are not placing in the hands of the state some instrument of power which may be turned against freedom in its broadest sense. Indeed, this proposed legislation is to ensure a very basic freedom and to try to put into statutory form a freedom that I for one feel is now implicit in our constitution and in our way of life in Canada.

We must avoid creating inadvertently through legislation such as this a Frankenstein monster which could—I say "could" —possibly some day destroy what it attempts to do by definition.

Honourable senators, looking at the bill itself, I notice in subsection 2 of section 267A the definition of "genocide", and I note that this bill contains no definition of the word "group". I submit that a definition of the word "group" is essential to ensure that this section does what it sets out to do. I notice, for instance, that in section 267B, the words "identifiable group" are used and are defined, but that definition is applicable only to section 267B and not to 267A.

I put to honourable senators the hypothetical question: Does a person who advocates the mercy killing of the incurably insane, commit an offence under section 267A? I am not so sure that the incurably insane may not be a "group" because the word "group" is not defined as it is used in that section.

Of necessity, I must reach for far-fetched examples. In so doing, I am relying on experience in the practice of law. Some far-fetched situations come under the ambit of definitions in legislation which were never contemplated originally to fall within their scope. Honourable senators examining the situation and thinking of those who may inadvertently come within the meaning referred to, may come upon other examples.

In the following section "identifiable group" is defined to mean "any section of the public distinguished by colour, race or ethnic origin." I submit that definition may be quite inadequate for the purpose intended herein. I do not know where the borderline of that definition may be. I do not know whether "identifiable group" extends to include a group of German Nazis with a race or ethnic background. I do not know whether Gypsy fortune tellers would fall within the meaning of those two words "identifiable group".

Would the members of the Royal Family who are of Germanic origin fall within the meaning of "identifiable group"? Perhaps honourable senators of Scottish ancestry would form identifiable groups under that definition.

Honourable senators, I submit that this vagueness is of real concern to us, in a piece of legislation as sweeping in its effect as this one is.

In the first part of that section, honourable senators will notice that an offence under it is the communicating of statements in a public place, inciting contempt of an identifiable group. It goes further to define that the incitement is to be such as would be likely to lead to a breach of the peace.

I suggest that the determination of what may or may not lead to a breach of the peace is almost a subjective determination and may very well vary from case to case, depending on the length of the judge's foot, or on his predilections, or on his own prejudices, emotions or fears.

Hon. Mr. Choquette: We have precedents for that. We have the Munsinger inquiry and the Landreville inquiry.

Hon. Mr. Lang: I would scarcely draw an analogy between the two instances.

Honourable senators, I am somewhat more concerned when we come to the second subsection of this section, where the offence is not one committed in a public place but is committed in other than a public place. Here I ask myself: In a private place, where someone may be communicating statements, wilfully promoting contempt against an identifiable group, who is going to lay information about that conversation? Who will go to the State to lay a charge? Are we not injecting something here which goes to the very root of our society, our privacy and our freedoms?

May someone some day who may be promoting contempt of, let us say, the identifiable group known as the Spanish Loyalists, come under fire or commit an offence under this section?

Again, my examples may be far-fetched, and I draw them broadly to try to bring home my point.

I notice that that section goes on to shift the onus to the accused to prove that the statements communicated were true, or that they were relevant to any subject of public interest, the public discussion of which was for the public benefit, and that on reasonable grounds he believed them to be true.

I do not have to say that to shift the onus from the Crown to that of the accused, on an