.

The contributions which municipalities must make to fire brigade services are crippling local government bodies. The Government must assume its responsibility and contribute towards these costs and so assist the financial structure of municipalities throughout Victoria. This applies not only to fire brigade contributions but to the whole structure of State and local government activities.

The Hon. V. T. HAUSER (Boronia Province).—It is with considerable pleasure and, I hope, a sense of responsibility and conscience, that I make my maiden speech in this debate on the motion for the adoption of an Address-in-Reply to his Excellency's Speech. It is not only for reasons of tradition that I express my loyalty to Her Majesty the Queen. I strongly believe in the value of the monarchy as a logical and continuing institution of government, and I admire the way in which it has adapted itself to changed circumstances throughout the centuries.

It must be increasingly obvious, particularly to honorable members who have sat in this Chamber for a number of years, that the inhibitions against State incentives are growing at a rapid rate and that the only reason for this is the accelerating degree to which financial power is possessed by the Commonwealth Government.

I relate my speech to a subject which was also dealt with in a motion moved earlier today, namely, Commonwealth–State relations. It was the obvious design of the authors of the Australian Constitution—and, in my opinion, it is so obviously right for the present day—that this great continent should be governed in a spirit of co-operative federalism. Although the Constitution may be outmoded in detail, it remains correct in principle. It was drawn up in a spirit of continuous governmental partnership between Commonwealth and States. However, the situation is rapidly developing in which the Commonwealth is the master and the States are the servants. Not only the spirit of the Constitution but also the law fundamentally within it is being evaded by the existence of a situation of financial blackmail. In this context, I quote a report of a statement by Professor Zelman Cowen, then Vice-Chancellor of the University of New England, published in the Melbourne *Age* about two years ago—

> The Commonwealth Government has virtually stripped the States of their financial resources, the Vice-Chancellor of New England University, (Professor Zelman Cowen) said yesterday.
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> . . . . . .
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> Professor Cowen blamed the 70-year-old Constitution for present State–Commonwealth problems.
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> . . . . . .
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> "The States still have the major responsibility for the vital issues of education, hospitals and urban renewal in cities.
>
> "But they have no power over the financial resources needed to fulfil their responsibilities.
>
> "In other words, State political responsibility is out of harmony with State financial resources.
>
> "This is a formidable problem, and the Premier (Mr. Askin) has a real point in his present campaign to get more money from the Commonwealth.

The situation has changed so that term "co-operative federalism" can logically be replaced by the term "shot-gun federalism" or, perhaps more aptly, "six-gun federalism".

The old and perhaps over-quoted statement by Lord Acton that power tends to corrupt and absolute power corrupts absolutely is more relevant today than when it was written in 1904. A truly democratic system is a truly decentralized system. Many members of this House know that many State Ministers, many Ministries, and many private members of Parliament, both State and Federal, recognize the lack of understanding, the remoteness of big government, and the unreality of decisions by public servants living in the unreal city of Canberra.

Government from Canberra has rebounded on the freedom and enterprise of State Governments, particularly, of course, since 1927. Many honorable members must be able to quote numerous personal illustrations of incompetence by a Government which is influenced by a combination of public servants, on the one hand, and their isolation in the comparatively remote capital city, on the other hand. These conditions together lead to the making of wrong decisions on a grand scale. All Governments make mistakes but wrong decisions made by the State Parliaments are on a more minor scale.

The money power possessed by the Commonwealth allows it to give consideration to its own priorities over State priorities. As has often been said, the State priorities are close to the people. They embrace such things as education, health, water supply, housing, and law and order. Over the past 25 years, the Commonwealth has entered into numerous costly and expensive developmental projects. They include the Snowy River scheme, the Ord River scheme, and now, possibly, a nuclear power plant. These great projects could well prove to be of comparatively minor economic value when compared with what could have been achieved if the money had been spent on education, public works, and health in the States by the States. The true priority of many Commonwealth works is doubtful.

State Governments tend to represent the people and the Commonwealth Government represents the nation, and the people are suffering for the benefit of the nation. The system of rule from Canberra is causing cock-eyed priorities to be followed. It is a shocking state of affairs that companies such as Broken Hill Proprietary, Hamersley Iron, Coles and Myers, are able to obtain capital and borrow money—and rightly so—that municipalities can create valuations, strike a rate and probably almost balance their budgets regularly, that the Commonwealth Government has unlimited finance available to it, yet the States are starved of money, starved of sovereignty, and starved of power.

A well-known member of the Australian Capital Territory Advisory Council, Mr. A. J. Fitzgerald, writing on the subject of the council, stated—

> If, as someone once said, all power corrupts and absolute power corrupts absolutely, then the elected members of the Australian Capital Territory Advisory Council are the only politicians in Australia who can honestly approach their electorate pure of heart.
>
> The A.C.T. Advisory Council is a bureaucrat's idea of grass roots democracy. Its role is to advise the Minister for the Interior on matters affecting the A.C.T. The Minister, however, is not obliged to listen to its advice and, in fact, seldom acts on it. This is called democracy—Canberra style.
>
> If you do not vote in elections for the council, which has no power to represent you adequately, then you can be fined for failing to exercise your rights in a free society.
>
> . . . . . .
>
> The council comprises eight elected members and four nominated members. The nominated members represent the Departments of the Interior, Health, Works and the National Capital Development Commission. They have been specially selected as men of integrity who can be guaranteed to think independently and yet vote *en bloc* on issues affecting the administration.

It is not unreasonable to say that the Commonwealth would like to see the six Australian States in the same position as the Australian Capital Territory Advisory Council.

From the same gentleman I have one further small quotation referring to Canberra—

> Tradition has it, if you stand with your back turned to the fountain under the statue of Ethos at dawn drinking onion soup from a paper cup and you throw the empty container over your left shoulder into the water, you will one day return to the Australian Capital Territory.

It seems obvious that Mr. Fitzgerald would want to leave Canberra at some early stage.

It is right to feel some measure of optimism on a world-wide basis when considering this problem of State sovereignty. One must feel a little optimistic on reading that, following the example of Canada, President Nixon is allowing the States of the United States of America to obtain an accelerating percentage of national income taxation over a period of years, starting this year.

There appears to be a world-wide protest developing against a system under which power flows to the centre. In Victoria a few months ago, the State council of the Liberal Party passed almost unanimously—roughly by 300 votes to between two and five votes—a resolution that the States should in one way or another achieve much more power and sovereignty. Prominent academics, the press, businessmen, the State Parliaments and, we hope, the public will show signs of recognizing this problem. I hope that the day is not too far distant when Victorian Federal Parliamentarians of all parties cease to be centralists when they fly north across the River Murray, and commence to be State sympathizers when they return south across the border.

As the Minister for Local Government mentioned this afternoon, there are few sections of the Commonwealth Constitution which have been looked at from the point of view of the States. When we consider amendment of the Constitution, it would be wrong and unfair to say, "We shall keep all the power that is returned to us", and that no more power will be given to the Commonwealth, because a situation could well arise whereby the Commonwealth needed more power. Let us be sensible and broadminded in this matter. The Minister for Local Government quoted section 94 of the Commonwealth Constitution, which provides—

> After five years from the imposition of uniform duties of customs, the Parliament may provide, on such basis as it deems fair, for the monthly payment to the several States of all surplus revenue of the Commonwealth.

As the Minister pointed out, the Commonwealth avoided payment by employing the stratagem of setting up a trust account. In other words, the Commonwealth avoided the spirit of the Constitution in a legal fashion.

In 1928 a new section 105A was innocently incorporated in the Commonwealth Constitution by the Australian people and it gave the Commonwealth Government virtual control over the borrowing powers of the States. This provision was introduced to assist the States, but it is now being used, through the power of the Commonwealth, to hinder the States.

The Minister for Local Government also referred to section 96 of the Constitution, which gives the Commonwealth power to grant financial assistance to any State on such terms and conditions as the Parliament thinks fit. Of course, these grants are usually tied and the Commonwealth may, for example, pay $1 to the State's $1.50. Victoria obtains this grant, which it does not have to accept, on condition that its general grant is diminished. In other words, the Commonwealth controls the way in which the State may spend its general grant.

With uniform taxation, which came into existence in 1942, commenced the story of the totality of the Commonwealth's financial stranglehold. In the 1950s the financial position of the States was such that they were unable to assist the universities. Victoria did not have sufficient money

and was unable to do the job it should have been doing for the universities. The Commonwealth Government then said, in effect, "It is beyond the resources of the States". It was beyond this State's resources because Victoria did not obtain the amount of tax reimbursement to which it was entitled. The Commonwealth then had the audacity to move in as the saviour of the situation through the Australian Universities Commission. The Commonwealth makes grants to match the State grants and controls the situation through the Australian Universities Commission, and the State is beginning to have very little say in this sphere.

Many prominent and powerful academics in this State cheered when the Australian Universities Commission was established. Now the commission is telling the universities the subjects they may teach, the degrees they may grant, the number of students they may enrol, the buildings they may construct and the research they may carry out. I suggest that there is a ground swell from senior university academics against Federal control of universities.

The introduction of Commonwealth money into the field of education will erode State control in a sphere which is historically and constitutionally a State responsibility, although at present it is a field in which there is the greatest decentralized type of activity. The Commonwealth is endeavouring to centralize this activity when the present fashion is to move more and more towards decentralization in education.

Recently the Department of National Development endeavoured to tell Victoria and New South Wales where the proposed oil pipeline between those States should go. They may be right, but the point is that the department tried to name the route along which the pipeline should be constructed. As the Minister of Public Works knows, the Department of National Development was the Commonwealth authority in charge of ports, but this authority was transferred to the Department of Shipping and Transport. Recently a meeting was held by the department with all State Ministers concerned, and it was put to them that the Commonwealth should control port development in a detailed fashion.

A short time ago, a Federal member called for a national inquiry into police administration. I do not know whether this member knew that the police were controlled by the various States, or whether Victoria was currently conducting an inquiry into its Police Force, but this was another illustration of a member of the Commonwealth Parliament calling for an inquiry into State matters.

To some extent, the same situation has arisen on the question of pollution. No one will object to co-operation in such a matter, but I object to attempted Commonwealth control, particularly when those who are already in control probably know more about the subject than those wishing to take over.

Another member of the Commonwealth Parliament has suggested that a Department of Urban Affairs should be set up and he has also criticized land speculation. It may be that the State should act to control land speculation, but this Federal member has suggested that the Commonwealth should be paramount in these matters. In a book, *Modern Federalism*, Professor G. F. Sawer states—

> There is a tendency for problems to be treated as national merely because they are common to many Regions, even though there is no integration involved. For example, it is often said in Australia today that the Centre must begin to accept responsibility for problems of urban planning and redevelopment. However, there is little integration between the relevant problems of Sydney, Melbourne and Brisbane. There is not even any aspect of the planning and redevelopment problems in those cities which could be more economically or efficiently handled by a single staff in a single place, and above all not in Canberra. The problems in each city are similar but also distinct and the case for handling each one locally, and hence under

Region control, is overwhelming. But those who advocate Centre action want in the first place to attract Centre money, and then buttress their argument by calling the problem "National" since it is to be found in every Region.

In 1967 Commonwealth-State agreement on off-shore petroleum was reached and generally speaking—I emphasize the word "generally"—the fair thing was almost done in the matter of Commonwealth-State co-operation. Identical Acts were passed. I think the term was "mirror" legislation which was passed in the seven Parliaments. The State Governments currently tend to possess the same powers at sea as they did on land, and the Commonwealth Government also tended to possess the same powers at sea as it did on land. The Commonwealth and State sovereignties were roughly preserved, with only one catch—Victoria received 100 per cent of the royalties which it obtained from mining operations on land. The Commonwealth grabbed 40 per cent of the total off-shore royalties and Victoria retained 60 per cent. This was by consent of the State, but, in a mining enterprise which historically has been a matter of complete State responsibility, because it could get away with it, the Commonwealth grabbed 40 per cent of the royalty. At the time the Commonwealth Government was uncertain how the law applied. Now it is more certain. Now, in 1970, the Commonwealth Government has decided to legislate to assume sovereignty over the territorial sea—that is, three miles out—and the continental shelf, which is an area farther out than the three miles limit. International law does not fully describe this outer area, but this Commonwealth Act proposes to do this.

The State will be allowed to administer arrangements approved by the Commonwealth for mining under the sea, but the Commonwealth will have the right of veto. This is much more harsh than the off-shore petroleum legislation on which agreement has been reached. The object is quite clear—the Commonwealth wanted the legal position clarified with respect to Commonwealth "places", to which I shall refer in a moment.

Of course, the legal position so far as pay-roll tax is concerned does not matter. In relation to this question of off-shore petroleum it is interesting to read examples from the second-reading speech of the Minister for National Development on the Territorial Sea and Continental Shelf Bill 1970. In his second-reading speech the Hon. R. W. Swartz said—

> The Commonwealth Government likewise has made clear to the States that in asserting sovereign legal authority in the off-shore area it has no intention to exclude the States altogether from administrative responsibilities in or from the revenues arising from, the exploitation of off-shore mineral resources. But it is, we think, necessary first to clarify fully the legal position. . . . I have mentioned that this Bill will be followed later in the session by a Bill which will apply a mining code to the off-shore areas in respect of which the present Bill establishes Commonwealth authority. That later Bill will provide the detail rules under which mining titles may be issued and exploration and exploitation carried on for all minerals other than petroleum.
>
> Under that legislation policy decisions will fall to be made by the Commonwealth and such matters as the selection among applicants, the settlement of areas to be granted and of work obligations will be subject to the direction of the Commonwealth Minister.
>
> We do hope that it may prove possible to arrange with the States for them to administer that legislation somewhat as they administer the Petroleum (Submerged Lands) legislation of the Commonwealth, but subject to what I have just said about Commonwealth responsibilities.

I suggest that this makes the Commonwealth Minister for National Development for the time being the Lord High Admiral of the Territorial Sea and the Continental Shelf; and the Victorian Minister of Mines will be his powerless satrap. Are we not interested, not so much in what the law says or what the law means but, from a Commonwealth-State point of view, in what the law should be? I suggest that the moral of the position is that the State responsibilities and sovereignties which now apply on land should if possible be transferred

to the sea, that the Commonwealth responsibility and sovereignty on land should be applied to the sea and that no royalties should be paid to the Commonwealth. Apparently we are going to have Commonwealth enclaves. Following a recent case named the Worthing case it seems likely that, when the High Court gives judgment in another case—the *Queen* v. *Phillips*—the Commonwealth will possess sovereign rights in all properties owned by it in all States. At present, I own my house in the State of Victoria but it is not my territory and I do not make my own laws. A comparable situation is that the Commonwealth owns buildings in the State of Victoria. If the High Court so decides, the Commonwealth will own its buildings and will make its own territories and its own laws with reference to them.

It can be said that there will be a legal vacuum. The Commonwealth, quite sensibly, is formulating a Bill giving authority for the State law to operate, but any Commonwealth laws will override the State laws. These decisions were made by the High Court on Commonwealth intervention in Worthing's case, and also intervention in the case of the *Queen* v. *Phillips* in order to force a decision. The Hapsburg family empire took hundreds of years to acquire dominions, States, grand duchies and principalities. At the stroke of the High Court's pen the Postmaster-General for the time being is going to be vested with responsibility for States, grand duchies and principalities over which he will have legal control.

Vast areas of legal doubt will exist. What is a "place"? A "place" will be a Commonwealth bank, Trans-Australia Airlines offices, aerodromes, military installations, post offices, Commonwealth offices, and lighthouses. Other areas will exist but it has yet to be determined whether or not they are "places". Is a telephone booth, a pillar-box, a floor owned under a stratum title, or, as has been suggested in a publication which I recently read, an excavation for a telephone cable a Commonwealth place? If a petroleum or mineral licence were required to be issued for a Commonwealth place, who would issue the permit and, more importantly, who would receive the royalties? Is a "place" a place by ownership, by lease, by rental or by licence? Is the law going to apply from the date of decision of the court? After all, if they decide accordingly, the law has been wrong for 70 years. Another point is whether it will apply from the date of acquisition by the Commonwealth or in some other form of retrospectivity.

As a member of this House, the obvious advice that one must give to an intending cracksman is not to rob the Totalizator Agency Board but to rob a post office; not to rob a private bank, but to rob the Commonwealth Bank, because the High Court decision might come down in the cracksman's favour or alternatively the Commonwealth might intervene on his behalf.

Although I am not a lawyer, I have studied this matter and have reached the conclusion that a referendum on section 52 will create an extremely difficult situation in that 90 per cent of the Australian population will not know what they are voting about, and it might be difficult to reduce the question to simple terms. If the Constitution is to be altered, in this context I understand that it will be possible for the Commonwealth and all States to petition the Parliament of the United Kingdom to amend the Act of the Imperial Parliament which set up the Australian Constitution and, if necessary and applicable, section 4 of the Statute of Westminster.

I think a few other comments from Professor Sawer's *Modern Federalism* are applicable to this address. At page 15, he states—

> In the United States of America the Senate has fully justified the intentions of the Founders by representing the interest of Regions and still more of groups of Regions, and the West German Regional house, the Bundesrat, has done so even more faithfully;

we shall see that elsewhere this type of upper House has been on the whole a disappointment, at least from the federal point of view.

Then at page 37, the author states—

> The Austrian Centre legislature consists of a National Council (Nationalrat) and a Federal Council (Bundesrat), the first elected on a population basis, and the second by the legislatures of the Regions...

At page 39, this passage appears—

> The West German Centre legislature consists of a Federal Assembly (Bundestag)—

or lower House—

> and a Federal Council (Bundesrat), and the latter consists of delegates of the Region governments, voting on instructions of those governments and recallable at their discretion. The Federal Council has sufficient authority to influence the course of legislative and financial policy, and constitutional amendment requires two-thirds majorities in both Houses, so the Council gives more direct protection for Regional autonomy than is provided by the Centre legislature in any other contemporary federalism.

In this context, the author states that in the Centre Constitutional Court, which is the equivalent of our High Court, the judges are elected half by the centre assembly and half by the council and that the court has ultimate authority to police the federal constitution.

The Senate has failed in its duty as a States' House. In order to reconstitute the Senate, a few amendments to the Australian Constitution would be necessary. Sections 7, 8, 9, 10, and 12 should be amended so that the Senate would be elected by relevant State Parliaments, particularly the lower Houses, with universal franchise voting on proportional representation from lists supplied by the relevant parties.

I suggest that all honorable members will agree that placitum (ii) of section 51, which relates to taxation, should be amended to assist the States. It might also be suggested that section 64, which gives the right to the Governor-General to employ Commonwealth public servants should be amended to enable as-of-right State appointment of advisers and liaison officers to the Commonwealth Treasury. An amendment could also be proposed to section 72 so that half of the justices of the High Court could be appointed by the States and half by the Commonwealth. Obviously, amendments are needed to section 96 regarding tied grants and to section 105A relating to State borrowings.

If these Commonwealth powers were held by a private monopoly, the Liberal Party, the Labor Party and the Country Party would be stumbling over themselves to see who would be the first to nationalize it. This is too much power to be placed into the hands of Mr. Gorton, Mr. Whitlam or Mr. McEwen. The reason why the German and Austrian Constitutions are so strong in their fields is that they know what can happen when there is a strong centre Government or a Government which can be got at.

Yesterday the Premier said that over the years all referendums had sought additional power for the Commonwealth; that there had been no referendum to give more power to the States. The honorable gentleman also contended that this proposed referendum might possibly stand a strong chance of success because it was a new type of referendum as far as power distribution is concerned.

I feel privileged to be a co-member with the Father of the House, the Honorable G. L. Chandler, for the province of Boronia and to accept his advice. Although the name of the province has nothing to do with the Minister's influence, Boronia is a flower with which the honorable gentleman has had a lot to do over the many years of his life.

In conclusion, I feel that centralization of power has proceeded so far that the peace, order and good government of the Commonwealth is in grave jeopardy. Centralism in Canberra cannot be described as a sacred cow. I suggest a more apt description would be a very sacred charging bull and I believe that the bull should be castrated before it runs its course and reduces the sovereign States to mere administrative servants of an incompetent central power.