

*OAU DRIVE, TOWER HILL, FREETOWN*

# **PARLIAMENTARY DEBATES**

**[HANSARD]**

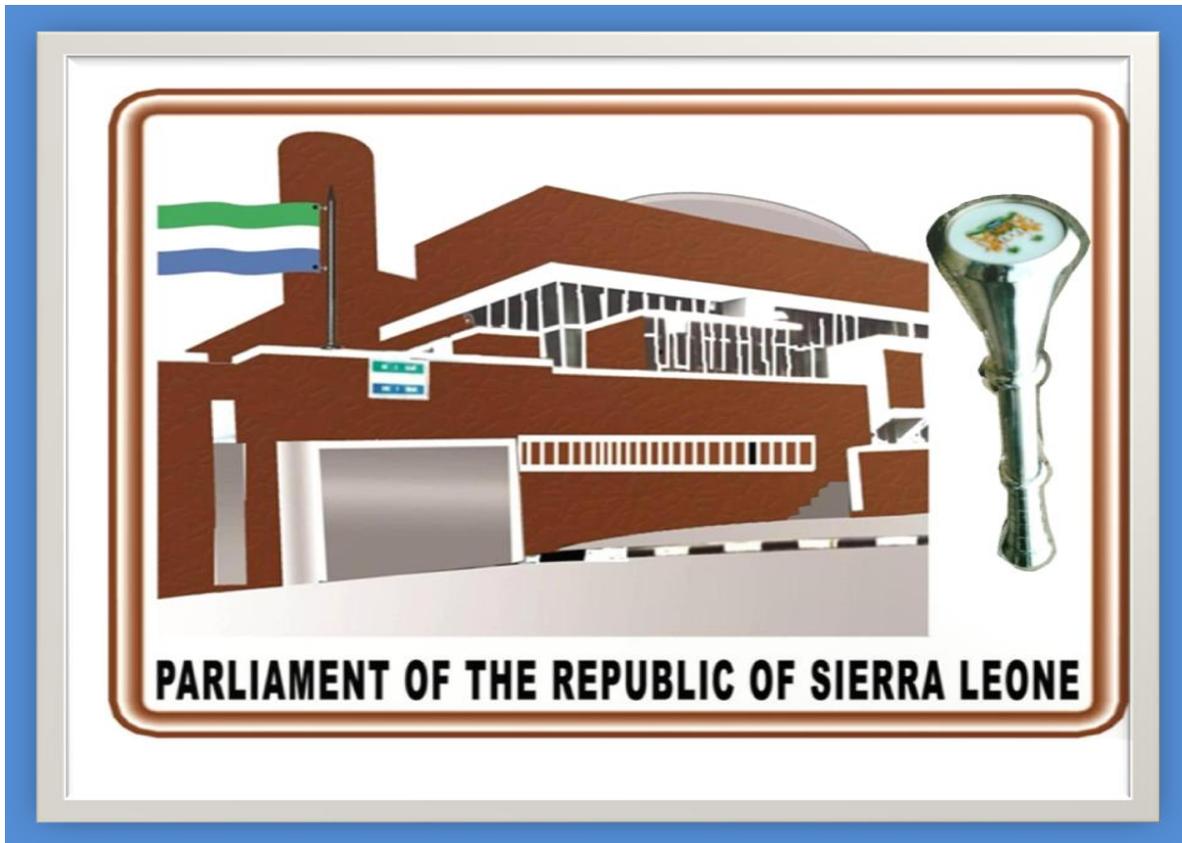
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**OFFICIAL HANSARD REPORT**

**FOURTH SESSION –FIRST MEETING**

**TUESDAY, 22<sup>nd</sup> JUNE, 2021.**

*SESSION – 2020/2021*



*OAU DRIVE, TOWER HILL, FREETOWN*

# **PARLIAMEN TARY DEBATES**

**[HANSARD]**

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**OFFICIAL HANSARD REPORT**

**VOLUME: I**

**NUMBER: 5**

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First Meeting of the Fourth Session of the Fifth Parliament  
of the Second Republic of Sierra Leone.

Proceedings of the Sitting of the House  
Held Tuesday, 22<sup>nd</sup> June, 2021.

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**THE MINISTER OF INFORMATION AND COMMUNICATIONS**



*THE CHAMBER OF PARLIAMENT OF THE REPUBLIC OF SIERRA LEONE*

## **Official Hansard Report of the Proceedings of the House**

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### **FOURTH SESSION – FIRST MEETING OF THE FIFTH PARLIAMENT OF THE SECOND REPUBLIC**

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**Tuesday, 22<sup>nd</sup> June, 2021.**

#### **I. PRAYERS**

*[The Table Clerk, Mr Francis Ernest Farma, Read the Prayers]*

*[The House met at 10:20a.m. in Parliament Building, Tower Hill, Freetown]*

*[The Speaker, Hon. Dr Chernor Abass Bundu in the Chair]*

The House was called to Order

*Suspension of S. O. 5[2]*

## **II. RECORD OF VOTES AND PROCEEDINGS FOR PARLIAMENTARY SITTING HELD ON MONDAY 21<sup>ST</sup> JUNE, 2021.**

**THE SPEAKER:** Honourable Members, we shall start our consideration of the Record of Votes and Proceedings for the Parliamentary sitting held on Monday the 21<sup>st</sup> June from page 5. Can we have one meeting of Parliament please? Order! Order!

We shall now consider the Votes and Proceedings of yesterday's meeting starting from page 5, any amendments? Page 6? Please mask up, Mask up; if your neighbour has not masked up, ask him or her to do so. Page 6? Page 7? Page 8? Page 9 and Page 10? Can someone please move for the adoption of the record of votes and proceedings for the Parliamentary Sitting held on Monday 21<sup>st</sup> June, 2021?

**HON ALUSINE KANNEH:** Mr Speaker, I was just about to draw your attention to page 7, but then you were speeding up. The Deputy Minister [1] of the Ministry of Finance, Dr Patricia N. Laverley, laid the following 'Papers' not 'paper'; 's' is missing.

**THE SPEAKER:** Thank you. Can you now move for the adoption of the Record of Votes and Proceedings for the Parliamentary sitting held on Monday 21<sup>st</sup> June, 2021?

**HON ALUSINE KANNEH:** I so move Mr Speaker.

**THE SPEAKER:** Any seconder?

**HON. ISHMAIL SAMA SANDI:** I so second Mr Speaker.

*[Question Proposed, Put and Agreed To]*

*[Record of votes and proceedings for the parliamentary sitting held on Monday 21<sup>st</sup> June, 2021 has been adopted as amended]*

## **III. ANNOUNCEMENT BY MR SPEAKER:**

**THE SPEAKER:** The only announcement I have this morning Honourable Members, is in the form of an enquiry; how many of us have taken the vaccine? It is not a question of intention; once more, I want to urge all Members who have not yet done so to take the vaccine *[Undertone]*.

And those of you without masks, there are masks available to be distributed. I would advise that we take the new spike of the Covid-19 very seriously; and incidentally, it is spiking not only in Sierra Leone, but in many other parts of the world. So let us take heed of the advice that we are getting to mask up, and to take the Vaccine. The situation is getting desperate and unpredictable, and do not think that the virus is targeting only people over 60; it is now targeting the young as well.

**HON. DR MARK M. KALOKOH:** Mr Speaker, I want to make an appeal after your announcement on the Covid issue.

**THE SPEAKER:** Okay, let us proceed.

**HON. DR MARK M. KALOKOH:** Mr Speaker, I said I was going to make an appeal before we proceed on this Covid-19; can I be heard?

**THE SPEAKER:** By all means.

**HON. DR MARK M. KALOKOH:** Mr Speaker, thank you very much. This morning when I was listening to the broadcast from the SLBC, it was clear that people have now developed the urge to go for the vaccines; but they are seriously constrained as to where to get them. When I listened to one of the participants that queued in to take the vaccine in one of the hospitals in Bo, it was clear that we want to make an appeal through your good Office to NaCOVERC, to ensure that they go to various strategic areas to set up Vaccination Centres because people are constrained. Particularly based on their Press Release that day, which was the commencement day for the exercise even in Parliament, I want to further appeal that we get a Vaccination Team here; so that is the only appeal I want to make Sir, thank you.

**HON MATHEW S. NYUMA:** Mr Speaker thank you, thank you very much Honourable Member. Just an addendum to what you have said, I have just spoken to the Chairman of the Health Committee, for NaCOVERC to come to Parliament so that they can administer the vaccine to Members of Parliament who have not taken the first dose of

the vaccine; so that has been arranged. We are talking of the first-timers; if you know you have taken the first dose, they would give you time for the second vaccine so that has to do with your own timetable. The first dose has to do with Members of Parliament who have not done so. The team would come to Parliament possibly, after the arrangement; we would announce it to Members, for them to come the following day as we did for the NCRA registration. So Mr Speaker, that one is underway; so that they can come over with their team to administer the first dose to Members of Parliament.

For the other dose, the Chairman of the Health Committee can also facilitate it; and now that the Speaker has given his own statement regarding your proposal, the Chairman will do his own announcement too. So Mr Speaker, it was a very good idea for the team to come to Parliament, and also to expand the site for taking the Vaccine; thank you.

**THE SPEAKER:** I want to thank the Leader of Government Business; the request you made is of two parts: The first part is a request for us to get NaCOVERC to come and administer the Vaccine to Members of Parliament and the Staff of Parliament as well. That is a very brilliant suggestion and I think it meets the concurrence of the entire House. We would therefore, direct to the Chairman of the Health Committee, to please take that particular issue on board and ensure that the vaccination is carried out by NaCOVERC at the precincts of Parliament.

The other part of your request about the general public, I think I am a little bit circumspect; so we would again ask the Chairman of the Health Committee, to investigate that issue and report to us. We want to be able to make public appeals here that are evidence-based, not just what you have heard from the Media; we do not know maybe, they too would have been misinformed. So let us continue to investigate and get the facts of the issue, before I would be at liberty to issue a public statement on that.

**HON. DR MARK M. KALOKOH:** Mr Speaker, I think you did not get me right Mr Speaker. In my appeal; I cited the example of the Bo scenario this morning.

**THE SPEAKER:** Yes, I heard you very clearly.

**HON DR MARK M. KALOKOH:** That was why I made the appeal, so that NaCOVERC can expand its services.

**THE SPEAKER:** I am not challenging or denying what you have claimed. All I was saying was that, I have referred the matter to the Chairman of the Health Committee to investigate further and report to the House. I do like making public appeals based on due diligence to issues raised; so let us exercise some patience, in order to give the Chairman an opportunity to investigate further and report to us [*Undertone*]. Very well; shall we proceed please?

#### **IV. PAPER LAID**

**HON. MOSES A. EDWIN:** [*DEPUTY CHAIRMAN, COMMITTEE ON FINANCE*]

Mr Speaker, Honourable Members, I beg to lay on the Table...

**THE SPEAKER:** You will not be heard unless you are masked [*Laughter*].

**HON. MOSES A. EDWIN:** I am okay now.

**THE SPEAKER:** That is a brilliant example, let us applaud ourselves [*Applause*].

**HON. MOSES A. EDWIN:** Mr Speaker, Honourable Members, I beg to lay on the Table on this Honourable House the following documents:

- Parliamentary Service Commission Financial Statement for the year ended 31<sup>st</sup> December 2018 and
- Parliamentary Service Commission Financial Statement for the year ended 31<sup>st</sup> December 2019 [*Applause*].

#### **V. BILL**

##### **THE CYBERCRIME ACT 2021; COMMITTEE STAGE: THE MINISTER OF INFORMATION AND COMMUNICATIONS.**

**THE CHAIRMAN:** Honourable Members, I am sure you would all agree that in spite of all the efforts made yesterday, we were unable to accomplish a great deal as

anticipated. So today, the momentum is going to change; and with your cooperation, I intend to guide the proceedings to finality on this particular Bill.

**HON. DR. KANDEH K. YUMKELLA:** Point of Order, Mr Chairman! We just pray that expediency will not sacrifice quality.

**THE CHAIRMAN:** I am sure the Honourable Member knows me quite well, so I need not respond to that comment. Let us start with the Honourable Minister, order! Mr Minister, you were not able to conclude Part [I] yesterday, because there were few outstanding from yesterday's deliberations; so we can put Part [I] aside and move on to Part [II]; so over to you.

**HON. MOHAMED RAHMAN SWARRAY** [*MINISTER OF INFORMATION AND COMMUNICATIONS*]:

**THE MINISTER:** Good morning Mr Chairman, Honourable Members. There was the issue around Identity theft; and reading around and comparing notes, this is the most acceptable definition by us, so it is for this House to make it clear. Identity theft means: *'the stealing of somebody else's personal identifying information and pretends to be that person in order to commit fraud or to gain other financial benefits such as; making unauthorised transactions or purchases.* So that is Identity Theft.

Authorised person means: *'a member of the National Cyber Security Coordinating Centre, or a person mandated by it, involves in the prohibition, prevention, elimination or combating of Computer crimes and Cyber Security threats.'*

The issue we had here was 'Law Enforcement Agency'; so that has been removed and this is the grand definition.

**THE CHAIRMAN:** Definition of authorised...

**THE MINISTER:** Authorised person, yes Sir.

**THE CHAIRMAN:** Fine!

**THE MINISTER:** Authorised person means: *a member of the National Cyber Security Coordinating Centre, or a person mandated by it, involves in a prohibition, presentation,*

*elimination or combating of Computer crimes and Cyber Security threats [Undertone].*  
No, no, no! They are different now; they are different, separate and apart.

**THE CHAIRMAN:** Next one.

**THE MINISTER:** We have Section two; Cyber Stocking, sorry I am having some challenges here.

**THE CHAIRMAN:** Do you have hard copies Mr Minister, of what you have read out?

**THE MINISTER:** Yes, when I am done I will print it for you Sir; or I will send it to you. For Part II here, we also had issues with the Side Notes: *'establishment of the National Computer Security Incident Response Team Coordination Centre - Part II on the side notes.*

*Section 2[i]; there is established a National Computer Security Incidents Response Team Coordination Centre, responsible for managing Cyber Security Incidents in Sierra Leone headed by the National Cyber Security Coordinator.*

Then we come to the appointments, like Parliament rightly requested yesterday;

- *The President shall on the nomination of the Minister, appoints a National Cyber Security Coordinator, subject to the approval of Parliament;*
- *The National Cyber Security Coordinator shall hold office for a period of not more than five years and is eligible for reappointment.*
- *A person shall not be appointed as National Cyber Security Coordinator, unless that person has relevant knowledge, qualification and expertise in either Computer Science, Information Technology, Cyber Security, Information Security and related matters;*
- *The National Cyber Security Coordinator shall cease to hold office on any of the following grounds:*
  - For his or her inability to perform the functions of the office by reason of infirmity of mind or body, or proven misconduct;*
  - If he becomes bankrupt or insolvent;*
  - If he is convicted and sentenced for an offence involving fraud or dishonesty;*

*If he resigns his office by written noticed to the Minister at the expiration of his term [Undertone].*

Okay it has to be closed, that is fair enough; Okay, and a final 5 years term. Yes, I have heard you, that is noted Sir. Yes okay, but it sounds logical yes, I agree [Undertone]. Yes Sir, we would look at it and also, with other provisions in other Cyber Security Laws around West Africa. [Undertone]

**THE CHAIRMAN:** No, we agreed on something definite yesterday.

**THE MINISTER:** Yes we did, we merely...

**THE CHAIRMAN:** According to my records, we agreed that sub-paragraph [3] will read: *'it shall be appointed for a term of five years, and may be renewed for another term of five years only'*.

**THE MINISTER:** That one was approved yesterday; yours will prevail Sir, [Undertone] Okay. So Cyber Stocking: *'Cyber Stocking is when a person intentionally initiates communications or a course of conduct directed at a specific person or persons with intent to coarse, intimidate, harass, or cause emotional distress'*.

The Honourable Leader of Opposition was concerned about this, so we have to take into consideration as to what prevails in other acceptable jurisdictions [Undertone]; thank you Sir. Yes Sir, you have used 'stealing' Sir; you have called it 'identity theft', so that is stealing.

**HON. MATHEW S. NYUMA:** Okay, thank you very much; that is just for clarification,

**THE MINISTER:** yes that is it, it is simple.

**HON. MATHEW S. NYUMA:** alright thank you.

**THE MINISTER:** we call it 'identity theft', theft is stealing

**HON. MATHEW S. NYUMA:** No, we do not want you to use the word 'stealing', Mr Chairman. Now, there is a definition from the Convention on Cybercrime, we can read it out maybe we can look at that.

**THE MINISTER:** Do you have a copy here?

**HON. MATHEW S. NYUMA:** Yes, I have a copy here. There is really not universally accepted definition for 'Identity Theft'; but they have managed to define it, which I would read if you give me the go ahead.

**THE CHAIRMAN:** By all means, go ahead!

**HON. MATHEW S. NYUMA:** I am reading from the Conventions on Crime, Protocol on Xenophobia and Racism; the Budapest Convention. Identity Theft: while there is no generally accepted definition, no consistent use of the term 'Identity Theft', commonly involves criminal act of fraudulently [without his or her knowledge or consent] obtaining or using another person's identity information. The term 'Identity Fraud' is sometimes used as synonym although it is also a... *[Interrupted]*

**THE CHAIRMAN:** No, no, no, no.

**HON. MATHEW S. NYUMA:** I am giving a general....

**THE CHAIRMAN:** No, you have gone to another term.

**HON. MATHEW S. NYUMA:** Alright I rest my case.

**THE CHAIRMAN:** Just focus on Identity Theft.

**HON MATHEW S. NYUMA:** That is the end.

**THE CHAIRMAN:** Read it again

**HON MATHEW S. NYUMA:** Alright: *Whilst there is no generally accepted definition, no consistent use of the term; Identity Theft commonly involves criminal act of fraudulently [without his or her knowledge or consent] obtaining or using another person's identity information.*

**THE CHAIRMAN:** Fine.

**HON. SEGEPOH S. THOMAS:** Mr Chairman, we said yesterday that we cannot use the word 'Stealing'. But I am a little bit concerned as to why the Minister would want to use 'Stealing' at all cost in this particular definition?

**THE MINISTER:** I am not fixed on the use of 'Stealing'. I am just trying to see the efforts we have been making, as very distinct with a difference.

**THE CHAIRMAN:** very well, very well!

**THE MINISTER:** if we are talking about obtaining without authorisation, which is stealing! We call it Identity Theft; it is stealing.

**THE CHAIRMAN:** Mr Minister, take your seat; let me help you. Mr Leader of Government Business, can I have a Motion from you as far as the definition of 'Identity Theft' is concerned? Now, are you going to use the word 'Means' or 'Includes'?

**HON. MATHEW S. NYUMA:** means

**THE CHAIRMAN:** So, read it out; 'Identity Theft' means.....

**HON. MATHEW S. NYUMA:** The definition for 'Identity Theft' means: 'a criminal act which is fraudulently [*without his or her knowledge or consent*]..

**THE CHAIRMAN:** Hold on, I am going to write it down; hold on! I know the reason. Means, a criminal act...

**HON. MATHEW S. NYUMA.** Means, commonly involves a criminal act

**THE CHAIRMAN:** No, no, means a criminal act....

**HON. MATHEW S. NYUMA:** A criminal act of fraudulently [without his or her knowledge or consent]....

**THE CHAIRMAN:** A criminal act or what?

**HON. MATHEW S. NYUMA:** of fraudulently; listen, Mr Chairman. Identity Theft commonly involves criminal act of fraudulently [*without his or her knowledge or consent*]obtaining and using another person's identity information.

**THE CHAIRMAN:** Fine; means a criminal act of fraudulently obtaining... is your focus.

**HON. MATHEW S. NYUMA:** No, the bracket is important, it is very important, Mr Chairman. This is a convention [*Undertone*] Yes! It is very important [*Undertone*] because you have to talk about the knowledge of the person's identity being stolen.

**THE CHAIRMAN:** Do you mind if you can make me see it?

**HON. MATHEW S. NYUMA:** Mr Chairman, you mean you do not trust what I am reading?

**THE CHAIRMAN:** I trust you, but I want to see it myself.

**HON. MATHEW S. NYUMA:** Do you know that Identity Theft is in connection with feisty? *[Laughing]*

**HON. DANIEL B. KOROMA:** Mr Chairman,

**THE CHAIRMAN:** It is in connection with what?

**HON. DANIEL B. KOROMA:** Mr Chairman, as you earlier said, you should have copied everything before your comments otherwise, we will spend more time.

**THE CHAIRMAN:** Honourable Members, the definition in this booklet which is; the Convention on Cybercrime is: Identity Theft and it is defined here to mean 'criminal acts of fraudulently *[without his or her knowledge or consent]* obtaining and using another person's identity information.' That is what is meant by Identity Theft.

**HON. IBRAHIM T. CONTEH:** Mr Chairman, but the U.S Government defined Identity Theft as: when someone steals another person's identity.

**THE CHAIRMAN:** That is the U.S.; this is an International Convention.

**HON. IBRAHIM T. CONTEH:** In the context of Identity Theft; the term that was coined in 1964 *[Undertone]* in Cybercrime, yes. Which document is he reading? He is using the Budapest Convention, we are looking at other Cybercrime Laws, other related laws that speaks to the same issue; and the issue here is, 'Identity Theft'.

**HON. DANIEL B KOROMA:** So what document is that? Just cite the document.

**HON. IBRAHIM T. CONTEH:** It is a document is a document that speaks to Cyber Security in the United States.

**HON. MATHEW S. NYUMA:** Point of Order! Mr Chairman. When I started, I said there is no well accepted definition for Identity Theft, so what he is saying; if you go through,

this is from the Council of Europe. If you go through the definition, the explanatory statement is talking about Identity Theft and it is also talking about stealing of another man's identification. But they have now used the word 'Stealing', and that is what we are against. So the accepted definition is the conventional definition [*Undertone*] yes. So let us adopt that one because that one is accepted. As I said yesterday Mr Chairman, let us not go into sophisticated definition.

**THE CHAIRMAN:** Do not belabour the point. This is an International Convention, and we would rather adopt what is already accepted internationally and reflects on an international Convention's definition than what you have tried to bring to the attention of the House from one Member State.

**HON. HASSAN SANKOH:** Mr Chairman, may I be heard about this 'theft' and stealing?

**THE CHAIRMAN:** Are you going to help, or you want to complicate it?

**HON. HASSAN SANKOH:** Yes Sir, I am going to help. We are just killing time, because 'theft' in this cyber business and 'stealing' are synonymous.

**THE CHAIRMAN:** Okay, thank you.

**HON. HASSAN SANKOH:** they connote the same thing, so let us go ahead.

**THE CHAIRMAN:** Can we speed up please; are you going to present this as a Motion now please?

**THE MINISTER:** Yes, let us use it and move on. We are satisfied because in due course, we would also be bringing the Budapest Convention here for domestication; so let us use it, no problem.

**HON. IBRAHIM T. CONTEH:** Mr Chairman, the Minister has just said something very important, that this House is yet to ratify the Budapest Convention. And for us, acceptability of the word 'Identity Theft', a term that was coined in 1964, has to be something that is suitable for us, and that will make the Bill very good for everybody. And I do not see any reason why the use of the word 'Stealing' is prohibited.

**HON. DANIEL B. KOROMA:** Mr Chairman, that is what we are now saying. This is what we think is good for us, it is suitable for us; that is what we are now saying, and not for Budapest;, we are saying that it is best for us for now.

**HON. IBRIHAM T. CONTEH:** 'Suitability' for you, is different for me. I believe what is suitable is 'Stealing', because you are stealing my identity.

**HON DANIEL B KOROMA:** Well, let us move a Motion or you do the needful; you can do the needful.

**THE CHAIRMAN:** I have not given either of you the floor; Leader of Government Business, please move your Motion?

**HON. MATHEW S. NYUMA:** Mr Chairman, Honourable Members, I move that Identity Theft means: 'criminal act of fraudulently [without his or her knowledge or consent] obtains and use another person's identity information.

**THE CHAIRMAN:** Thank you.

**HON. MATHEW S. NYUMA:** May the Lord bless you, Sir.

**HON. DANIEL B. KORAMA:** I so second.

**THE CHAIRMAN:** Thank you very much.

*[Question Proposed Put and Agreed To]*

*[Motion moved by the Leader of Government Business has been carried]*

**THE CHAIRMAN:** We have dealt with 'Identity Theft', you have dealt with the issue of 'Authorised Persons' Mr Minister, Cyber stoking; I am handicapped because you did not come with hard copies of these things *[Undertone]*. No, it is much easier for us to put them together *[Undertone]*. Give us the Authorised Person.

**THE MINISTER:** Authorised Person means: 'a member...

**THE CHAIRMAN:** I want the attention of the Leader of Government Business; please listen because I would like you to adopt this definition.

**THE MINISTER:** Authorised person means: *'A member of the National Cyber Security Coordination Centre, or a person mandated by it, involved in the prohibition, prevention, elimination, or combating of computer crimes and cyber security threats'*.

**THE CHAIRMAN:** Thank you. Can you adopt that and move a Motion please?

**HON. MATHEW S. NYUMA:** Yes, but I do not have the definition here.

**THE CHAIRMAN:** No, just say as read out by...

**HON MATHEW S. NYUMA:** Mr Chairman, Honourable Members, I move that the definition read by the Minister of Information and Communication for 'Authorised Person' be accepted by the House:

**THE CHAIRMAN:** Any Secunder?

**HON. DICKSON ROGERS:** Yes, Mr Chairman, I second that Motion.

*[Question Proposed Put and Agreed To]*

*[Motion moved by the Leader of Government Business for the definition of 'Authorised Person' has been carried]*

**THE CHAIRMAN:** The next one please, what was the next definition?

**THE MINISTER:** We are through with the definitions we were in contention with; we would probably move on to page 12.

**THE CHAIRMAN:** What is that?

**HON. MATHEW S. NYUMA:** Mr Chairman, we want to observe. We are seeing different pictures in the Chamber, it is distracting us; can you put that one off?  
*[Undertones in Interruptions].*

**THE CHAIRMAN:** Next one.

**THE MINISTER:** Mr Chairman, we are through with the definitions; we can move on to Section [12].

**THE CHAIRMAN:** No, no, no.

**HON. MATHEW S. NYUMA:** Mr Chairman, I am sorry, I am really sorry about it. Yesterday, I was critical about the Long Title; so I asked Mr Thomson to come. Likewise, the Leader of the Opposition was also critical about the Long Title; when we started. He said we are amending the Long Title probably, it would mean something else in the Bill; maybe, he was referring to either Parts II or III because he gave an insight of the provisions that were made in the Bill.

So, I stood yesterday and I brought the issue up again, and you said let us put it on hold. Sorry to take you back, I am really sorry; but it is a very critical. You said let us discuss it today and I have brought in the substantive Drafter, Mr Thompson [*Undertone*]. Yes, I told him to come because we already have somebody here. So he is very important because he can give us a lot of insights about the Bill. So we are just asking him to tell us whether we should go by the Long Title we have, or we do in an amendment; because it has to do with legality and not professionalism, so I rest my case.

**HON. CHERNOR R. M. BAH:** Mr Chairman contrary to what the Leader said, I was not worried, and I have never been worried. But Mr Chairman, I agree with him only that my caution yesterday was that, the Draftsman who is an expert was not here; and none of us in this Chamber are experts in drafting. So my concern had to do with the relevance, of the amendment we wanted to make by deleting certain words or phrases; so I was concerned.

So, now that Mr Leader has reminded us, it is good for the Draftsman to advise us whether we need to delete a word or any phrase from this Long Title, or we leave it as it is.

**THE CHAIRMAN:** Thank you, Leader of the Opposition. We lamented indeed, the absence of the Draftsman yesterday. We hope we would not lament in future for his absence again, especially when we have to consider complicated technical Bills of this kind.

We are very pleased to have you in our midst this morning, and please speak through Mr Minister; guide the Minister because, I am going to pose a question to the Minister as to whether or not, you are satisfied with the Long Title.

**THE MINISTER:** Mr Chairman, Honourable Members, following the 'tet-a-tet' with the Legal Draftsman, he prefers that with due respect to the consultations held, and the various other inputs made by members of the public, that we stick to the original Long Title.

**THE CHAIRMAN:** Thank you. With that, we may now proceed with a Motion from Mr Minister for the adoption of Part 1. Mr Minister, would you please move for the adoption of Parts 1, 2, 3 and 4, [Clauses 1 to 20]?

**THE MINISTER:** Mr Chairman, Honourable Members, I move that Parts 1, 2, 3 and 4, [Clauses 1 to 20] stand part of the Bill.

**THE CHAIRMAN:** No, no, wait a minute, wait a minute! That was just Part 1.

**THE MINISTER:** Oh! Part 1

**THE CHAIRMAN:** We are continuing; sorry.

**THE MINISTER:** okay.

**THE CHAIRMAN:** Sorry, I misled you; shall we now move to Part 2?

**HON. MATHEW S. NYUMA:** Mr Chairman, you said let him move a Motion so that the House can adopt the Long Title; that was what you said, just the Long Title first. I want to move. Mr Chairman, I move that Part 1 as amended...

**THE CHAIRMAN:** The Long Title is not part of Part 1.

**HON. DANIEL B. KOROMA:** Mr Leader of Government Business, just move for the Long Title only, moving for the 'parts' is for the Minister and not you.

**HON. MATHEW S. NYUMA:** Alright. I move that the Long Title as presented in the original Bill, to stand part of the Bill.

**THE CHAIRMAN:** Wait a minute, do not confuse the House.

**HON. MATHEW S. NYUMA:** It is not about confusing; the original Bill is there, that is what he said.

**THE CHAIRMAN:** Is it different in the Bill, particularly the Reporting Stage?

**HON. MATHEW S. NYUMA:** Yes, it is different.

**HON. DANIEL B. KOROMA:** Mr Chairman, what he is moving has nothing to do with original Bill or not. The legal Draftsman advised that the original draft of that Long Title be retained, so it is not about the Bill There is nothing to move except you move for the adoption of that Long Title; apart from that, there is nothing to move. He has advised that, we retain the original draft of the Long Title; that is all.

**HON. MATHEW S. NYUMA:** Do not forget yesterday, we amended the Reporting Bill; the one that was presented to us on the Long Title, that was what we amended yesterday. So, this is just a reporting Bill; it is the original Bill so it is the same. So I do not see what is wrong, it is just a matter of semantics.

**THE CHAIRMAN:** Leader of Government Business, it is more than semantics. Take your seat if you do not mind, all of you take your seats; let me get this clarification from the Minister. Mr Minister, before we rose the last time, I gave a directive that the report from the Legislative Committee as read out by its Chairman be consolidated with the original Bill before the House; and the result of that consolidation is what is before us, and is entitled: "Bill Reporting Stage". So if you are telling me now that the Long Title which is quite different as contained in this document is different from the original Bill; and if you are taking us back to the original Bill, then what is the status of the consolidation?

**HON. MATHEW S. NYUMA:** Mr Chairman, it is not my intention for us to discard the Reporting Bill. I am just trying to re-echo the voice of the Draftsman, who is a legal-minded person. Like I said in my opening statement, the Long Title is giving us an insight of what entails in the Bill; that was why I said let us listen to the Draftsman, but you said let the Draftsman consult with the Minister. They went and consulted and

based on the advice given to the Minister, he said let us use the original Bill and that was what I have re-echoed [*Interruptions in Undertones*].

**THE CHAIRMAN:** No, no, no, wait a minute. For my own edification, and that of the rest of the Membership of this House, I thought that the Bill that is entitled: 'Bill Reporting Stage', has now superseded the original Bill. And what is before this House is that Bill with the words [Reporting Stage] - not the original Bill.

**HON. BASHIRU SILIKIE:** Thank you very much Mr Chairman. Mr Chairman...

**HON. MATHEW S. NYUMA:** Mr Chairman, I am not by any means trying to skew the Reporting Bill, I am not; I have never referred to the original Draft Bill. I said, what he told Mr Minister was what I re-echoed; but what we did yesterday was that, we amended this Long Title for the Reporting Bill. Perhaps what we can do, we can just go over the original draft we had, that is what we should do. So we have to read the long title again so that it can fit for the Reporting Bill because, it was completely changed; and I picked it up yesterday that the language they used for the description of 'Information Infrastructure', the one we have for the Reporting Bill is 'National' but, they removed the 'National'; so I was concerned, and a caution was given [*Undertones*]. Honourable Members, please it is good for us to understand because the Draftsman is here. And the Leader of the Opposition cautioned us that we are changing things that would give us problem in the Bill.

**THE CHAIRMAN:** Ok, you have had your bit

**HON. MATHEW S. NYUMA:** So can we again refer to the Draftsman to tell us?

**THE CHAIRMAN:** thank you; leave it with me now.

**HON. MATHEW S. NYUMA:** okay, thank you.

**HON. BASHIRU SILIKIE:** Mr Chairman, we should not be referring to the draftsman at this stage.

**THE CHAIRMAN:** Okay, have your seat, leave it with me...

**HON. BASHIRU SILIKIE:** because this is our property.

**THE CHAIRMAN:** thank you, let me find a solution. Honourable Member, thank you. Mr Minister, between you and your Draftsman, what is the status of this document?

**THE MINISTER:** Ok! So Mr Chairman, you have put it so very well.

**THE CHAIRMAN:** No, no, please order, order please! For the sake of progress, let me have order. What is the status of this document?

**THE MINISTER:** Thank you very much Mr Chairman, Honourable Members. Since I started coming here, there are few things I have learnt; number one, once Bills come here, they become the property of Parliament, and this has been forcefully driven home. We have worked together on it; you mentioned the consolidated Bill, this is the consolidated Bill. The Draftsman and I have discussed it after the initial advice, to stick to the old Long Title; that the Bill in question, has been made as a result of the long wide consultations with members of the public, professional Associations and other bodies. And so, the preference will be in the light of new consultations, for the Chairperson of the Legislative Committee as to the amendment that was proposed yesterday, to be adopted so that the Bill reflects the reality of what we now have.

**THE CHAIRMAN:** No, no, no! The Long Title as contained in the Reporting Stage Bill, is the one you are presenting to this House now?

**THE MINISTER:** Yes sir.

**THE CHAIRMAN:** And not the original?

**THE MINISTER:** Not the original, in light of the most recent consultations.

**THE CHAIRMAN:** Thank you.

**THE MINISTER:** Yes sir, thank you.

**THE CHAIRMAN:** Mr Chairman!

**HON. ABDUL S. MARRAY CONTEH:** Yes Sir, thank you very much Mr Chairman. First of all, the name changed from 'Cyber Crime Act' to 'Cyber Security and Crime Act' 2021. This new aspect... [*Undertone*] yes; the Short Title, and as a result of that, the Long Title incorporated an aspect of prevention wherein, we have the words like; Prohibition,

Prevention, Detection - the new words were added. Nothing major has changed so far, the words we have here is; 'promoted Cyber Security'. What I raised yesterday is for us to ensure that we have that particular line to read: 'promote Cyber Security' to have it once; if we already have it twice, then it is redundant. We have 'Critical National Information Infrastructure', and then we have something like 'measures to protect Critical Information Infrastructure'. More or less, if we have Critical National Information Infrastructure', it covers 'Critical Information Infrastructure'. So all we are asking is that, there were two lines that were redundant: in line five and in line nine, that was the only thing; so it was not going to skew the meaning of the Long Title.

**THE CHAIRMAN:** Thank you, take your seat. That corresponds exactly with what I have in my own records. So, the Long Title as contained in the Bill [Reporting Stage] is what is before the House. And in that Long Title, the following words should be deleted as we did yesterday; and that deletion happened though, at the request of the Chairperson of the Legislative Committee, and let me remind the House of the deletion. The words deleted starts with: 'and measures to protect Critical Information Infrastructures, and promote Cyber Security'. So, the Motion therefore that we are calling for and which we did yesterday, was that the Long Title as amended be adopted; that was all I wanted to hear.

**HON. MATHEW S. NYUMA:** Mr Chairman, I do not want to do anything contrary. I said it is not by my own imagination...

**THE CHAIRMAN:** Forget about what you discussed with the Draftsman.

**HON. MATHEW S. NYUMA:** Okay, let me come now.

**THE CHAIRMAN:** This is now Parliament.

**HON. MATHEW S. NYUMA:** We have this Long Title, if you read the Long Title carefully, the wordings are different from what we eliminate; the wordings are different. I am just making clarifications, if the Draftsman says let us leave it as it is, or let us go for an amendment, so be it; and what he was proposing was from the consultations. But let me bring you to speed; that this definition, and what they told me was that,

they were not consulted. Because we want to have clarity and have a clear space in the Bill; I said let us have consultations with them which I did yesterday. He came and said he wanted us to do some amendments, that was why I have referred it to the House.

**THE CHAIRMAN:** With the greatest deference Leader of Government Business, do not take us back.

**HON. MATHEW S. NYUMA:** No, I am not taking you back, I am not taking you back. I want them to give us their words, that we should stand by this Long Title.

**THE CHAIRMAN:** I have the words of the Chairperson of the Legislative Committee. He moved for the amendment of that Long Title yesterday.

**HON. MATHEW S. NYUMA:** Because I am seeing some problems with it and even the Leader of the Opposition cautioned us. The problem is that the meanings of what you are eliminating is different. Mr Chairman, let me tell you...

**THE CHAIRMAN:** This was the reason why he moved for...

**HON. MATHEW S. NYUMA:** It is different...

**THE CHAIRMAN:** wait a minute; the reason why he deleted those, was not for any substantive reason, but because they were repetitive.

**HON. MATHEW S. NYUMA:** I do not think so.

**THE CHAIRMAN:** Mr Chairman of the Legislative Committee, was that not what you said?

**HON. MATHEW S. NYUMA:** We want to hear from him, so that we can put the issue to rest.

**THE MINISTER:** Let me amplify his words.

**HON. MATHEW S. NYUMA:** yes, amplify his words.

**THE MINISTER:** He did say there should really not be a lot of song and dance about this; the Long Title is normally an enumeration of key issues highlighted in the Bill, which is essential. So, there have been no onerous additions here right, so that is the

point *[Undertones]*. Yes, let us use this with those amendments being proposed by the Chairman of the Legislative Committee.

**HON. MATHEW S. NYUMA:** With those amendments?

**THE MINISTER:** Yes, Sir.

**HON. MATHEW S. NYUMA:** I rest my case, Mr Chairman.

**THE CHAIRMAN:** Are you moving now?

**HON. MATHEW S. NYUMA:** I move...

**THE CHAIRMAN:** As amended *[Undertone]*

**HON. MATHEW S. NYUMA:** I move that the Long Title as amended be adopted by the House.

**THE CHAIRMAN:** Thank you, any seconder?

**HON. CHERNOR R. M. BAH:** On behalf of the Chairman of the Committee, I am Seconding the Motion.

**THE CHAIRMAN:** Thank you.

*[Question Proposed, Put and Agreed To]*

**HON. CHERNOR R. M. BAH:** Mr Chairman,

**THE CHAIRMAN:** And are not going back?

**HON. CHERNOR R. M. BAH:** No, no, no; Mr Chairman, I want to thank you very much for exercising patience. It is difficult to get Bills of this nature though that was why we are going through this rancour. But I just want to raise a sound of caution because I have heard some statements within the Well.

Firstly, we have to understand that the title, 'Reporting Stage' has been placed at the top of this Bill for convenient purpose, because we are at the Committee Stage and not yet at the Reporting Stage; so it is for convenience. And secondly, none of us would say

that we do not need the Legal Draftsman here; even though the Bill is our property, we definitely need the Draftsman. The reason for the Draftsman to be here is, when we want to go astray, he is in the better position to guide us in navigating through, so when mistakes are made, he will bring us back. I just wanted to make that short statement.

**THE CHAIRMAN:** I thank you for that statement, and that was why profusely we lamented the absence of Mr Draftsman yesterday. And we heartily welcome him in our midst today; now, shall we proceed then? Page 16? The balance of page 16,

**HON. DANIEL B. KOROMA:** Yes Mr Chairman,

**THE CHAIRMAN:** starting from Clause [7] down?

**HON. DANIEL B. KOROMA:** No Sir.

**THE CHAIRMAN:** Clause [7], you said no Sir?

**HON. DANIEL B. KOROMA:** Yes, I have problem with Clause [6]; Sub-clause [6] of Clause [6];

**THE CHAIRMAN:** No, no, no! We have finished with that yesterday, please.

**HON. DANIEL B. KOROMA:** No, I have another query Sir.

**THE CHAIRMAN:** So which Clause, which page?

**HON. DANIEL B. KOROMA:** Page 16.

**THE CHAIRMAN:** Exactly, that is where we are.

**HON. DANIEL B. KOROMA:** No, but you said starting from Clause [7], and I have query on Sub-clause [6] of Clause [6].

**THE CHAIRMAN:** Okay, Clause [6] which is now Clause [5]

**HON. DANIEL B. KOROMA:** Sub-Clause [6] of Clause [6].

**THE CHAIRMAN:** Which is now Clause [5]

**HON. DANIEL B. KOROMA:** Okay, alright; which is now Clause [5]? It says: *'the Office of the National Computer Security Incidence Response Team...*

**THE CHAIRMAN:** Will you please take your seat? Yes.

**HON. DANIEL B. KOROMA:** *Incidence Response Team Coordination Centre shall keep proper records of their Accounts which shall be audited in accordance with the guidelines provided by the Auditor-General of Sierra Leone'.*

Mr Chairman, this provision is grossly inadequate for the purpose of accountability and auditing. I have samples here: The National Records and Archives Act 2017, I also have Guma Valley Act 2017. There are provisions here about 5 Sub-sections that cannot be ignored under Auditing, 5 sub-sections and this is the standard you cannot redraft in any other way or form; thank God the Legal Draftsman is here. All Institutions, in respect of Auditing.

**THE CHAIRMAN:** For our own edification, please read one of them.

**HON. DANIEL B. KOROMA:** Fine, thank you very much Mr Chairman. I am reading from the Guma Valley Act; *'the company shall keep Books of Accounts and other records in relations to the activities, properties and finances of the company in a form approved by the Auditor-General and shall prepare in respect of each Financial Year a Financial Statement which shall include:*

[a] Balance Sheet Accounts

[b] Income and Expenditure Accounts

[c] Source of application of funds.

**Sub-section 2:** the Account of the company kept under Sub-section [1], shall not be less than two months after the end of each Financial Year be audited by the Auditor-General or an Auditor appointed by him.

**Sub-section 3:** for the purpose of Sub-section [2], the Auditor-General or the Auditor appointed by him, shall be entitled to have access to all Books of Account and other Financial Records of the Company; and to require such information and explanation therein as he may think fit.

**Sub-section 4:** the Company shall provide the Auditor-General or Auditor appointed by him with all necessary and appropriate facilities for the examination of the Accounts and Records of the Company.

**Sub-section 5:** the Auditor-General or the Auditor appointed by him shall submit to the Company a report on the audited Accounts and the Financial Statement referred to in Sub-section [1] and shall in his report, draw attention to:

[a] Any irregularities in the Account

[b] Any matter that is likely to adversely affect the operations of the Company

[c] Any other matter which in his opinion ought to be brought to the notice of the Company.

**THE CHAIRMAN:** Ok, can you stop there for a second?

**HON. DANIEL B. KOROMA:** That is the end.

**THE CHAIRMAN:** Thank you. Let me ask you a question; are you suggesting from what you have read, that you would like to see the incorporation of those provisions into this particular Bill?

**HON. DANIEL B. KOROMA:** Yes Mr Chairman, under the relevant section.

**THE CHAIRMAN:** That is what you are proposing?

**HON. DANIEL B. KOROMA:** Yes Sir.

**THE CHAIRMAN:** Well let us... *[Undertone]* I am coming please; I beg. Honourable Member, I would have thought that what you have read out was a clear amplification of the sort of guidelines that you can get from the Auditor-General.

**HON. SEGEPOH S. THOMAS:** Mr Chairman, I totally disagree; I totally disagree. By saying in an Act, that the Auditor-General has power to provide guidelines, then that was open-ended; it gives the Auditor-General absolute powers to create guidelines at any time. So auditing, would be done according to the heart-beat of the Auditor-General, which is very wrong. Let us provide the guidelines here *[Applause]*.

**THE CHAIRMAN:** So, we would rather amplify the guidelines as contained for example, in the Guma Valley Act?

**HON. IBRAHIM T. CONTEH:** Mr Chairman, what was not clear in what he had just read was the fact that, there was no financial provision in the Bill. And in that Bill, what he must have read was; a financial provision which highlights or states all what he has read as the steps leading to the auditing of their books. So if we are to incorporate it, then we must create a financial provision in this Act.

**HON. CHERNOR R.M. BAH:** Mr Chairman, I would want my brother from Lumley to avert his mind to Section [6]; the creation or establishment of the Cyber Security Fund. They would be raising and expending monies, Mr Chairman *[Undertones]*.

**THE CHAIRMAN:** The difference that I see! Before I ask the Minister about his preference, the difference that I see between what was read out by the Honourable Member from Koinadugu, and what is contained in the draft before us, was that what he had read out, was an amplification of details that should be contained in the Bill.

I would have thought that what is contained in the Bill here is an abbreviation of what you have read out, and that was what the Deputy Speaker was saying, that it is too open-ended; If we were going to give that kind of powers to the Auditor-General, and

there would be uncertainty; there would be uncertainty in that, it would now be left with the Auditor-General at his/her whim and caprices, to come up with new guidelines. So for that reason Honourable Member, I have seen agreement between the Deputy Speaker and your good self. Now, let me turn to you Mr Minister; Mr Minister, you have heard the exchanges across the aisle, what is your preference?

**THE MINISTER:** Just I wish my preference matters here *[laughs]*, in the circumstance. If it does, with the opportunity I have had with the legal Draftsman, he still believes that people who are appointed to those positions of trust, are usually people of undiluted integrity; people we should be able to rely on. He believes that once it is read, you do not necessarily have to elucidate on each and every one of those functions here, but to read it in consonant with some other provisions that relates to auditing of Public Sector Organisations; that was what he thought. Because I have read other Cybercrime Legislations in Ghana for example, there are about 47 or more pages, only South Africa has [72] pages, we are already at 71 page and more because, some of the things that should have been read in consonant, we are ensuring that we put them in the Bill. Again, it is a culture thing; I cannot vouch for it here.

**THE CHAIRMAN:** that is the norm; but tell me Honourable Member, because I know you have been doing some research on this; in terms of records-keeping, do you have other versions?

**HON. DANIEL B. KOROMA:** Yes Sir, I have others.

**THE CHAIRMAN:** Which was not amplified to the same extent, as that of the Guma Valley Bill?

**HON. DANIEL B. KOROMA:** In fact, I have referred you to the National Records and Archives Act, 2017.

**THE CHAIRMAN:** What does it say?

**HON. DANIEL B. KOROMA:** It is saying the same thing because of the importance of this provision. I can read it or let me give it to you; because I do not want you to think that I am taking it from other source [*presents the documents to the Chairman*].

**THE CHAIRMAN:** Honourable Members, I have looked at the National Records and Archives Act. It is more or less the same set of provisions as read earlier from the Guma Valley Act. Can I have your attention, please? Can I have your attention?

Honourable Minister, I have seen the provisions contained in the National Records and Archives Act, which is more or less the same as contained in the Guma Valley Act. Frankly, I would have been tempted, I would have been inclined to accept an abbreviated version because of the extent of this Bill. It already runs into 70 to 71 pages as it is. But if we are to extrapolate these provisions and add them here, we are looking at 72 to 73 pages [*Undertone*]. I am coming, I am coming; but that does not frighten me. However, I cannot ignore the opinion of the Chairman of the PAC because, he is the one dealing regularly with the Auditor-General, and his opinion matters in this particular case. And if he believes we should incorporate provisions of this nature into this Bill; I would see no objection to that.

**HON. MATHEW S. NYUMA:** We are talking about ICT.

**THE CHAIRMAN:** I.C.T?

**HON. MATHEW S. NYUMA:** We are talking about ICT; Information Technology, Cyber Security and so on. So we should take similar line of action that deals with the same sector under the purview of the Ministry.

**THE CHAIRMAN:** Okay.

**HON. MATHEW S. NYUMA:** So as he said, there is a summarized version in the NATCOM Act which I think...

**THE SPEAKER:** An abbreviated version?

**HON. MATHEW S. NYUMA:** Yes; which can give some guiding principles to the Auditor-General.

**THE SPEAKER:** Okay

**HON. MATHEW S. NYUMA:** *[Undertone]* I am going to do that. 2006 NATCOM Act, page [13], No. [9], Section [17]:

1. The Commission shall keep proper Books of Account and proper Records in relation to them in a Form approved by the Auditor-General.
2. The Books of Account kept under Section [1] shall within three months after the end of each Financial Year be audited by the Auditor-General, or an Auditor appointed by him.

[a] The acquisition or operation by any person, for his own use or solely for the purpose of the business.

So they are saying, this provision can give some guiding auditing reporting in terms of report when you are audited; so you cannot just say I will provide guidelines because, they have given the Auditor-General the power to appoint somebody to audit as the case may be. So within that audit period, they can give guidelines if they want to.

**THE CHAIRMAN:** Well, you know what you have now demonstrated between you and the Honourable Member from Koinadugu? You have clearly now demonstrated that there is no hard and fast rule about this, there is no clear formular; it varies from Act to Act.

**HON. MATHEW S. NYUMA:** Yes, that was what I have done; but what is more unique about this one is that, this is just like a Trust Fund. The one that you were talking about was a Fund given from the Consolidated Fund; this is like a Trust Fund. If you go back to Section [6], it is like a Trust Fund *[Undertone]*. Yes, you needed your Account to be audited, that is all what you need. Within the ambit of auditing, you can bring out the guidelines - that was what the Drafter was telling the Minister; that within the audit period, you can bring out the guidelines that you wanted to use.

And what you are saying sometimes, is the leverage and respect you give to the office. Giving the credibility to the individual in question, that has nothing to do; it is the title of the office that you are addressing because, even the Constitution makes provision

for an Auditor-General so that is what we are looking at. Because this is a Trust Fund, which is not as detailed as he had explained, so it varies; and you are seeing NATCOM giving us a different version of it, so we just have to toe the line of NATCOM. The Auditor-General cannot just do things as he or she likes.

**THE CHAIRMAN:** I wish frankly, if our Draftsmen had been consistent all along; by having the same formulation in every Bill that comes before Parliament, we would not have been faced with this; but it seems to be varied from Act to Act.

**HON. MATHEW S. NYUMA:** I am not defending them but I think, if they had followed the spirit coming from the Constitution that they should do auditing. But if you look at Audit; for every audit, the Auditor-General gives out guidelines.

**THE CHAIRMAN:** Okay let me come. As I said, my personal inclination I must confess, I always use this quotation "Brevity is the soul of wit"; I like being brief. I am always inclined to be brief, but brevity does not mean I am sacrificing quality, or I am sacrificing any principles. But again, I have to pay deference to you Deputy Speaker [DSPK] because you are the one who is currently the Chairman of Public Accounts Committee [PAC]; you are dealing with the Auditor-General and the audited Accounts all the time.

**HON. SEGEPOH S. THOMAS:** Yes, Mr Chairman.

**THE CHAIRMAN:** If you say the formulation in the Bill before us is inadequate, it needs further amplification; I mean we cannot but pay deference to you. If on the other hand you are satisfied as I am inclined to be satisfied, then well and good.

**HON. SEGEPOH S. THOMAS:** Mr Chairman, I do not want this House to risk a situation where one day we would tend to bring the Auditor-General here for doing her job. We cannot give the Auditor a blank Cheque that is dangerous; this is a blank cheque, we cannot. Let us give her guidelines; it is in our interest and in the interest of the Institution itself otherwise, we would be bringing her here someday to question her for doing her job *[Undertone]*.

**THE CHAIRMAN:** Let me listen to the Methuselah of the House.

**HON. P. C. BAI KURR KANAGBARO SANKA III:** Mr Chairman, some of these things that we are arguing about... may I have the attention of Members of Parliament please?

**THE SPEAKER:** Order! Order! Order!

**HON. P. C. BAI KURR KANAGBARO SANKA III:** Mr Chairman, this morning I was thinking if it is in America. What we are arguing about here has nothing to do with Cyber Crime, it has nothing to do with Cyber Security; it is purely a matter of directives about the auditing system. What I want to be included in this particular Section which was raised by the Honourable from Koinadugu was that; the report should be sent to Parliament under Section [6].

Mr Chairman, the Auditor-General's Office is a professional Office, we cannot limit it; nothing can stop her because the system is changing, modernity is taking place... *[Undertone]* and what are the guidelines, if you say the records should be sent here? The records... you are just giving her more powers *[Undertone]*. When you say audit, it is audit; they have their own set of rules to follow. Who are we as Parliamentarians, to limit... *[Undertone]*; but you cannot make a law to deprive the professional aspect of the person performing the job. The Auditor-General will never go beyond what is normal; otherwise, he or she is not professional. What you read here this morning my learned Lawyer, is an Act of Guma that has taken place so many years *[Undertone]* Maybe, before 2017*[Undertone]*.

**THE CHAIRMAN:** do not allow that to distract you Chief; Chief what is clear is that, there is no consistency in the various Acts.

**HON. P. C. BAI KURR KANAGBARO SANKA III:** Mr Chairman, I agree with you absolutely. I would ask the Minister for the sake of progress; that whatever conclusion they might want to add let it be added, so that we can move on. Because he is not going to accept.

*Suspension of S.O 5 [2]*

*[Question Proposed, Put and Agreed to]*

**THE CHAIRMAN:** The rate at which we are going is so slow that, if notice is not given, we shall be here till midnight.

**HON. P. C. BAI KURR KANABARO SANKA III:** This particular aspect is not going to make the Cyber Crime... *[Undertone]*

**THE CHAIRMAN:** Well tell your colleagues...

**HON. CHERNOR R.M BAH:** No, no, no, let us work; these things take three months...

**HON. MATHEW S. NYUMA:** Mr Chairman, I have had discussions with the Chairman of the Public Accounts Committee [PAC], and we have agreed to use the NATCOM Provision.

**THE SPEAKER:** NATCOM?

**HON. MATHEW S. NYUMA:** Yes, the NATCOM Provision.

**THE SPEAKER:** And what does it says, can I see it?

**HON. MATHEW S. NYUMA:** Yes. Can we read that one, so we can include the provision made by the Paramount Chief?

**THE SPEAKER:** Where is it?

**HON. MATHEW S. NYUMA:** He is bringing it to you; Section [17]. They have given a specific guideline; three month's audit and the report is a Cyber Security issue, I do not know whether we need to lay the report in Parliament. That is the only limitation I have.

**THE CHAIRMAN:** there should be an Annual Report.

**HON. MATHEW S. NYUMA:** Okay. So that will be the A, B and C, Chief; is that what you proposed? Chief, you were talking about laying of the Annual Report.

**THE CHAIRMAN:** Okay, although I have not heard from others, let me read out what is contained in Section [17], Sub-Sections [1] and [2];

The Telecommunications Act 2006, and please do not argue that yours is more recent *[laughs]*. I am pre-empting, I know you are already set to tell me that *[laughs]*.

- *The Commission shall keep proper Books of Account, and proper records in relation to them, in a form approved by the Auditor-General;*
- *The Books of Account kept under Sub-Section [1] shall within three [3] months after the end of each Financial Year be audited by the Auditor-General or an Auditor appointed by him.*

That is it [*Undertone*]; it is not just the Audit Report that should be laid, there should be Annual Report from the centre, including the audited Accounts. So three would be;

[It would be formulated by the Draftsman but along the lines], *that the Centre will provide an Annual Report to Parliament including its audited Account.*

Are you happy with that? Okay, [*Undertone*] then incorporate it; blend the two, so that we can make progress.

It says here; *the company shall within four [4] months after the end of the Financial Year, submits to the Minister a report on the performance of its functions, during that year and on its policy and programmes. The Annual Report shall include the Accounts and Annual Financial Statement prepared under that.*

I think it is better to say the report and audited accounts. So please draft something now for us to deal with. So whilst doing that, can we move on to Parts [vii]? Let us gain some momentum now on that page, 16. The only issue I have Mr Minister, is in sub-clause [2]: it reads; 'A President shall order, made under Sub-Section [1], shall prescribe minimum standards, guidelines, rules or procedures responsibly required in respect of...' and then you have a few things enumerated. I would have thought 'is **reasonably**' instead of '**responsibly**.' I do not know what the Draftsman has to say.

**THE MINISTER:** No objections to that, we can carry it and move forward.

**THE CHAIRMAN:** Okay, thank you. Page 17? Mr Chairman, Page 16.

**HON. DR MARK M. KALOKOH:** Page 16!

**THE CHAIRMAN:** 16? Yes.

**HON. DR MARK M. KALOKOH:** Page 16c

**THE CHAIRMAN:** Yes.

**HON. DR MARK M. KALOKOH:** The implementation of critical information systems.

**THE CHAIRMAN:** Yes.

**HON. DR MARK M. KALOKOH:** Even though there is no definition for Information System...

**HON. MATHEW S. NYUMA:** Are you sure?

**HON. DR MARK M. KALOKOH:** I am pretty sure.

**HON. MATHEW S. NYUMA:** Are you sure?

**HON. DR MARK M. KALOKOH:** You can check it over... so I am asking that we have a definition for 'Critical Information Systems' and how we are to determine it in this circumstance; because, we also have Critical National Information Infrastructure.

**THE MINISTER:** If you check page 2 of the document you have before you, Critical National Information Infrastructure means: *'Computer Systems that are necessary for continuous delivery of essential services that Sierra Leone relies on, the loss or compromise of which will lead to debilitating impact on:*

- a. The Security Sector, Defence on International Relations of Sierra Leone, the existence... it goes on to [d] Sir, thank you.

**THE CHAIRMAN:** Are you now satisfied?

**HON. DR MARK M. KALOKOH:** Mr Chairman, I am not satisfied because, what the Minister has just read is quite different from 'Critical Information System'. What he has read is 'Critical Information Infrastructure'.

**THE CHAIRMAN:** what are you saying?

**HON. DR MARK M. KALOKOH:** The system is quite different. Yesterday when we were arguing about programmes of this sort; he said the infrastructure is quite different from programmes. So how can we now adopt 'Information System' to that of 'Information Infrastructure'?

**THE CHAIRMAN:** So you want a definition?

**HON. DR MARK M. KALOKOH:** Yes, if possible.

**THE CHAIRMAN:** Formulate one in the meantime and give it to us [*undertone*]. This would not hold up any progress.

**HON. DR MARK M. KALOKOH:** Mr Chairman,

**THE CHAIRMAN:** Yes; formulate and submit it. Page 17?

**HON. DR MARK M. KALOKOH:** We cannot move like that Mr Chairman. Yesterday, I cautioned the way we were moving.

**THE CHAIRMAN:** I am moving this Train, and it will be going with some velocity now.

**HON. DR MARK M. KALOKOH:** Mr Chairman whilst we respect that, can you also respect our own inputs into this document?

**THE CHAIRMAN:** I am respecting you, I have given you the option; draft it.

**HON. DR MARK M. KALOKOH:** Well give me some time, I will draft it.

**THE CHAIRMAN:** Okay, you have that time.

**HON. DR MARK M. KALOKOH:** Alright! We would be coming back to that point

**THE CHAIRMAN:** Page 17?

**HON. ABDUL S. MARRAY CONTEH:** Yes, Page 17, Mr Chairman.

**THE SPEAKER:** Yes.

**HON. ABDUL S. MARRAY CONTEH:** I want to draw our attention to Clause [8]; there are some wrong referencing; *'a Presidential Order made under Sub-Section [1] of Section [7] may require, the National Computer Security Incident Response Team established under Section [2],* instead of what we currently have in there.

This is because when we check it, it was under Section [2] page 12; that is where the National Computer Incident Response Centre was established.

**THE CHAIRMAN:** So it should be under Paragraph [C]?

**HON. ABDUL S. MARRAY CONTEH:** no, no; we have moved from there, we are talking about [7] now, because the numbering has changed. It is under Audit and Inspection of Critical National Information and Infrastructure, that is the side note.

**THE CHAIRMAN:** So give us the reference now.

**HON. DANIEL B KOROMA:** It cannot be in a section, because sections have no paragraphs.

**THE CHAIRMAN:** No, hold on, hold on. Can you give us the correct reference?

**HON. ABDUL S. MARRAY CONTEH:** Yes, if we now check Section [2], because we now have Section [3] here, but if we check Section [2], Section [3] is the wrong reference, Section [2] is where we have: '*a National Computer Security Incidence* - that was where it was established. So, instead of Section [3], it is section [2].

**HON. DAINEL B. KOROMA:** Yes, I agree with the Section, but in Clause [8] page 17, it refers to Paragraph [3] of Section [3].

**HON. ABDUL S. MARRAY CONTEH:** Yes, all of which should be removed; that is what I am saying.

**HON. ALPHA A BAH:** So that is a suggestion; for us to delete all of that, and then referred to Section [2].

**HON. ABDUL S. MARRAY CONTEH:** It is just Section [2], no other section.

**HON. ALPHA A BAH:** Section [2].

**THE CHAIRMAN:** Under Section [2]?

**HON. ABDUL S. MARRAY CONTEH:** It is just under section [2]; all the rest should be deleted.

**THE CHAIRMAN:** No, what are you calling? You are asking for certain words to be deleted?

**HON. ABDUL S. MARRAY CONTEH:** Yes, because now it is...

**THE CHAIRMAN:** No, no, be specific! Which words you want to be deleted?

**HON. ABDUL S. MARRAY CONTEH:** The words: "*by the coordinating body under paragraph C of Section [3]*"- all of those wordings should go out. '*Under Section [2] of this Act*' should now remain.

**THE CHAIRMAN:** So give us a rendition of your new version.

**HON. ABDUL S. MARRAY CONTEH:** Now, '*a Presidential Order made under Sub-Section [1] of Section [7] may require the National Computer Security Incident Response Team, established under Section [2] of this Act; to audit and inspect any critical national information infrastructure at any time to ensure compliance with the provisions of this Act*'.

So, what should be deleted is, '*by the Coordinating body under paragraph C of Section [3]*'.

**THE CHAIRMAN:** So, 'established under Section [2] to audit and inspect any....'

**HON. ABDUL S. MARRAY CONTEH:** Critical National Information Infrastructure at any time, to ensure compliance with the provisions of this Act.

**THE CHAIRMAN:** Fine, good; is that all?

**HON. ABDUL S. MARRAY CONTEH:** Yes, Mr Chairman.

**THE CHAIRMAN:** Page 18? Page 18? Page 18, at the bottom; I see the word 'Police Officer' crept in maybe inadvertently, it should be '*Enforcement Officer*', not so? The last Paragraph talks about '*Police Officer*'; it should be the '*Enforcement Officer*'. Am I correct? Delete the word '*Police*'; Page 18, the bottom paragraph. Page 19?

**HON. ABDUL S. MARRAY CONTEH:** Yes, Mr Chairman, Page 19, Paragraphs A, B and C, we have the word '*Conveyance*' which is not adding any value to what we have there; so we would have to move for the word '*Conveyance*' to be deleted [*Undertone*]. In fact, it has been a distraction.

**THE CHAIRMAN:** So it should now read; "*if within those premises or place*"?

**HON. ABDUL S. MARRAY CONTEH:** Yes, Mr Chairman.

**THE CHAIRMAN:** So where does it appear?

**HON. ABDUL S. MARRAY CONTEH:** Paragraph B, we have '*search any person...*'

**THE CHAIRMAN:** or Conveyance

**HON. ABDUL S. MARRAY CONTEH:** Conveyance again, we delete it.

**THE CHAIRMAN:** Where again?

**HON. ABDUL S. MARRAY CONTEH:** Paragraph [C]

**THE CHAIRMAN:** Conveyance?

**HON. ABDUL S. MARRAY CONTEH:** 'top/bottom search anywhere where there is evidence of the Commission of an offence...'

**THE CHAIRMAN:** Fine, where again?

**HON. ABDUL S. MARRAY CONTEH:** So far, that is it; and wherever we happen to find it [*Conveyance*] again, we should delete.

**THE CHAIRMAN:** Thank you. Page 20? [*Undertone*], Page 21? Page 22?

**HON. DANIEL B. KOROMA:** Mr Chairman, page 21 Sir; Sub-clause [5] at the bottom. Mr Chairman, we were not unanimous on this, and I would really want an opportunity for another explanation since we as a Committee, were not unanimous; we did not agree on this point.

And with your leave, may I read for the edification of the other members; we need further explanation on this. It reads: '*where an Enforcement Officer or other authorized person, authorized to search or access a specific Computer System or part of it under Sub-section [2], has reasonable grounds to believe that the Data sought is stored in another Cloud Computer System, and there is reasonable grounds to believe that such Data is accessible from or available to the initial system, the Enforcement Officer or other authorized person may extend the search or accessing or to such other system or systems.*

Mr Chairman, our query for this is the implication; that once I secure a warrant from the High Court to search the System or the Phone or the Computer system belonging to 'A', and during that search of A's Computer, I discover an implication or somebody else's information regarding B, C and D; that person does not need any more warrant to go to B, C and D. But we are saying, for every search of any individual; you need a warrant.

**THE CHAIRMAN:** No, this one is establishing a nexus.

**HON. DANIEL B. KOROMA:** No, no, no, it has nothing to do with the Warrant. The Warrant here is saying; you can use a single warrant to serve even hundred people as long as there is a nexus and for us, we are not comfortable with that. They provided some digital explanation, which we did not understand and hence, did not accept; we were not unanimous on that.

**THE CHAIRMAN:** Okay, let us listen to the Minister.

**THE MINISTER:** Thank you very much Mr Chairman, Honourable Members. Since I started bringing this Bill here, I have been taking classes in Digital Literacy and more. So let me share my experience of the proper understanding of this Bill.

On many occasions people have problematized this Bill, they have made it scandalous and everything. The Clause read simply means this:

*Where an Enforcement Officer, or other authorized person, authorized to search or access a specific Computer System or part of it under Sub-Section [2], has reasonable grounds to believe that the Data sought is stored in another Cloud Computer System and there is reasonable grounds to believe that such Data is accessible from or available to the initial system, the Enforcement Officer or other authorized person may extend the search or accessing such others...*

So, let us first establish the fact that, I was in the room when this debate happened; some explanation was given, so we did not leave the room disunited. But again, the Honourable Member has the right to think the way he now feels; no problem. But the fact of the matter is this; now being a digital world, we carry Computers or handset

where we do not have our Data domicile; the Data there is normally hosted in the Cloud, or somewhere else so the wording is very, very clear. If upon searching Rado Swarray's Computer for example, you do not find evidence there but you have now discovered that he can access anything in the Cloud from that same Computer; we are saying you can use the available warrant to follow up wherever Rado Swarray's Computer can access Data. It is not saying you would come into a room like this and just seize everybody's Computer; that is not what it is saying and for God's sake, it cannot be extraneously interpreted to mean that. It is strict; straight-forward and what have you.

**HON. DANIEL B. KOROMA:** Mr Chairman,

**THE CHAIRMAN:** I am sure you are happy with that explanation?

**HON. DANIEL B. KOROMA:** I am not happy with that, Sir.

**THE MINISTER:** This is not the first time he is getting that explanation, this explanation has been given one million times over.

**HON. DANIEL B. KOROMA:** Mr Minister, I am on my legs. Mr Chairman, we are not objecting in any way or form, to further access or further search, no!

**THE CHAIRMAN:** You are saying there should be another Warrant?

**HON. DANIEL B. KOROMA:** another Warrant, simple.

**THE CHAIRMAN:** Oh no!

**HON. DANIEL B. KOROMA:** Otherwise, you cannot use a single Warrant to target hundreds of people.

**THE CHAIRMAN:** If in procuring the second Warrant, you run the risk of losing the Data that is being sought?

**HON. DANIEL B. KOROMA:** Mr Chairman, you cannot lose that; as long as you have evidence that, that Data is stored; you have got the evidence already.

**THE CHAIRMAN:** Then you are introducing an element of delay here.

**HON. DANIEL B. KOROMA:** which delay, delay in what?

**HON. SEGEPOH S. THOMAS:** Mr Chairman, I just wish to inform my friend that, that is why we are passing this particular provision to fill whatever gap or loophole we are talking about. That is why we are passing this Bill to correct that gaps.

**HON. CHERNOR R.M BAH:** Based on the explanation I just heard from the Minister, it is contrary to what I am hearing now from colleagues and yourself, Mr Speaker; he is referring to the same subject but the source. But you and other colleagues are giving an impression that it would give access to further search in other premises and that is not what the Minister is saying. That is why this clause seems to be cloudy [*Undertone*], no let me finish; that is not what the Minister was saying. What the Minister was talking about was that, it has to be connected with you; you cannot leave my house and go to another house, so that is not what he is saying.

**HON. DR KANDEH K. YUMKELLA:** Honourable Maju Bah can you yield to me, can you yield Sir?

**HON. CHERNOR R M BAH:** Okay, because I want us to get that clear; what the Minister is saying is different from what...

**THE CHAIRMAN:** Leader, hold on a minute, let me listen to Honourable Kandeh Yumkella.

**HON. KANDEH K YUMKELLA:** I was there in the Pre-ledge over this argument. I think the worry is, leaving one premise and going to another; if it is one search, this is fine. So I think the solution Mr Speaker, is at the bottom of Page 5, the last sentence there; *the Enforcement Officer or other authorised person may extend the search or accessing to such other systems within the same premise.*

If we put that, we would stay within the building so that you can search any computer of people who are there. The worry of the citizens would be, because this is not only the Pre-ledge, it is also the worry of ordinary citizens as to the time you leave... because you have taken the 'search warrant' for a location. If we add here "*within the same premise*", you would have solved your problem.

**HON MATHEW S. NYUMA:** Mr Chairman, we are not saying we are searching premises. Systems are connected via Wireless, via Networking; so what is happening is that, if I come here to investigate on this system, maybe it is connected to another system through Hi-Cloud, it is the same search that is going on. So you would have access to go into that system and carry out the investigation. Premises and systems are different. Let me tell you Mr Chairman, if there is a system in this premise.

**THE CHAIRMAN:** Do not belabour the point; I understand it, does he? Do you now understand? Let me address the Honourable Member that raised the issue.

**HON. ALPHA A BAH:** Mr Chairman, we were in this together, I was right in the middle of this controversy at the Committee Stage. So please Mr Chairman, with your leave, let me be heard.

Firstly, may I just point out that the reason behind the Chairman's suggestion that we remove provisions relating to conveyance, premises emanated from this controversy; I stand to be guided. My concern then was that, yes, they provided explanation that they will be searching systems, then I pointed out that in the event a particular system is being hosted within this premises and then during the search it leads to another system being hosted in another premise, and you would still want to use this same search warrant to gain access into other premise, or premises? I think... *[Interrupted]*

**THE CHAIRMAN:** No, no, to gain access into the other system

**HON. ALPHA A. BAH:** But you cannot gain access into that system without entering even the premise, Mr Chairman! That was how this whole controversy started.

**HON. SEGEPOH S. THOMAS:** That will be unreasonable. If we require a warrant for every system that would be unreasonable; in fact, that is practically impossible, because some of these investigations...

**THE CHAIRMAN:** And a recipe for the evidence to disappear.

**HON. SEGEPOH S. THOMAS:** Certainly. Mr Chairman, by the time you rush to get another Warrant, they would have tampered with the system. It is practically impossible.

**HON. ALPHA A. BAH:** Mr Chairman, *[Undertone]* just a second please; another scenario was that, they have tried to convince us that they would be searching systems, correct; we have no problem in helping with the search process and for it to be extended to systems, as long as they are connected or they have nexus during the search. But we are saying this has legal implications; it has legal implications.

**THE CHAIRMAN:** Honourable Member, Honourable Member,

**HON. ALPHA A. BAH:** Yes, Mr Chairman.

**THE CHAIRMAN:** You would lose its spontaneity there, and the danger you would run into is that, you would create a recipe for the evidence to disappear.

**HON. ALPHA A. BAH:** How about reconciling that danger of losing its spontaneity, with the liberty and right of the other individual *[Interruptions]*?

**HON ABDUL KARGBO:** Mr Chairman, there are two things involved; firstly, we should establish that it is possible that a system would be hosted in another premise - that is possible; and also, it is possible that a system would be hosted in a Cloud. So, our responsibility here now is to distinguish between when the system is not hosted in another premise, and when it is in the Cloud; we would access it without another Warrant. But when you have to enter another premise and another infrastructure, you would take a Warrant; so you would have to go back for a Warrant.

**THE CHAIRMAN:** Wait a minute, let me ask you; what mischief are you trying to avoid?

**HON ABDUL KARGBO:** Because,...

**THE CHAIRMAN:** No, no, wait! Not because..., what mischief are you trying to avoid?

**HON. ABDUL KARGBO:** It is an abuse on the individual's right to be unwarrantedly searched.

**THE CHAIRMAN:** Balance that against the disappearance of vital evidence.

**HON ABDUL KARGBO:** But again, you have to respect the individual's right. You do not just barge into somebody else's premise.

**HON MATHEW S. NYUMA:** Mr Chairman, Point of Order! I think if we can go back to the Convention for the definition of 'systems', it can help us. We are not talking about premise [*Undertones*]. Mr Chairman, we are not talking about premise, we are talking about systems. So one 'Search Warrant' can be used for a continuation of the systems connected. But how can you understand this [*Undertones*]? Point of order, please; let us have some debate around this.

Mr Chairman, it is very clear; perhaps... let us not confuse ourselves here. If you are going for a search to a premise connected to another system, you must go for a clearance; but we are talking about one search. For example, you are given a Search Warrant to go and search a system, not a premise. But let us look at the definition of a 'Computer System' from the Convention.

Mr Chairman, let me read; Computer system means: *'any device or a group of interconnected or related devices, one or more of which, pursuant to a programme performs automatic processing of Data'*.

**THE CHAIRMAN:** What definition is that?

**HON MATHEW S. NYUMA:** That is Computer Systems.

**THE CHAIRMAN:** We are not going to use that, we would use a better one [*Undertone*] hold on. There is a better definition.

**HON MATHEW S. NYUMA:** Oh you have the better one there?

**THE CHAIRMAN:** It is in the very Bill that we have accepted Computer System to mean: *'any physical or virtual device or any set of associated physical or virtual devices, or a group of interconnected or related devices; one or more of which pursuant to a programme, performs automatic processing of Data, at least one of which uses electronic magnetic, optical or other technology to perform logical' etc., etc.*

It is so simple, what are we arguing about? Professor Yumkella, give us the solution.

**HON DR KANDEH K. YUMKELLA:** Mr Chairman, I was involved in the fight over this as well. The definition that the Honourable Leader of Government Business gave is clear to everybody. Once systems are interconnected, you can search; you do not even need a Warrant to go somewhere else fine; with that given, what we need is a proviso. Mr Chairman, to make sure that we clear the minds of citizens about the worries to get a Warrant, and then whilst searching premise A, you found out that this Computer has been engaging in conversation with another Computer, for example in Kono, *[Undertone]* no, let me finish. Alright, in Ketchum, in Kambia...

**THE CHAIRMAN:** Use Gbinty, use Gbinty.

**HON DR KANDEH K. YUMKELLA:** Let me use Gbinti to make the clarity. If you can access that Computer from where you have the Warrant for, or your headquarters; no problem. What we want to protect is, the right of the citizens; so if you say because I now have a Warrant to search this house where I have found connection in Gbinty, I would then take my Warrant, jump in a vehicle quickly and go to Gbinty because I need that Computer; that is abuse of human rights or privacy - that is what we want to protect.

**THE CHAIRMAN:** No, Professor,...

**HON DR KANDEH K. YUMKELLA:** If I can land Sir; let us provide a proviso *[Undertone]*, if I may, Sir.

**THE CHAIRMAN:** I am sorry, I would have allowed you but your predication is wrong. Look at Sub-section [5], it is not predicated on premises but on systems.

**HON DR KANDEH K. YUMKELLA:** Nevertheless, we accept. Mr Chairman, I want to finish. Let me finish my argument, Honourable Hassan with your permission, Sir.

Therefore, since you and I know it is limited to systems; we do not want to leave any doubt for the future. We need to ensure therefore, that wherever we seek a Warrant, that Warrant should be limited to a specific location.

**THE CHAIRMAN:** No, the Warrant would be related to a system, not a place.

**HON DR KANDEH K. YUMKELLA:** But Mr Chairman, you are leaving it open in the future for one Warrant to be used anywhere; Mr Chairman, that is what we are objecting to. The Warrant will be applicable anywhere in the country, so what would a crooked Leadership do? They need to go after Mr A, all they have to do is making sure that they know Mr A's cousin in Kailahun and say hey, we are searching your house and with that Warrant, we will come to Freetown to go after Mr A; that is the protection we are looking for; we need that protection.

**HON MATHEW S. NYUMA:** Mr Chairman, Point of Order. In the first place, we have not used the word 'premise'.

**THE CHAIRMAN:** Exactly, it is predicated on the system.

**HON MATHEW S. NYUMA:** why are we asking for the Warrant? It is for the Warrant to allow the Professionals to go into the system. They are not going to premises; let me tell you categorically, they can be at NATCOM or anywhere.

**THE CHAIRMAN:** Or they can be at Cotton Tree.

**HON MATHEW S. NYUMA:** They are not going to premises, the technology is connected; there is what we call 'ISP' for Computer description. They can stay here, or you go to NATCOM, using my own name and Telephone number and they can tell you all the conversations I have done relating to another phone; the calls I have made, they can connect you to all the phones that I have made calls on so they do not need to go to my premise. Why are they doing that? For privacy sake, they are asking for that Warrant so that they can have the right to go into my system. We are now going virtual - that is the word "virtual". They are not going into a premise; they can stay anywhere in the world to investigate you via a system, not a premise.

**THE CHAIRMAN:** Alright, thank you. I think we have heard enough, we have heard enough. Let me draw your attention again to the wording, the wording; the actual wording of Sub-paragraph [5]. Let us look at it together: *'where an Enforcement Officer or other authorized person authorized to search or access a specific Computer System*

*or part of it, [it is not talking about premises but a system] under Sub-Section [2] has reasonable grounds to believe that the Data sought is stored in another Cloud Computer System, [we are still talking about systems] and there is reasonable grounds to believe that such Data is accessible from or available to the initial system, the Enforcement Officer or other authorized person may extend the search or accessing to such other system or systems'.*

Throughout that paragraph the word '*place*', the word '*residence*' is not used.

**HON. DR. KANDEH K. YUMKELLA:** 2[a], 2[a] says; Mr Chairman, if I may read 2[a]. 2[a] says: A Warrant issued under Sub-Section [1] shall authorize an Enforcement Officer or other authorized persons;

a. *To enter and search any premises or place if within those premises...*

So it is already saying, the Warrant is allowing people to enter premises, we do not want a Warrant for Mr **A** in Freetown to allow them to go to Mr **B** in Kailahun or in Ketchum - that is our worry.

**HON. ALPHA A BAH:** Mr Chairman in summary, this provision can be abused by crooked Enforcement Officer. Mr Chairman as Law-makers, we must be mindful of the fact that we want to make Laws that can stand the test of time. And as it stands now Mr Chairman, if you say...

**THE CHAIRMAN:** I think we have ventilated enough. Mr Minister [*Interrupted*].

**THE MINISTER:** Thank you very much Mr Chairman. I am very excited that this debate has generated so much points.

**THE CHAIRMAN:** But you know it is because we are dealing with a very novel entity?

**THE MINISTER:** Yes, so I understand; this is an uncharted territory, so everybody is learning together. So if you read further down, I understand the reservations, the misgivings, we have had a long history that are not so pleasant in dealing with various categories of Law Enforcement Officers; if you go further down to Section [7] for

example, we are now moving forward just to give all of us the comfort; because this Bill entails the future of Sierra Leone.

Page 22, next one; *'an Enforcement Officer or other authorized person shall only seize a Computer system under Sub-Section [2] when it is not practical to secure the Computer Data', right [Undertones]*. What I want to say is that, if you go to Section [8] downwards on page 22, 'an Enforcement Officer or other authorized person who intentionally, recklessly or negligently misuses the powers granted under this Section commits an offence and is liable on conviction to a fine not less than **Le 10Mln** and not more than **Le 50Mln**, or to a term of imprisonment...

**THE CHAIRMAN:** Honourable Member from Koinadugu, is that not a sufficient safeguard?

**HON. DANIEL B. KOROMA:** No way, no, it is not sufficient Sir.

**THE MINISTER:** we have all put this together with the very Members who are now...

**THE CHAIRMAN:** Is this not a sufficient safeguard here, a safeguard against abuse?

**HON. ALPHA A BAH:** We had our reservations, we had our reservations.

**THE MINISTER:** You were there, you were there, you put these together.

**HON. ALPHA A BAH:** No, we had our reservations regarding the 'Chain Warrant'.

**THE MINISTER:** No, no, nobody has issued a Chain Warrant here.

**HON. ALPHA A BAH:** You are using a Chain Warrant because you will use the same Warrant for different search purposes; you will have to use one Warrant for different search purposes.

**HON. OSMAN W. JALLOH:** Mr Chairman, can I come in Sir, please?

**THE CHAIRMAN:** No, no, no new person can come in now. No new person, no, no, no! I have heard enough. If you had not participated before, you will not come in now; because you will just be complicating the situation.

**HON. DR MARK M. KALOKOH:** Mr Chairman, if this document is ours, allow us to do justice to it, Mr Chairman.

**THE CHAIRMAN:** Leader of the Opposition, please help me.

**HON. CHERNOR R.M BAH:** Mr Chairman, it is difficult for me to help because I am still confused myself. I agree with you, and I agree with almost all what have been said; so it is just that I do not want to confuse 'Data' with 'Premises'.

**THE CHAIRMAN:** Correct.

**HON. CHERNOR R.M BAH:** But because Sub-Section 2[a] has included premises as one of the conditions that is going to be contained in the Warrant [*Undertones*]

**THE CHAIRMAN:** Allow the man to land, he is your Leader, you know.

**HON. CHERNOR R.M BAH:** Because Sub-Section 2[a] has premises contained in it,...

**THE CHAIRMAN:** So you want to substitute the word with system?

**HON. CHERNOR R.M BAH:** not to substitute, but probably maybe they can access the System or Data using technology from wherever they could. But if they have to go to another premise; if they have to, then there comes in a new Warrant for that premise. But if they can search the System from anywhere, they do not need an extra Warrant to search the System; they do not. But if they are going to another premise to continue accessing the system, then they need a Warrant for that. Otherwise, it will contravene other existing Criminal Laws because Warrants are specific [*the Draftsman is here, he can help*]. But I agree with the Leader of Government Business; you can access Data from anywhere.

Mr Thompson is here, he knows that is Criminal case, which are opposite to these Laws, when you issue a Warrant, you issue a Warrant for a specific premise; you do not issue Warrant open-endedly. That is why even for the Data here, the Clause is talking about the Data and because the Data has a chain; it is continuous, that is why one Warrant is accepted to access this Data, but from technology.

**THE CHAIRMAN:** But I am sure you will agree that Bill of this nature introduces new learning, new thinking?

**HON. CHERNOR R.M BAH:** But we do not have to contradict our Laws again.

**THE CHAIRMAN:** Away from the Orthodox understanding of the Law.

**HON. CHERNOR R.M BAH:** No, it is the Law. Thompson knows what I am talking about. So basically,...

**THE CHAIRMAN:** We are not talking about place here.

**HON. CHERNOR R.M BAH:** But Mr Chairman, you cannot use one Warrant to access two premises, you cannot use one Warrant to access....

**THE CHAIRMAN:** I think Sub-section [5] has skilfully avoided the word 'premise'.

**HON. CHERNOR R.M BAH:** No, no, no, it did not.

**HON. AJIBOLA MANLEY-SPAIN:** Mr Chairman, may I be heard? We have jumped somewhere that is why we are getting all these problems today.

**THE CHAIRMAN:** and tell us where.

**HON. AJIBOLA MANLEY-SPAIN:** In this document, the word '*Conveyance*' is mentioned three times in this chapter [*Undertone*]. No, if you delete '*Conveyance*' then you fall into problem, like what we are now doing. The word '*Conveyance*' is what some of us do not understand. In my transmission theory, the word '*Conveyance*' means; to convey Data, not the House Plan or other things. You convey information so [*Interruption*]...

**HON. MATHEW S NYUMA:** You do not convey Data, you traffic Data

**HON. AJIBOLA MANLEY-SPAIN:** Yes, you have transmission lines. You use them to convey. What is Data? Data is Dark Dos, that is all. Data is only Dark dos; that is the Medium, the base two binary is what you use to convey Data, it is what you use to convey information. This is where our problem is; you should not delete '*Conveyance*' because it is not a matter of Land. Please let us look at this document clearly.

**THE CHAIRMAN:** Okay thank you. Yes Mr Minister.

**THE MINISTER:** Mr Chairman, Honourable Members, *[Interrupted]*

**HON. MATHEW S. NYUMA:** Mr Minister, just a minute, please. Mr Chairman, you see, we are still missing the point. I have used the Convention for 'Computer System', because *[5]* is making reference to Computer Systems, I read the Convention and you have read the provision of the definition in the proposed Bill. This thing has nothing to do with premises *[Undertone]*; I am coming, let me come, wait. There is critical Infrastructure, go back to the Long Title. We are talking about '*Infrastructure*'. This one you are talking about is in Clause *[5]*. What you are saying is that, there is no need for you to go anywhere or premises to do a search. What they are saying, because this system is my private property, for the sake of privacy, I would ask for a Clearance as 'Search Warrant' so that I will have the authority to extend my warrant via virtual system that is interconnected. Talking on the issue of premise, you do not need premise anywhere as stated in Clause *[5]* *[Undertones]*.

**THE MINISTER:** Mr Chairman again, we all know that this is a fairly novelty; this is an uncharted territory; Cyber Security evidences are hugely volatile. We have also agreed that for the most part, people who perpetrate it are residents in the comfort and serenity of other jurisdictions. So, there is need to protect it in record time so that they are not obliterated, deleted or compromised.

So we have seen a situation here, and even as is it today; where 'Search Warrants' are given, so it is just general. But if you want to extend it, you would not have any reason for doing so. That is why when you make a request to the Judge, you have to:

- a. Indicate that you have reasonable grounds to believe that the evidence you are looking for is stored on Computer **A**, because in ICT it is possible you have the URL, you have other models they can give you. So that is very, very possible; it is not like in other instances. Of course whoever owns a Computer has to be a resident somewhere; so they have to be given a general Warrant, and once you get to that premise, you are only given additional fiat to follow up where the

original system lives; if it is in Virtual Space, resident or domicile in the United States in Silicon Hill, wherever you can. So our fears are over-blown; I rest my case.

**THE CHAIRMAN:** Do you want to move? Because we have got stocked here.

**HON KANDEH K. YUMKELLA:** Mr Chairman, can I give a proviso to help? I just want to help again. At the end of paragraph 5 Mr Minister, could we put in bracket, *[provided, accessing the other systems does not require a physical search]* If you put that you are covered, because you can access virtually as Honourable Mathew Nyuma has said; you can do that virtually.

What people are worried about is, moving from that one location physically. So I think if we just add a proviso in a bracket at the end of paragraph [5] say: *[‘provided accessing the additional system does not require a physical search’]*. Meaning, you do not have to move physically to another location because... *[Interruptions]*

**THE SPEAKER:** so do you want to put that in the form of a Motion?

**HON KANDEH K. YUMKELLA:** Yes sir.

**THE CHAIRMAN:** Okay move *[Undertones]*

**HON. DR MARK M. KALOKOH:** Mr Chairman, may I be heard?

**THE CHAIRMAN:** New entrants are not allowed *[Undertones]*.

**HON. DR MARK M. KALOKOH:** Mr Chairman, may I be heard?

**THE CHAIRMAN:** you are also a new entrants.

**HON. DR MARK M. KALOKOH:** I am not a new entrant Mr Chairman.

**THE CHAIRMAN:** on this one, you are.

**HON. DR MARK M. KALOKOH:** no, on this I am not.

**THE CHAIRMAN:** you are, you are.

**HON. DR MARK M. KALOKOH:** Mr Chairman, allow me to give my own point.

**THE CHAIRMAN:** No, no, no, you are a new entrant. I am not going to increase the numbers.

**HON. DR MARK M. KALOKOH:** Only few seconds, but let me make a point.

**THE CHAIRMAN:** No, I have not given you the Floor.

**HON. DR MARK M. KALOKOH:** Under your Watch, Mr Chairman, *[Interruptions]*

**THE CHAIRMAN:** Under my watch, everywhere; sit down, please.

**HON. DR. MARK M. KALOKOH:** Mr Chairman, under your watch, we do not want after we shall have left this place *[Interruptions]*...

**THE CHAIRMAN:** Honourable Member, take your seat.

**HON. MATHEW S. NYUMA:** I just spoken with the Minister, and he has agreed to add the provision made by Honourable Yumkella; and dealing with the business of the House, I believe compromise and consensus is reached *[Applause]*. So we can now add the proviso; Mr Minister, can you listen to him so you can take the necessary points and make the Move?

**HON. DR. KANDEH K. YUMKELLA:** Should I rephrase? 'Provided that, the additional systems investigation does not require a physical search of another premise'. The expert, is that okay?

**THE CHAIRMAN:** The Honourable from Samu, slowly read out your amendment.

**HON. DR. KANDEH K. YUMKELLA:** The additional system investigation does not require physical search of another premise. In which case, in which case...

**THE CHAIRMAN:** No, again? No, no, please.

**HON. DR. KANDEH K. YUMKELLA:** Let us not complicate it, let us leave it like that.

**THE CHAIRMAN:** It is a proviso you are putting?

**HON. DR. KANDEH K. YUMKELLA:** Yes, Sir

**THE CHAIRMAN:** Provided that, additional systems investigation does not require....

**HON. DR. KANDEH K. YUMKELLA:** 'Provided that additional systems investigation does not require physical search of another premise without a Warrant' [*Undertones*]. Mr Minister, are you okay with that proviso word?

**THE MINISTER:** The Team will try to put something together to resonate with the thinking.

**THE SPEAKER:** What I have written down is; the proviso proposed....

**HON. SEGEPOH S. THOMAS:** Mr Chairman, I have a counter Motion; that the provision remains as it is, that is my counter Motion. I move that the provision remains as it is [*Undertones*].

**THE CHAIRMAN:** Well, I have not yet.... Oh yes, I think yours was seconded by the Member from...

**HON. DR. KANDEH K. YUMKELLA:** It was not a Motion; it was a suggestion for the Experts. The Experts are willing to consider; they have thought about it, Mr Chairman.

**THE CHAIRMAN:** Yours was not a Motion?

**HON. DR. KANDEH K. YUMKELLA:** It was not yet a Motion, because we were still negotiating...

**THE CHAIRMAN:** Okay, then there is only one Motion?

**HON. DR. KANDEH K. YUMKELLA:** Yes

**THE CHAIRMAN:** Okay.

**HON. SEGEPOH S. THOMAS:** Then I move Mr Chairman, that the provision as it is remains.

**HON. DR. KANDEH K. YUMKELLA:** Mr Chairman, we do not want now to go into a vote because, the Experts are consulting.

**HON. SEGEPOH S. THOMAS:** No, let us go into votes and move forward Mr Chairman. Let us go into votes and cross this stage.

**HON DR. KANDEH K. YUMKELLA:** At this stage Mr Chairman, we are consulting. Give us five minutes to discuss with the Minister and the Experts.

**HON. DANIEL B. KOROMA:** According to the Minister, the Experts are consulting as to do the drafting.

**HON. SEGEPOH S. THOMAS:** Mr Chairman, no matter how you look at it, the State in matters of this nature must be given certain leverage; otherwise, we will defeat the very purpose of investigation. We would defeat the very purpose and the investigations would be very, very slow and limited; Mr Chairman.

**HON. OSMAN W. JALLOH:** Mr Chairman, I so second the Deputy Speaker's Motion.

**THE CHAIRMAN:** Honourable Members, to allow your consultations to bear fruit, the House will stand adjourned till 1: 30pm; for half an hour. We shall be back here in half an hour's time to resume; so continue with your consultations.

Mr. Speaker adjourned the House at 1:00p.m.

*The House resumed at 1:55p.m.*

**THE CHAIRMAN:** Mr Minister, have you reached the compromise or understanding with regards to Sub-paragraph [5]?

**THE MINISTER:** Mr Chairman Sir, we have been talking, I have asked the other Leaders to... I wanted to hear from the Leader of Government Business and his

colleagues, they are not here, but I can share with this House for your edification Sir, what prevails in other jurisdictions; just to demonstrate that we are going for the best deal for our country.

In a place like South Africa for example, there is even provision for oral application. I would read verbatim Sir, the South Africa Cyber-Crime Law: '*Oral Application for search warrant or amendment of warrant Section [28], an application referred to in Section 27[i] [a] for an application for the amendment of a Warrant issued in terms of section 27[i][a] may be made orally by a specifically designated Police Official; if it is not reasonably practicable, having regard to the urgency of the case or the existence of exceptional circumstances, to make a written application.*' That is South Africa, but we have made an improvement; 'an Oral Application referred to in Section [1] must:

- a. *Indicate the particulars of the urgency of the case or the other exceptional circumstances which in the opinion of the Police Official justifies making of an Oral Application.*
- b. *Comply with any supplementary directives relating to Oral Application issued by the Chief Justices in terms of Section 8[iii] of the Supreme Court Act of 2013.*

So Mr Chairman, we have come a long way with this Bill.

**THE CHAIRMAN:** But it has not reached finality?

**THE MINISTER:** Yes, I honestly...

**THE CHAIRMAN:** You have come a long way but you have not reached the destination?

**MINISTER:** Yes, so that is why we still want the bipartisan spirit.

**THE CHAIRMAN:** So let us stick a pin on it, and move forward.

**THE MINISTER:** Yes sir.

**THE CHAIRMAN:** Page 22? *[Undertones]* We will stick a pin on Sub-Section [5]. We reserve to come back to it.

**THE MINISTER:** Mr Chairman, Honourable Members, I am going to propose that we continue to make progress while consultations on Sub-Section [5] continues.

**THE CHAIRMAN:** That is what I am saying, continue your consultations on Sub-Section [5], but it should not delay us now. Page 22?

**HON. ABDUL S. MARRAY CONTEH:** Mr Chairman, sorry to take us back to page 20 which was almost the same as page 21, the second to last paragraph, Sub-Section [b]. I think we are missing one word; '**investigation**'. '*For the Purpose of an investigation, a search may be frustrated or seriously prejudice*'. I think we just need to add '**an investigation**'.

**THE SPEAKER:** The purpose what?

**HON. ABDUL S. MARRAY CONTEH:** 'For the Purpose of an investigation, a search may be frustrated... we just need to add '**an investigation**'.

**THE CHAIRMAN:** Okay, Page 22?

**HON. DR. MARK M. KALOKOH:** Mr Chairman, not on Page 22; you gave me an assignment and I want to report.

**THE CHAIRMAN:** Which assignment did I give you?

**HON. DR. MARK M. KALOKOH:** Thank you very much. You asked me to...

**THE CHAIRMAN:** Okay, you wait until I call on you

**HON. DR. MARK M. KALOKOH:** *[Laughs]* when are you going to call on me, Mr Chairman? I hope... *[Laughs]*

**THE CHAIRMAN:** Page 22? I have one - Sub-clause [9]; there is a word missing there. 'IN', in the third line from the bottom; 'and in the case of a cooperation', have you seen it? And in the case 'IN'. Page 23?

**HON. DANIEL B. KOROMA:** Yes, Page 23. Page 23, Sub-clause [2] of Clause [11].

**THE SPEAKER:** Yes

**HON. DANIEL B. KOROMA:** Sub-Clause [2] is saying that: 'when an authorized Officer deems it fit to seize certain Computer Accessories, whether a Laptop or an I-Phone or I-Pad or whatsoever, it is saying; if a request is made by the owner of those items for an inventory of those items, then it is incumbent on that Enforcement Officer... [Undertone] I am telling you the purport, I have referred you to Sub-Section, I am telling you the idea, the mischief.

**THE CHAIRMAN:** No, go straight to the point, please.

**HON. DANIEL B. KOROMA:** Sub-Section [2] of Section [11]. Let me read; '*subject to Sub-Section 3, an enforcement Officer or other unauthorized person shall on request permits a person:*

- a. *Who was in custody or control of a Computer system.*
- b. *Who has right to Data or information seized under Sub-Section 2 of Section 5, or acting on behalf of a person under sub-paragraph [a] or [b] to access and copy Computer Data on a system or give such person a copy of the Computer Data.*

So, this one is made mandatory for you to give that inventory. But when you go further to Sub-Section [3], it denies that mandatory option also, which to me is not correct. It says, '*an enforcement Officer or other unauthorized person may refuse...*' while under this one; Sub-Section [2], it say, '*you shall grant the request*'. But here again, it says you may refuse the request.

**THE CHAIRMAN:** Yes, but that Section is subject to Sub-Section [3].

**HON. DANIEL B. KOROMA:** No, it is not. How can Sub-Section [2] be subject to Sub-Section 3?

**THE SPEAKER:** That is what it says!

**HON. DANIEL B. KOROMA:** Well, that is discrepancy. It cannot be made mandatory in one area and then made discretionary in another area again - that is the discrepancy. In one area it is saying you have to give the inventory, and then in another area it says you may refuse to give the inventory; that is discrepancy. And as far as I am concerned, Sub-Section [2] should be withheld; once you have seized certain Computer Accessories, I would then request that you give a list of those Accessories seized, for record purposes *[Interruptions]*.

**HON. HINDOLO M GEVAO:** Mr. Chairman, Honorable Koroma, can we include 'may' instead of 'shall' so that it can be uniform as in Sub-Section [3]? Can we include 'may' instead of 'shall' so that there would be no mandatory Clause there? *[Interruption]*

**HON. DANIEL B KOROMA:** Okay, in respond to that Sir; if we say 'may'- let us put it in practice, that was why I had wanted to explain the mischief. If you come to my premises or access my Data, you seize my Phone and my Laptop, then I ask you under this provision to give me a list of all those properties seized, I think it is better for it to be mandatory for the list to be given for record purposes.

**HON. IBRAHIM T. CONTEH:** Mr. Chairman, Mr. Chairman,

**HON. DANIEL B KOROMA:** I am coming.

**HON. IBRAHIM T. CONTEH:** Mr. Chairman, you are saying a list, but what is in the Bill is different from just a list. What is in the Bill is seeking information within the system seized. That is why in Sub-section 3, there are grounds as to why he would refuse to give that because if it constitutes a Criminal Investigation, and if I can give you those information about you can use those information for other purposes. So for me, I do not see his argument; his argument is like asking for a stock list. Giving a

stock list is like, okay there are ten Computers here, write it. But now, what the Bill is saying; it is giving information in the system. Let us read it together.

**HON. DANIEL B KOROMA:** Mr. Chairman, subject to Sub-section [3], if you read Sub-section [3]...

**HON. IBRAHIM T CONTEH:** Let us read it together; what are we reading?

**HON. DANIEL B KOROMA:** I am reading Sub-section [2] of Section [11]

**HON. IBRAHIM T CONTEH:** Then let us read [2] together.

**HON. MATHEW S. NYUMA:** Mr Speaker, Point of Order Please, I am really sorry. Mr Chairman, he has raised his point, if he can just read the full text in Clause [3], and then read that one in tandem with Clause [4], I think it can help us. So let us just do that, but not in isolation because there is a premise for [2]. So Clause [3] is now giving conditional reason and [4] is also trying to give another conditional reason as to why that is to be done. So if you read [3] and [4], we can now get the understanding as to why [2] should stand on its own.

**HON. DICKSON M. ROGERS:** Mr Chairman, apart from the point that the Leader has raised, if there was no Sub-section [3] then Sub-section [2] should stand alone. But because there is Sub-section [3], Sub-section [3] is now telling you that if there is any criminal motive behind you asking for those information, then the authorized person may refuse to give you that information. In case he finds out that you are asking for those information because you have an ulterior or criminal motive, then he may refuse you. If Sub-section [3] did not exist, then Sub-section [2] should stand alone.

**HON. DANIEL B. KOROMA:** Okay Mr Chairman, I go with the Leader of Government Business.

**THE SPEAKER:** Thank you, well done.

**HON. DANIEL B. KOROMA:** I go with the Leader of Government Business under Sub-section [4]; that in the event it is refused, you can apply to the High Court and the High Court can give an order.

**THE SPEAKER:** Thank you.

**HON. DANIEL B. KOROMA:** So on that note, I go with him.

**THE CHAIRMAN:** So do not read it in isolation. Okay, are you finished?

**HON. DANIEL B. KOROMA:** Yes, on that point.

**THE CHAIRMAN:** Okay; I have a small correction to make. If you look at Sub-section 2[b], the reference there is to Section [5]; Sub-section [2] of Section [5], it is not correct, it should be Section [10]

**HON. MATHEW S. NYUMA:** Mr Chairman, where are you Sir?

**THE CHAIRMAN:** On page 23. The reference of Section [5]; Sub-section [2] of Section [5], have you seen it? The reference there is, if you look at; *'who has right to Data or Information seized under Sub-section [2] of Section [5]..'* The reference to [5] is wrong. It should be Sub-section [2] of Section [10], have you seen it?

**HON. SAA E. LAMINA:** Yes, page 18.

**THE CHAIRMAN:** Page 18, that is correct. Have you seen it? Shall we go there now? Just change the 5 to 10, that is all. Page 24? 25? Go to page 18 my friend; I would not allow people to take me back, unless you know what you are talking about.

**HON. CHERNOR R M. BAH:** Mr Chairman, whether you allow it or not we would take you back; so you have to bear with us.

**THE CHAIRMAN:** Well, tell your people to be alert.

**HON. CHERNOR RM. BAH:** But smile, Mr Chairman.

**THE CHAIRMAN:** No, I am not going to smile.

**HON CHERNOR R.M BAH:** Well then, I am not going to say anything.

**THE CHAIRMAN:** I am very angry with that kind of ....

**HON CHERNOR R.M BAH:** But you are smiling and you say you are angry; how can you be angry and smiling also? Look at you now smiling.

**THE CHIRMAN:** *[Laughs]* Put your boys under control *[Laughter]*.

**HON CHERNOR R.M BAH:** He is smiling, now he is laughing. Where is the Draftsman, has he left, *[Undertone]* both of them? Because I need their confirmation.

**THE CHAIRMAN:** Page 24?

**HON. CHERNOR R.M BAH:** Yes Sir, 24; Product Order, [12]. I wanted to know whether the side notes are correct: '*Product Order*? Because he has just raised it. That is one, and secondly Mr Chairman, I was just wondering for clarity; because I know we are referring to this Bill but for clarity, whether the words: '*where it is necessary or desirable for the purposes of an investigation under this Act...*' so that is specific, because there are other investigations that would be going all over the place; but we are referring to this Act. So I think for specificity, I move that it be inserted, Mr Chairman.

**THE CHAIRMAN:** I think it is not substantive, but necessary.

**HON. CHERNOR R. M BAH:** Yes Sir, yes Sir.

**THE CHAIRMAN:** Thank you. Page 25? Any comments? Before you go to the last, I have one; Sub-section [2] is not necessary. For the purposes of this section, information is defined there so it is repetitive; because it is already defined under the Interpretation Clause, are you with me Mr Draftsman? I do not know whether it is necessary to repeat the whole thing here, when we already have it under the definition clause. *[Undertone]* It is exactly defined word for word under there.... thank you; so let

us delete it. So [3] becomes [2] and so on [*Undertone*]. Where are you reading from? [*Undertone*] No! I am referring you only to Sub-section [2].

**HON. IBRAHIM T CONTEH:** It is Sub-clause [2] of Clause [12].

**THE CHAIRMAN:** So are you now satisfied? Okay, let us move on; Page 26?

**HON. DANIEL B. KOROMA:** Mr Chairman, Page 25. You were asking that we take-off sub-section [2] but it has Sub-clauses A, B and C, what about them?

**THE CHAIRMAN:** The whole lot of it; because if you look at the definition Clause, all of that is contained in there. Go to page 10; '*Subscriber Information*' has the same A, B, C. it is repetitive; that is what I am saying, so we do not need it. Are you now satisfied?

**HON. DANIEL B. KOROMA:** yes Sir.

**THE CHAIRMAN:** Thank you, shall we move on?

**HON. DANIEL B KOROMA:** Page 25, last paragraph; as I early said.

**THE CHAIRMAN:** Which one?

**HON. DANIEL B. KOROMA:** Last paragraph B.

**THE CHAIRMAN:** Yes.

**HON. DANIEL B. KOROMA:** '*In control of a Computer System to whom a warrant...* [we should insert 'is' after warrant]; *to whom a warrant is issued...*' under Sub-section [1] of Section [10].

**THE CHAIRMAN:** Very well. Now, you have been constructive. Page 26? Do not mind me [*Laughs*] 26? Yes.

**HON. DANIEL B. KOROMA:** This is for Mr Chairman. Mr Chairman Sir, Chairman Legislative, Page 26 Sub-section [4] did we not say we should add the words: Corporation, Partnership and Association? '*and for a Corporation, Partnership or Association*'; Sub-section [4], Page 26.

**THE CHAIRMAN:** Okay; yes.

**HON. ABDUL S. MARRAY CONTEH:** Yes, we can just add that; because for the others, I think it is just some slight inconsistencies, yes.

**THE CHAIRMAN:** What are the words again? Corporation... yes [*undertone*]; thank you. Page 27?, 28?, 29?, 30?, 31?, 32? I told you, the train is developing some velocity. It is presumed; you should have read it and made your comments [*undertone*]. Do not get worried; yes, what page?

**HON. DANIEL B. KOROMA:** Page 31.

**THE SPEAKER:** Yes.

**HON. DANIEL B. KOROMA:** Sub-clause [6].

**THE CHAIRMAN:** Even your Interlocutor is with me; he has moved on to 31. Congratulations, yes.

**HON. DANIEL B. KOROMA:** Sub-clause [6]; *'a service provider who, without reasonable excuse, fails to comply with an order under Sub-section [1] commits an offence and is liable on conviction...* [after conviction, we should insert 'to'], *to a fine*'.

**THE CHAIRMAN:** Correct, good; thank you!

**HON. DANIEL B. KOROMA:** And then, at the end, [this should be in consultation with Mr Chairman as well]. I thought we agreed on: Corporation, Partnership and Association; to be added also.

**HON. ALPHA A. BAH:** And on that note, Mr Chairman,

**THE CHAIRMAN:** Yes.

**HON. ALPHA A BAH:** I think, we had a general consensus during the Legislative Committee Session that, wherever there is an issue of penalty, we should add Corporation, Partnership and Association; it should run through, Mr Chairman.

**THE CHAIRMAN:** Okay; and what should be the penalty?

**HON. ALPHA A BAH:** At least, we should consider it now for us to save time; Mr Chairman [*Undertones*].

**HON. DANIEL B. KOROMA:** Mr Chairman, based on past precedent, we would give you the penalty; as long as we have agreed that it should be added. We would give you the penalty to save time, based on past precedents. We have approved the other provisions based on the figures here; for fine of **Le 50Mln** and **Le 250Mln**, they are similar.

**THE CHAIRMAN:** Yes, but the only thing is that the penalties have not been consistent right through. In some cases I have seen **Le 1Bln** and another, half Billion.

**HON. DANIEL B. KOROMA:** Yes *[Undertone]*.

**THE CHAIRMAN SPEAKER:** Exactly.

**HON. OSMAN W. JALLOH:** Mr Speaker, the penalty must be maximum, in order to prevent further crimes.

**THE CHAIRMAN:** I did not give you the Floor, and I am afraid we have just come from Lunch *[laughter]*. I want to move you the Youth Leader if you do not mind, because you know you and I see eye to eye; can you move and sit next to the Honourable Member?

**HON. DICKSON M. ROGERS:** Mr Chairman, please; for the Well not to be polluted, let him stay where he is *[Laughs]*.

**THE CHAIRMAN:** Youth Leader, you know what to do not so? Okay; yes, where are we, page 31? We have inserted the word... *[Undertone]* that is the penalty?

**HON. ABDUL S. MARRAY CONTEH:** Yes. Mr Chairman, for the penalty, I will take... *[Interruption]*

**THE CHAIRMAN:** Just mention, just mention the figures.

**HON. ABDUL S. MARRAY CONTEH:** Yes, we would use the example given for the fines because here it is multiplied by 2. When you look at page 26 [4]; fining an individual from **Le5Mln** to **Le30Mln** and a Corporation from **Le100Mln** to **Le225Mln**. So we can use the example here for the penalty in Page 31. So just multiply by 2, then we get the figure.

**HON. IBRAHIM T CONTEH:** Mr Chairman, the penalty is appropriate; it is within the threshold.

**THE CHAIRMAN:** Which one are you drawing attention to?

**HON. IBRAHIM T. CONTEH:** It is within the threshold; **50Mln** to **250Mln**. So it is at the behest of the Judge to say **Le60Mln**.

**HON. ABDUL S. MARRAY CONTEH:** No, this is for individuals; they are now talking about Corporations.

**HON. IBRAHIM T. CONTEH:** It is the Corporation that the Honourable Daniel Koroma raised

**THE CHAIRMAN:** No, but I have seen situations; Mr Minister..., I have seen provisions where the penalty for individuals is expressed in terms of a **Le100Mln**, I think, and **Le250Mln** in case of Corporations, it was **Le500Mln** and **Le1Bln**. So which one are we going to apply here?

**HON. ABDUL S. MARRAY CONTEH:** The individual is slightly lower than the Corporation.

**THE CHAIRMAN:** it is alright.

**HON. ABDUL S. MARRAY CONTEH:** well, we have just looked at it from that angle. And also Mr Chairman, we arrived at this conclusion taking into consideration the gravity of the offence and also the International Best Practice, and looking at other Jurisdictions.

**THE MINISTER:** Mr Chairman what we did was, like the Chairman of the Legislative Committee just noted; it was not uniformed. We looked at the veracity of each and every offence, and we also looked at other Jurisdictions. We actually did the matrix for the same offence; what is the penalty in Ghana, Nigeria, Tanzanian and Kenya? It was on that bases that we were able to synthesise what we are now having.

**THE CHAIRMAN:** So what would be your figures in the case of Sub-section [6]?

**THE MINISTER:** We actually had it noted somewhere, can you help me with that? We actually noted it somewhere; oh, we agreed on a Billion? Yes [*Undertone*], yes, because some of the offences are quite grave committed by Corporations and Service Providers.

**HON. ABDUL S. MARRAY CONTEH:** Not all instances where an Association is involved was tagged at a Billion, it was also based on the gravity of the offence. There are instances wherein the Corporation at some point has to pay **Le250Mln** based on the offence; not all offences are subject to a Billion payment.

**THE CHAIRMAN:** I want us to move forward. Can you please..., let us stick a pin there, so that you can go and do your research for us to know what the penalty would be.

**HON. DICKSON M. ROGERS:** Yes Mr Chairman, on the same page.

**THE CHAIRMAN:** Yes.

**HON. DICKSON M. ROGERS:** I think the jail term Mr Chairman, is very small. Somebody might decide to go to jail for one year instead of paying **Le250Mln**.

**THE CHAIRMAN:** Yes, from what they have explained; they did a matrix and they got all of it based on the matrix. We would not want to come and disturb that matrix.

**HON. DICKSON M. ROGERS:** I honestly feel that, '*not less than one year*' is very small.

**HON. ALPHA A. BAH:** That is the minimum, but that is the minimum. It means, it can be two years, ten years but not less than one year.

**HON. DICKSON M. ROGERS:** That is what I am saying '*not less than one year and not more than five years*'. We can even start from two years because actually, one year is the Judge's discretion. If we say **Le 250mln** or one year, somebody would decide to go to Prison for one year and keep his **Le250Mln**

**THE CHAIRMAN:** No, no, the discretion there is between one and five years; read it.

**HON. DICKSON M. ROGERS:** Yes, that is what I am saying; it is between one and five. But what if the Judge uses his discretion and says one year?

**HON. IBRAHIM T. CONTEH:** I think he is suggesting, between two and five or two and seven; one and five is okay, for non-compliance.

**HON. DICKSON M. ROGERS:** Mr Speaker honestly, somebody might decide okay, instead of me paying **Le250Mln** why can't I go to Jail for one year? So if we say '*not less than two years and not more than 5 years*', I think that will serve a fair penalty.

**HON. IBRAHIM T. CONTEH:** It might be your office tomorrow. We are talking about a Corporation here and not an individual.

**HON. DICKSON M. ROGERS:** No, no, we are talking about the individual; we are talking about the Subscriber, so we are not talking about a Corporation. For the Corporation, it is just a fine and not imprisonment.

**THE CHAIRMAN:** Mr Minister, can you help us so that we can make progress?

**THE MINISTER:** Mr Chairman, Honourable Members, only God and fools that does not change. We have had the benefit of consulting, speaking to each other, I think we could improve the base line; say between two and five years Sir, so the Judge can still use this.

**HON. MATHEW S. NYUMA:** No, Mr Chairman, Mr Chairman, Mr Minister, I want to disagree a bit; this is a discretionary decision. While you talk about the jail term, the fine and imprisonment, you have all the options; you have one to five years, you either pay fine or go to Prison, the discretion of the Judge, or both. Why do we just talk about the two years, and not the other that has to do with both fine and imprisonment? So it is better for it to be left that way, because it is a discretional area. Sometimes we do not have to tie the hands of the Judge; we should not make Laws as if we are dictating to the Judge before making a final decision. We have to give them the latitude for them to make final decisions, so 'one to five' years can either be two, three or five years. Again, it is the discretion of the Judge to say five years or to pay the said amount of **Le250Mln**; so let us give them the latitude to do that.

**THE CHAIRMAN:** Thank you.

**HON. DICKSON M. ROGERS:** Mr Chairman,

**THE CHAIRMAN:** Hold on, hold on. Take your seat, please, take your seat, please, take your seat Madam; Honourable Members, there is a very substantive issue involved here. In that section, the penalty [*Undertone*]. Who was that?

Honourable Members, there is something very substantive involve, let us look at that provision again. The penalty we are talking about is the penalty for Service Providers; so let us go to the definition of who a Service Provider is, and I am referring you to page 8. It is not an individual; *'a Service Provider means: 'a public or private entity that provides to users of its services, the means to communicate by use of a Computer System, including any other entity that processes or stores Computer Data on behalf of the entity or its users'*. That is the definition, so it is not an individual, and what are we talking about? Individual fine of one year to five years, so what are we talking about? Is that an error or not?

**THE MINISTER:** there is a slight omission here; so I would take note that after the full stop, **Le250Mln** and in the case of individuals, we could say **Le50Mln**....

**THE CHAIRMAN:** No, how can you? It is not a Service Provider!

**THE MINISTER:** No, we have said; there should be a full stop after **Le250Mln**. In the case of an individual, that is separate.

**THE CHAIRMAN:** No, an individual is not involved there, Mr Minister.

**THE MINISTER:** Individuals could be service provider.

**THE CHAIRMAN:** That is not your definition.

**THE MINISTER:** Okay [*Undertones*].

**THE CHAIRMAN:** No, but then look at the definition.

**HON. ABDUL S. MARRAY CONTEH:** Mr Chairman, I want to make a suggestion. The fact that it is possible for an individual to be a service provider, I think it is very important that we....

**THE CHAIRMAN:** Then let us go back to the definition of Service Provider. That is a very serious omission. Mr Minister, a Service Provider as presently defined, does not include an individual. If you have envisaged that that penalty should be attached to an individual, we need to amend the definition of 'Service Provider'.

**THE MINISTER:** So, Service Providers as we know them; are...

**THE CHAIRMAN:** No, Service Provider is defined.

**THE MINISTER:** they are Corporations...

**THE CHAIRMAN:** No, it is defined to mean, '*a public or private entity*'...

**THE MINISTER:** Yes, Sir.

**THE CHAIRMAN:** That cannot be an individual.

**THE MINISTER:** No, they cannot.

**HON. MATHEW S. NYUMA:** So we can even remove '*an imprisonment*'.

**THE MINISTER:** Let us keep it as it is for the purpose...

**HON MATHEW S. NYUMA:** It is the money that needs to be increased; **Le100Mln** and not more than **Le500Mln**.

**THE CHAIRMAN:** We need some guidance here.

**MATHEW S. NYUMA:** No, it is okay.

**THE CHAIRMAN:** What do you have in mind then?

**THE MINISTER:** Mr Chairman,

**THE CHAIRMAN:** Hold on, hold on. Do you want us to expand the definition of Service Provider to individuals?

**HON MATHEW S. NYUMA:** No, no, no, we cannot do it; that definition is clear. As a Service Provider, you would have to register in a Company's name.

**THE CHAIRMAN:** Fine; so let us go then to the penalty.

**HON MATHEW S. NYUMA:** The penalty is **Le100Mln** to **Le500Mln**.

**THE CHAIRMAN:** Fine.

**HON: MATHEW S. NYUMA:** And *'imprisonment'* should not be there.

**THE CHAIRMAN:** And forget about the terms of imprisonment?

**HON NYUMA S. NYUMA:** yes, it should not be there; that is why we are increasing the amount of money.

**HON. DR KANDEH K. YUMKELLA:** Mr Chairman, a **Le100Mln** to **Le200Mln** is small for a Company. The IT industry is very rich, somebody would violate and give you **\$25,000, \$10,000** is nothing for a Company; **Le100Mln** is **\$10,000**. That is why in the Pre-Ledge, I remember we fought over this, we wanted to make it punitive for the Company really.

**HON. MARRAY S CONTEH:** Mr Chairman, I strongly believe that this is an error because the fact that the terms of imprisonment is there, we were looking at an individual. But now that it is Service Provider; we are talking about a Corporation, then that amount should be increased.

**THE CHAIRMAN:** So it should be what? **Le500Mln** and **Le1Bln**?

**HON. DICKSON M. ROGERS:** Mr Chairman, Mr Chairman, taking a cue from Honourable Yumkella, I think a Company that is worth **\$100Mln, Le1Bln** is a pittance for that Company.

**THE CHAIRMAN:** It is a **\$100,000**.

**HON. DICKSON M. ROGERS:** It is a **\$100,000**, any Company can pay that without scratching its head. So I want to move that we increase that money to **Le5Bln**, *[Undertones]* yes. **Le1Bln** is about **\$100,000** *[Undertones]*. Exactly, at least **Le5Bln**.

**THE CHAIRMAN:** And that is the Honourable Dickson speaking.

**HON. DICKSON M. ROGERS:** *[Laughs]* Mr Chairman, I am not speaking as Honourable Dickson, but to the Bill.

**HON MATHEW S. NYUMA:** Mr Chairman, in as much as I agree with my colleague from Ketchum, we do not want to make crime lucrative, we do not also want to kill

some businesses; that is the idea. Service Providers are small entity or company; we are not talking about Multilateral Companies. Service Providers are small Companies that give internet service for you to browse and for you to download; these are Internet Providers. The cafés you see around are called Service Providers; they fall under that category [*Undertone*]. Wait, I am building a case; let us first ask what do you mean by Service Providers?

**THE CHAIRMAN:** It is defined there.

**HON. MATHEW S. NYUMA:** let me tell you who they are; the Cafés you see around, these are all Service Providers, the small Enterprises we have, you check them, just by doing your survey, pass around, some of them are not even up to **Le100Mln**.

**THE CHAIRMAN:** How many do you have?

**HON. MATHEW S. NYUMA:** I do not have any, but I know how they operate. That is why talking about Internet Cafe's, they fall under those categories.

**HON. DANIEL B. KOROMA:** So on that note,..

**HON. MATHEW S. NYUMA:** I am coming, let me land.

**HON. DANIEL B. KOROMA:** No, let me help you.

**HON. MATHEW S. NYUMA:** Alright, I give you the space, you are my man.

**HON. DANIEL B. KOROMA:** Thank you very much, Sir. On that note, he is trying to edify us that the word 'Service Provider' includes both the lowest and the highest.

**THE CHAIRMAN:** Big and small.

**HON. DANIEL B. KOROMA:** Big and Small. So on that note, we can maintain a minimum and then increase the maximum. But we need to maintain the minimum, to make provision for smaller Providers; and then, we can increase the maximum to make room for Multinationals, because Service Providers include Multinationals as well.

**THE CHAIRMAN:** So what is the minimum?

**HON. DR. KANDEH K. YUMKELLA:** Honourable Nyuma's point is correct; some Value Added Services are small.

**HON. DANIEL B. KOROMA:** Yes, his point is correct *[Undertones]*, no, **Le100Mln** for minimum, and then we go to **Le5Bln**.

**HON. MATHEW S. NYUMA:** No problem about that, we should give a range.

**HON. DANIEL B KOROMA:** The **Le100Mln** is to make room for those Internet Cafés; not below **Le100Mln**, and then **Le5Bln** to make room for the Multinationals, instead of **Le100Mln**.

**THE CHAIRMAN:** Okay, thank you. That amendment is very substantive; therefore, let us move a Motion.

**HON. OSMAN W. JALLOH:** Mr Chairman, the issue raised by the Leader of Government Business is very sensitive. Not all Internet Service Providing Cafés can afford **Le100Mln**; so **Le100Mln** again, being the minimum, is too much. I therefore move that, we leave it at **Le50Mln** as a minimum and maximum could be **Le5Bln**.

**HON. ABDUL KARIM KAMARA:** Before the Motion, Mr Chairman. I think we are missing the shot because, we are not making Laws on the grounds that we want to take money from smaller entities, but we are making the Law to prevent crimes from happening. So I see nothing wrong with the **Le100Mln** for small companies; it is for them to be discouraged in participating in crimes.

**THE CHAIRMAN:** In the interest of speed, please move a Motion!

**HON. DANIEL B. KOROMA:** Mr Chairman, I move that the fine provision under this relevant section be read as; 'not less than **Le100Mln** and not exceeding **Le5Bln**'.

**HON. DICKSON ROGERS:** Mr Chairman, I second the Motion.

*[Question Proposed Put and Agreed To]*

**THE CHAIRMAN:** *[Undertones]* Okay, what is happening here?

**HON. MATHEW S. NYUMA:** Mr Chairman, order! Order! Order! Mr Chairman, I am concerned, Mr Chairman, I am concerned.

**THE CHAIRMAN:** About what?

**HON. MATHEW S. NYUMA:** They are talking about Corporations, and I have seen fines where they are talking about **Le500Mln**; but I have not seen **Le5Bln** as he has said. We have to be consistent in levying fines.

**THE CHAIRMAN:** We have passed that Motion.

**HON. MATHEW S. NYUMA:** yes, we have passed it Mr Chairman; but we have to be consistent. I have not seen **Le5Bln** and I have been asking questions, I have now looked at other fines which we are now coming to; one is talking about from **Le500Mln** to **Le1Bln** for Corporations, there is no **Le5Bln**.

**HON. ALPHA A. BAH:** I agree with you Mr Leader, there is nowhere...

**HON. MATHEW S. NYUMA:** We have to be very careful *[Undertone]*, let me come. We are not making Laws as if we have grievances for people, we are making Laws for people to mitigate crimes - that is the idea.

So what we have done here is that, we are talking about Service Providers which is far more than what we have for other Operations.

**THE CHAIRMAN:** With respect, why did you wait until the Motion was passed?

**HON. MATHEW S. NYUMA:** No, I did ask the question; but I was misled. I said, what do we have for Corporations? And Madam Lebbie, your best friend over there, told me it was **Le5Bln** and we do not have that; though there may be **Le5Bln** in other jurisdictions. *[Undertone]*, the Motion? No, I said in the Bill *[Undertone]*; we cannot do that Mr Chairman, to be very honest *[Undertone]*. I am really sorry for taking you aback, please for consistency Sir; I beg *[Interruptions]*. Mr Chairman, just go to page 50.

**THE CHAIRMAN:** No, I do not need to do that, because you are quite correct. I have read this Bill cover to cover; there is nowhere we have talked about **Le5Bln**, that is the fact. But in this particular instance, it is the Service Provider.

**HON. DANIEL B. KOROMA:** Fine, this one is limited to Service provider. That is why we deleted the imprisonment provision; this one is special, it is limited to Service Provider, whilst there are other areas imprisonment applies. So both fine and imprisonment is even more punitive.

**HON. MATHEW S. NYUMA:** Point of Order. Let me come, let me come, I can understand. I am just saying, for consistency sake; and that was why I questioned fines levied because, when we get to Committee Stage, people do not really pay much attention to some of these things. We agreed for example, during the Sexual Offences' Bill, to levy punishment on offenders because, we do not want to make crime lucrative. I listened to what Honourable Yumkella said; he said these are people operating in hard currencies, **\$10,000** is **Le100Mln** and it is such a small amount for the Communications world.

So for me, if we have to levy fines based on what I have seen, this is far below the belt; the figures being put here are far below the belt as compared to the sub-region and other places are far below the belt, I am not against it but rather, for us to agree on; either to change the fines or for us to be consistent in giving the fines right across.

**HON. DANIEL B. KOROMA:** I have no problem, in changing the fines.

**HON. DICKSON M. ROGERS:** No, I have a problem with that, I have problem with that.

**HON. DANIEL B. KOROMA:** *[Interruption]* Okay; but wait after me, please.

**HON. DICKSON M. ROGERS:** Okay.

**HON. DANIEL B. KOROMA:** I have no problem in changing the fines, but what we must be aware of concerning this particular provision as opposed to the other provisions is that; you can be a Corporation and not a Service Provider. A Corporation

does not necessarily mean that you have to be a Service Provider, but this is now talking about Service Provider; and that makes it special. I am not against raising the bar for others, because a Corporation cannot be equated to a Service Provider. That is why for other areas, you have fine provisions, you have imprisonment provision or both; but if we can raise the bar, then it is fine.

**THE CHAIRMAN:** Okay, take your seat. Honourable Members, I want progress, I want progress. Take your seat.

**HON. AARON A. KOROMA:** Before that, Mr Chairman.

**THE CHAIRMAN:** No, no, no, no more! No more.

**HON. AARON A. KOROMA:** I have a slight concern Sir, and it is very important; please Sir.

**THE CHAIRMAN:** And you were sitting all this while?

**HON. AARON A. KOROMA:** No, no, Mr Chairman; this is the time I wanted to come in Sir.

**THE CHAIRMAN:** Okay, hold on.

**HON. AARON A. KOROMA:** That one has to do with...; can I just make that Sir?

**THE CHAIRMAN:** No, please wait. It was suggested and I want to believe that, it was also agreed that, that particular provision should stop at **Le5Bln**; and the rest should be deleted, I just wanted confirmation on that [*Undertone*]; the rest is correct.

**HON. AARON A KOROMA:** Mr Chairman, that was my concern Sir. The deletion of that particular provision was my concern.

**THE CHAIRMAN:** Concern?

**HON. AARON A KOROMA:** Yes, Sir. When you look at the definition for Service Provider of course, the fear we had was; how we could have separated the factor of Sole-Proprietorship which I am sure, was clearly covered based on the definition. So Sole- Proprietorship cannot be separated, – it is the owner; the owner of business are

the same. Let us assume, you have somebody that provides services for an Internet Café or Telephone Booth or whatsoever; if you fine him **Le50Mln** and you want him to pay, even if you calculate all his assets, that asset could not amount to **Le50Mln**; what will you do?

**THE CHAIRMAN:** I am afraid; the legal personality is different from the natural personality, of course.

**HON. AARON A KOROMA:** So what in a situation whereby *[Interrupted]*...

**THE CHAIRMAN:** Go to the definition of Service Provider again.

**HON. AARON A KOROMA:** Yes, when you look at that definition, it talks about the private entity, and private entity can include; a Sole-Proprietorship and Partnership or Corporation - that is what I am saying.

That is the more reason why you accepted the Leader's suggestion, that we do not need to have an individual to be included because, that definition is inclusive of a Sole-Proprietorship. So I am now saying that whereby I have a business, let us say; Aaron's Enterprise, which is not even registered but I am delivering service. If I am fined **Le50Mln** and my whole investment is not even up to **Le10Mln**, so if you fine me saying that I should pay, and there is an alternative; what if I do not pay, what will you do?

**THE CHAIRMAN:** You will declare yourself, bankrupt.

**HON. DICKSON M. ROGERS:** Mr Chairman, let me refer this House to page 22. All the fines my Leader was referring to are talking about individuals. For example, Mr Chairman, you are talking about '*a person who or other authorized person who intentionally...*' so all the others fines are talking about individuals. But here, we are talking about a Corporate Society; that was the reason why we were talking about **Le100Mln** to **Le5Bln**... *[Interrupted]*

**THE CHAIRMAN:** Why do you extend more breath on this?

**HON. DICKSON M. ROGERS:** Thank you, I just wanted to say that the Motion still stands, Mr Chairman.

**HON. MATHEW S. NYUMA:** Mr Chairman, I am not anticipating the Service Providers to commit crime

**THE CHAIRMAN:** So what?

**HON. MATHEW S. NYUMA:** To commit crime in providing the services, I am anticipating that they should obey the rules and regulations governing them.

**THE CHAIRMAN:** And this would be a deterrent...

**HON. MATHEW S. NYUMA:** I am coming.

**THE CHAIRMAN:** would it be a deterrent?

**HON. MATHEW S. NYUMA:** depending on the way they are fined, and then it will be a deterrent.

**THE CHAIRMAN:** Yes, Good!

**HON. MATHEW S. NYUMA:** Fine. So what I am saying is that, I have not questioned what they have put in place as a proposal in terms of fines. I said, we do not want to make crime lucrative, nor do we want to kill small businesses. So what we did was, for the range for these Service Providers as was said by my colleague should start from **Le100Mln** to **Le5Bln**.

Now, we have to be very consistent when it comes to Corporation; in the preceding pages, you have Corporation Partnership – so we should to be consistent. So if you are going to say **Le1Bln** to **Le10Bln**, there must be consistency. For me, let us not put fine with the intention that when they commit crime...

**THE CHAIRMAN:** Alright, that is noted.

**HON. MATHEW S. NYUMA:** Fine. So, we will go for the **Le100Mln** to **Le5Bln** fine.

**THE CHAIRMAN:** that is fine.

**HON. MATHEW S. NYUMA:** I rest my case.

**THE CHAIRMAN:** Okay; so, you have given notice as to what is to follow?

**HON. MATHEW S. NYUMA:** Yes

**THE CHAIRMAN:** Alright! So let us proceed; Page 32?, 33?, 34?, 35?

**HON. MATHEW S. NYUMA:** I just want to move a Motion, for us to have standard fines to be levied and that of imprisonment. I am seeing here on page 34 [vii]; we have **Le50Mln** and **Le250Mln**. So, what do we agree on? We have said the same, but there is an imprisonment.

**THE CHAIRMAN:** Again, we will bring it in line with the previous one.

**HON. MATHEW S. NYUMA:** Okay, alright.

**THE CHAIRMAN:** So I want a Motion, and let it come from you this time.

**HON. MATHEW S. NYUMA:** Okay, I move that,

**THE CHAIRMAN:** The figures; Just the figures.

**HON. MATHEW S. NYUMA:** That the figures for conviction be; not less than **Le100Mln** and not more than **Le5Bln** [*this to be inserted right across the Bill*].

**THE CHAIRMAN:** And the 'term of imprisonment' deleted?

**HON. MATHEW S. NYUMA:** Yes, term of Imprisonment deleted.

**THE CHAIRMAN:** Okay Honourable Members, any Seconder to that?

**HON. DANIEL B. KOROMA:** I so Seconder.

*[Question Proposed Put and Agreed To]*

**HON. MATHEW S. NYUMA:** Mr Chairman, let me remind the House that for you to be a Service Provider, you must register with NATCOM. I heard somebody asking about illegal operations; you cannot operate illegally as a Service Provider, because you would not exist. So I want to remind Honourable Members that, for one to become a Service Provider, you must register through NATCOM [*Undertones*]. If you are caught, it is a very big crime; because there are stringent Regulations being put in place [*Undertone*].

Well it is left with NATCOM to do their investigation, Honourable Member. Of course you are right, because if they are operating without registration,...

**THE CHAIRMAN:** Order, order. I want to move, I want to move.

**HON. MATHEW S. NYUMA:** Mr Chairman, they have raised a point and we need to talk about that; we have here the Director-General of NATCOM, and Members of Parliament are versatile in knowing what is happening around them. We do not want to prolong the issue, so we want people to understand. If you operate without registering with or through NATCOM, there are regulations passed to the effect so they must be brought to book for that. Service Providers should not operate without regulations; because it will be a very big crime. So what we are saying is that, we are clear in our minds that all Service Providers; both small or large scale are registered, if not, it is a crime. We need to follow up on that and thank God, the Chairman is present.

**HON. AARON A. KOROMA:** Further to that Mr Chairman, he talked about corporate personality; you can only talk about Corporate Personality, of a Company. Maybe, in Sierra Leone's case, you cannot lift the veil as the case may be; but in its entirety, for a Sole-Proprietorship, the owner and the business are the same. I am saying here; what if in a situation wherein the whole investment of the Service Provider, whether registered or unregistered, is not up to even **\$5000**, and he has committed a crime? I am saying, if you fine him that amount we are now talking about, he will choose to go out of business. So, let there be an alternative wherein in such a situation, he does not pay the money rather, it should be a lifetime imprisonment or some amount of years that will commensurate to what he was supposed to pay - that is what I am saying.

**THE CHAIRMAN:** Honourable Member, I empathize with your position; but unfortunately, the rest of the House does not agree, and we have passed it by Motion, *[Undertone]* Fine, so let us proceed. Page 36? *[Undertone]* no, no, no, I was taken back to 34 and I had gone as far as Page 35 *[Undertone]*. He has suddenly come, and he has come alive *[Laughs]*; do you want my glasses?

**HON. DANIEL B. KOROMA:** Mr Chairman, I do not know whether my senior is here; the Honourable Gevao. At one time, he proffered a convincing argument on Section [16], page 34, on Service Providers trying to free themselves from the Hook. I am not too convinced about Sub-sections [1] and [2]; of Service Providers, being having the highest fines, are trying to let themselves out of the Hook; based on the drafting of Sub-sections [1] and [2] of Section [16], I do not know the relevance of them. They are just trying to free themselves *[undertone]* well, I do not think we should uphold it; although, I would have been more comfortable if my senior had been here, he has a very convincing argument for that. But in my opinion, this is irrelevant; the Court will determine, you do not need to dictate to the Court.

**THE CHAIRMAN:** So, in the interest of progress, we move to Page 35.

**HON. DANIEL B. KOROMA:** In the interest of progress, I move that Section [16] be deleted *[Undertone]*.

**HON. DANIEL B. KOROMA:** Yes, it is not relevant, the Court will determine; rather than you stating procedures that you would not be held liable for. I am not too comfortable with Sub-sections [1] and [2] of Section [16].

**THE CHAIRMAN:** But look at **A** and **B**, and read it carefully.

**HON. DANIEL B. KOROMA:** That is what I am saying, the entire section; I have read everything.

**THE MINISTER:** This is not an ambush for them; it is not an ambush for the Private Sector. This country is in need of the Private Sector, we want them to come and support us to reactivate our Economy, create Jobs and enhance prosperity. So, you are merely talking of a situation wherein you are working in sync with them; and in some instances you give them notice, if they do not act on the bases of that notice, then, it will be a problem.

**HON. DANIEL B. KOROMA:** Mr Minister, this provision is not in any part helping the other Corporations or individuals; this provision is not there to protect any Corporation or Individuals, the circumstances will be left to the Court. Why leave it only for Service

Providers? You provide only for Service Providers, and the rest, you will leave it open for the Court to determine. For other Corporations, which we cannot tell for now, there is no provision to render them free from the Hook; it will be based on what is to be determined, by the Court according to the law.

But for Service Providers, this particular provision is just limited for them so that they will be free from the Law. I am not too comfortable with that but if Honourable Gevao would have been here, that would have made me more comfortable because he has a better convincing argument on this; Service Providers would try to free themselves from the Hook of the Law, based on this singular provision which is only for them but not for the others.

**THE MINISTER:** Okay so, we have a situation here for example, if you have a Swimming Pool and as a Service Provider, I will go there; ordinarily, there are rules governing it, but you have broken it? So you have to establish **A**; that I have done my own due diligence or I did not do this... so that is the kind of thing, it is not an ambush. This is just to ensure that Service Providers have more money and sense.

*Suspension of S.O 5[2] it being 3p.m.*

*[Question Proposed Put and Agreed To]*

**HON. KANDEH K. YUMKELLA:** Oh, you want to terminate the dissension?

**HON. HASSAN A. SESAY:** Yes, there was an understanding Mr Chairman, which you are aware of; that today, the House steps down and at 3:00pm. That was the understanding you had with the Leader of Government Business, so I would want to know why the change.

**THE CHAIRMAN:** No, no, no. Let us proceed, let us proceed, please.

**HON MATHEW S. NYUMA:** Mr Chairman, we are Honourable Members. I think we have the moral authority to call to your Bar. If there is a problem and you want us to rise at 3:00pm, just remind the Speaker or you can even call me to attention; that you want us to rise at 3:00pm *[Undertone]*. I am coming...

**HON. HASSAN A. SESAY:** Please, do not get me wrong. I think the Leader of the Opposition did have a discussion, and there was a mutual understanding *[Undertone]* between the Speaker and the Leader of the Opposition.

**HON. MATHEW S. NYUMA:** So, if they had agreed on time, it is just 3 O'clock, so you should have waited or talk to the Speaker.

**HON. HASSAN A. SESAY:** No, I do not need to remind the Speaker because it was a gentleman's agreement. Now there is a Motion to counter that agreement, that is why I am calling the attention of the Speaker *[Undertones]*.

Mr Chairman, if that was the agreement or the understanding, let us go by what you agreed on.

**THE CHAIRMAN:** Whether you call me young or old, I consider myself a youth *[Laughter]*.

**HON. MATHEW S. NYUMA:** Mr Chairman, I can understand. Can we...

**THE CHAIRMAN:** And my definition of youth, is a function of performance and not of chronology *[laughter]*.

**HON. MATHEW S. NYUMA:** Mr Chairman, I think we can come to a compromise *[Undertone]* you were not there Sir. I have proposed to the Speaker that we should rise at 3 O'clock, and it is just 3 O'clock; I think he forgot a bit. You should have come to the aid of Mr Speaker to say; oh, you have agreed that we should rise at 3 O'clock, so we need to wrap up *[Undertone]* yes, you should have done that and you are a senior man in the House; you are the Opposition Whip, I respect your views.

**THE SPEAKER:** And who does come punctually.

**HON. MATHEW S. NYUMA:** Well, you now have that one in your domain. So, I crave your indulgence that we should just wrap up for tomorrow within the next thirty minute. There is something I want to bring to your attention, Mr Chairman; a very important thing.

**HON. HASSAN A. SESAY:** Mr Leader Sir, with the speed at which the Chairman is going I bet, we would not do a thorough job if we take thirty minutes; because, this Bill should not be completed within thirty minutes.

**HON. MATHEW S. NYUMA:** No, we are not going at high speed because there is something we need to address.

**HON. HASSAN A. SESAY:** that is what I am saying.

**HON. MATHEW S. NYUMA:** Honourable Whip of the Opposition, I am not saying you should have called Mr Speaker to attention so that...

**HON. HASSAN A. SESAY:** Mr Leader, Mr Leader, please permit me to say something, please.

**THE CHAIRMAN:** Alright, come forward.

**HON. HASSAN A. SESAY:** No, let me finish.

**HON. MATHEW S. NYUMA:** I want you to talk to Mr Speaker

**HON. HASSAN A. SESAY:** Let me finish.

**THE CHAIRMAN:** Come and talk to me first.

**HON. HASSAN A. SESAY:** Mr Leader, if for every time that Mr Speaker agrees on something he needs to be reminder, then let us agree before we leave...,

**HON. MATHEW S. NYUMA:** No, no, it is not every time; he is a very sound Speaker

**HON. HASSAN A. SESAY:** This man is smarter than somebody of age 16; he is a youth in the mind, so he cannot be forgetting things. Look, we have all been in this game for quite a long time, we have been in this game for quite a long time, and we know what we are doing.

**THE CHAIRMAN:** Honourable Member, please come forward.

**HON. MATHEW S. NYUMA:** Okay, talk to Mr Chairman whilst we hold on the... *[Noise in Undertone]*

**HON. SEGEPOH S. THOMAS:** Mr Chairman, really this is for the benefit of the Bill that is before us; I want us to address a particular fundamental issue. I heard somebody moved a Motion for the 'Imprisonment Clause' to be deleted; that would be a very bad thing to do, Mr Chairman.

Sometimes, even the in Corporations or with corporate bodies, you have individuals that would act criminally. The actions of individuals within the Corporate body, might not be the action of the Corporate body itself; so sometime when the Court lifts the bail, these individuals are identify. And the Corporate bodies too can have a defence to say, those individual[s] were on their own; and that they did not act on the instructions of the corporate bodies. So that is all the more reason why it is necessary that we leave out those provisions regarding the imprisonment; so that when these bails are lifted in circumstances of this nature, the individuals can be punished individually apart from...  
*[Interruption].*

**THE CHAIRMAN:** If we leave out the imprisonment penalty in the Bill, it would be in conflict with the definition of Service Provider; that was why I posed the question earlier. We need to re-examine the definition.

**HON. SEGEPOH S. THOMAS:** Yes, we need to look at that; let us look at that before we end up leaving a gap.

**THE CHAIRMAN:** Fine, but let us sleep over it.

**HON. SEGEPOH S. THOMAS:** Yes I know; but otherwise, if we delete the imprisonment clause; Corporate bodies, Companies, would all come together which will pose a very serious threat.

**THE CHAIRMAN:** Okay.

**HON. DANIEL B. KOROMA:** Deputy Speaker we are not, we are not deleting it.

**HON. SEGEPOH S. THOMAS:** Oh, thank you. Let us not delete that.

**HON. DANIEL B. KOROMA:** Maybe, it is just a matter of understanding.

**HON. SEGEPOH S. THOMAS:** Yes, let us not delete that.

**HON. DANIEL B. KOROMA:** That deletion is limited to only one section relating to Service Providers only. All other areas involving Corporations, Partnerships,

Associations, it is there. The limitation is only to Service Providers [*Undertones*], we are not deleting it; it is there. Imprisonment provisions are there throughout only for Service Providers, because Service Provider is defined.

**HON. SEHEPOH S. THOMAS:** But are you aware that Service Providers could be Corporate Bodies, Are you aware of that?

**HON. DANIEL B. KOROMA:** Yes, but not all Corporate Bodies are also Service Providers.

**HON. SEHEPOH S. THOMAS:** So there is where we have the sticking point; you could have Corporate Bodies as Service Providers. So let us be careful when making Laws; let us be very careful [*Undertones*].

**THE CHAIRMAN:** So with that, I have listened carefully; maybe, we need to sleep over one or two things and come back; but let us proceed to where I want us to be this evening.

**HON. DR KANDEH K. YUMKELLA:** But the point he made was on Sub-clause [16], did you solve that problem? Page 34, Sub-clause [16]; he raised the point, I had not even thought of it, but his question was: '*Honourable Minister, are we opening a loophole for Corporations?*'

**THE CHAIRMAN:** No, we are not.

**HON. DR KANDEH K. YUMKELLA:** We are not?

**THE CHAIRMAN:** We are not.

**HON. DR KANDEH K. YUMKELLA:** are you sure?

**THE CHAIRMAN:** Yes

**HON. DR KANDEH K. YUMKELLA:** We should not leave it to the Judge, because let us know the difference between Corporation and the Service Providers, they could easily say: it is not me.

**HON. DANIEL B. KOROMA:** It is not me. They would use this one to say so.

**HON. DR KANDEH K. YUMKELLA:** Let them have the evidence.

**HON. DANIEL B. KOROMA:** Let the Court determine, based on the evidence.

**HON. SEGEPOH S. THOMAS:** Even if the Court has to determine that, you do not leave out deliberate defences. That is the fundamental defence for Corporate Bodies, a

fundamental defence; to say yes, somebody did it within our establishment, but that person was acting on a frolic of his own.

**THE CHAIRMAN:** Exactly.

**HON. DANIEL B. KOROMA:** Fine.

**HON. SEGEPOH S THOMAS:** That is a very powerful defence.

**HON. DANIEL B. KOROMA:** So my point now is; you would agree with me, that not all Corporations are Service Providers.

**HON. SEGEPOH S. THOMAS:** Not all of them.

**HON. DANIEL B. KOROMA:** Thank you. And what you are saying now about frolic can also apply to Corporations that are not Service Providers. And this defence is not meant for Non-Service Providers; but only limited to Service Providers - that is my query.

**HON. SEGEPOH S. THOMAS:** No matter how we look at it...

**HON. DANIEL B. KOROMA:** I Am not saying we should take it out, but why limit it to only Service Providers?

**HON. SEGEPOH S. THOMAS:** No matter how we look at it...

**THE CHAIRMAN:** But the penalty relates to little Service Providers.

**HON. SEGEPOH S. THOMAS:** Of course.

**HON. DANIEL B. KOROMA:** No Sir! In fact, that is what he is querying; that we should not delete the imprisonment provision, it must apply to all, and we are yet to reconsider that.

**THE CHAIRMAN:** No, in this particular case,...

**HON. DANIEL B. KOROMA:** So in this case, my query is why limiting this 'escape clause' to only Service Providers, and there can be Corporations who are not Service Providers?

**THE CHAIRMAN:** Honourable Member [*Undertones*],

**HON. SEGEPOH S. THOMAS:** This provision applies also to Corporate Bodies; whether you are a Service Provider or not. We do not want to pass a Law, creating a deliberate defence for Corporate Bodies. Of course, you are as aware as well as I know,

that these Corporate Bodies can easily sell out some of their employees just to escape some of these fines.

**THE CHAIRMAN:** I am just curious about one thing; Mr Minister, I know that a lot of these provisions we have formulated are not entirely our own. We have borrowed from other jurisdictions [*Undertone*] thank you. Can you just dilate a little bit on this particular provision, Sub-section [16]?

**THE MINISTER:** So, even with the NATCOM Law, there are provisions wherein you would have to issue out some warnings; if they do not adhere to those warnings the next time, you can implement the full force of the Law it is in the same spirit. You were talking about Corporations, if Abu has to attend to members of the public for example, I cited the Swimming pool. You expect the owner of the Swimming pool to take reasonable care; and to ensure that everything is okay. But if somebody comes in drunk for example, and in the process get drown; he was stopped but he put up a fight, all of those things. So it is the same kind of thing we have done here, there has to be checks and balances.

**THE CHAIRMAN:** But more than that, I presume the wording of Section [16] is not an innovation on our own part...

**THE MINISTER:** it is definitely not.

**THE CHAIRMAN:** So cite one or two jurisdictions, which have similar provisions.

**THE MINISTER:** Well, that means I might need to produce it now; I would ask my team here...

**THE CHAIRMAN:** No, do not get worried; you can do that overnight.

**THE MINISTER:** Okay.

**THE CHAIRMAN:** Do it overnight, but bear that in mind.

**THE MINISTER:** Okay.

**HON. DICKSON M. ROGERS:** Thank you for that. Mr Chairman, I am looking at Page 34, 16[ii] because we have just passed the...

**THE CHAIRMAN:** Okay, we will be looking at that overnight.

**HON. DICKSON M. ROGERS:** I just want to make a brief point.

**THE CHAIRMAN:** We are going to look at that overnight.

**HON. DICKSON M. ROGERS:** but let me make the point so that he would also take note of it.

**THE CHAIRMAN:** Okay, go ahead.

**HON. DICKSON M. ROGERS:** We are aware that we have passed the NATCOM Law in this House; but page 16 [ii] is now saying that; *'a Service Provider shall not be liable under this Act or any other Act.* I do not know what the Drafter meant by this: *'any other Act'* because, we have passed the NaTCOM Act here. So, are we saying that whatever crime that is committed by a Service Provider in this article, cannot be liable to a penalty under the NATCOM Act? Because it is saying; *'and any other Act'*. So I want us to look at that very seriously, let us limit them to just this Act...

**HON. ALPHA A. BAH:** Honourable Member, you are totally right; that is how it should be, we should limit them to just this Act.

**HON. DICKSON M. ROGERS:** But when you say *'and any other Act'* meaning, even the NATCOM Act will be in trouble. So Mr Minister, I think I am demanding answer to that question.

**THE CHAIRMAN:** I would have like to see you read to the very end of that provision. The way you have read it, is truncated, read it to the end. When you read it to the end, you would see the rationale for it; Read it to the end, but whilst doing that, let us proceed.

**HON. DICKSON M. ROGERS:** Mr Chairman, with your permission, I read;... *'Maintaining and making his services available or...*

**THE CHAIRMAN:** or

**HON. DICKSON M. ROGERS:** *'or the disclosure of any Data, or the disclosure of other information to the extent required or in compliance with the exercise of powers under this Act.*

**THE CHAIRMAN:** Thank you.

**HON. DICKSON M. ROGERS:** Now, the last sentence is talking about *'under this Act'* But why are we again saying *'and any other Act'*?

**HON. ALPHA A. BAH:** Mr Chairman, I think that is a potential for conflict between Laws.

**HON. DICKSON M. ROGERS:** Exactly! That is my point, Mr Chairman.

**HON. ALPHA A BAH:** properly speaking, it should be '*under this Act*', Mr Chairman. It should not be '*any other law*'.

**THE MINISTER:** Mr Chairman, the issue of the Cyber Café was brought here. I walked into a Cyber café like most people do, you sit down there and do whatever you want to do; and now the owner of the Cyber Café should be held responsible. We simply want to say your attention was drawn to it, that the Cyber Café was being misused, and things were happening where you did nothing about it – and that is when the law comes in.

So, again, in the spirit of protecting small businesses like my brother said before; that was the spirit that informed all of those considerations, that was the spirit. You can really get into trouble as a Service Provider without knowing. Like somebody said, we probably might remove '*under any other law*'; we can keep it for the purposes of this law, 'stricto sensu' to keep it here [*undertone*]. Yes I understand.

**HON. MATHEW S. NYUMA:** Mr Chairman, I hold a different view and I am ready for the argument [*Undertones*]. Let me come; let us look at the spirit of this provision, **A** and **B**. Because we are about to rise, I want to suspend it to tomorrow.

But let us not look at it as if we are doing something different from the intent of the provision. They are talking about '*maintaining*', let me read. How can you hold a person liable for a penalty by trying to market his own product? [*Undertone*] It is the same provision you are talking about 16 [ii], it says; '*shall not be liable under this Act or any other Act, maintaining and making his services available*'.

How can you hold me responsible? For example, if I want to provide services for this Parliament; Free Internet Connectivities, why do you want to hold me liable for that?

Go to the other provision; let us just follow the spirit [*Undertone*]. Yes, he has not committed any crime for providing service for that Institution, maintaining and making service available for an Institution like Parliament. For example, if I am a Service Provider for internet, and want to provide service for Parliament; Free Internet facility...

**THE CHAIRMAN:** Which they have not done.

**HON. MATHEW S. NYUMA:** Which they have not done, I am just citing an example...

**THE CHAIRMAN:** So do not cite them as an example [*laughter*]

**HON. MATHEW S. NYUMA:** Alright, SALCAB has done it for us during State Opening when we had a virtual Parliament. Can you hold SALCAB responsible for making their services available to Parliamentarians or to Parliament as an Institution? No! That is the spirit of this argument.

And now, let me go to two; '*the disclosure of any Data*', [they are going to have what we call Data disclosure]. And in fact, there is a Bill coming in this direction.

**THE CHAIRMAN:** Do not stop there, keep reading.

**HON. MATHEW S. NYUMA:** I am going to read it; '*or other information to the extent required or in compliance with the existence of powers under this Act*'.

**THE CHAIRMAN:** thank you

**HON. MATHEW S. NYUMA:** They are not in variance with the Act [*Undertone*]. No, you are missing the point, Sir.

**HON. DICKSON M. ROGERS:** No, no, no. Mr Chairman, Mr Chairman; I have no problem with what the Leader has said.

**HON. MATHEW S. NYUMA:** Chief Whip, with all due respect let me come again. They are not saying that they are going against it, but there is powers given to this Act to be executed by whosoever is going to be in charge. They are saying, we are operating under the provisions of this Act. So you are not acting in variance with the provisions we have in the Act, except you say you are reading it from a different angle. But what

we have here are two provisions; the intent and the spirit are carried in that provision. This one is okay.

**HON. DICKSON M. ROGERS:** Mr Chairman, I am still of the view that it is not okay. Let us assume that, whilst trying to implement **A** and **B**, you contravene an Act in the most recent past, the NATCOM Act; which requires you to pay fine. Meaning, if we keep that '*and any other Act*', then you will not pay the fine in case you commit another offence.

So I believe Mr Chairman, that the words: '*and any other Act*' should be deleted; let us confine ourselves to this Act which we are going to pass.

**HON. ALPHA A BAH:** Mr Chairman,...

**HON. MATHEW S. NYUMA:** With all due respect Sir, please; as for me, the Service Provider for me, has not committed any offence, no offence by providing service? I have mentioned SALCAB, is that an offence? It is not an offence [*Undertone*]. I am coming, I am coming; for you to provide service, tell me what crime you may have committed in line with other Acts; you would have to prove that. As far as the intent or spirit of the Bill is concerned, you are providing service; this one is okay, so you are not committing any crime. Do you want to tell me that providing service means, you have committed an offence? It is not fair.

**HON. DICKSON M. ROGERS:** Mr Chairman, if in implementing the laws of this Act means you have committed a crime, then let this Act vindicate you. But you cannot do it deliberately because you want to contravene other laws in other Acts [*Undertone*] then you will go scot free [*Undertone*]. Thank you. So let us limit ourselves to this Act, but when in the event of implementing any Law, you contravene another Act; you will be liable to an offence [*Interruptions*].

**HON. MATHEW S. NYUMA:** No, you are still missing the point. There are two points that are very clear here; in providing service, or making service available that is one; [*Undertone*]. Hold on, please. Making your services available that is one; I have no contention with the other [*Undertone*]. Making your services available, that is one;

**HON. DR. KANDEH K. YUMKELLA:** There are two, we agreed on both of them.

**HON. ALPHA A. BAH:** That is not the point, Mr Leader, please, that is not the issue.

**HON. DICKSON M. ROGERS:** Making yourself available in this Act Mr Chairman, does not mean you should contravene another Act and go scot free; this is an open cheque *[Undertones]*.

**HON. CATHERINE Z. TARAWALLY:** Mr Chairman, let us limit it to this particular law that we are enacting.

**HON:** Mr Chairman, Mr Chairman, can I be heard on this? Mr Chairman,

**HON. ALPHA A. BAH:** Mr Chairman, please. Mr Chairman, can I be heard on this please? *[these are undertones but seems relevant to the debate]*

**THE CHAIRMAN:** no, no, no! Mr Minister, I want you to consult with your Draftsman to tell us why they brought into this picture 'any other Law', the relevance of it.

**THE MINISTER:** Sir, my Draftsman...

**THE CHAIRMAN:** Is he here?

**THE MINISTER:** No, he is not here, but I clearly can understand the spirit; that is one of those things that we will neither add or take away.

**THE CHAIRMAN:** Very well, very well; we would stick a pin on that question.

**THE MINISTER:** Okay

**THE CHAIRMAN:** We would stick a pin on that question.

**HON. MATHEW S. NYUMA:** One clarification, just one clarification. Are you saying that you do not have problem with **B**?

**HON. ALPHA A. BAH:** For **B**, the issue we have is just the use of the words: '*any other law*', we would delete that - that is just the pressing issue *[Undertone]*.

**THE MINISTER:** We are not losing anything if we keep to the law, the extant law...

**HON. MATHEW S. NYUMA:** Can I come, Please? If you read **A** and **B** in tandem with the Clause [2] above; you would realise that there is a justification why they said '*any other law*'.

**HON. ALPHA A BAH:** Okay let me just read. With your leave, Mr Chairman.,

**HON. MATHEW S NYUMA:** Yes, Just read. Mr Chairman, let him read. Read one: the provision, which is the general Clause and then you come to the specific.

**HON. ALPHA A BAH:** '*A Service Provider shall not be liable under this Act or any other law for maintaining and making his services available*'. From my own understanding, though it is for the Court to interpret because we are just making the laws; that in the process of making your service available, you shall not be held liable under this Act and any other law.

Why do we say any other law? What is the relevance, what is the point? Because it makes no sense as we are already dealing with this law; that is my point. So if already **A** has been settled, and that we do not need any other law; we need not even go to **B**.

**THE CHAIRMAN:** I supposed the Draftsman would have been here to tell us why. I can very well understand a situation where the Service Provider is not liable under this law, but may be held liable under another law. But why..., I am coming, I am coming; so why should he be liable under another law for maintaining his services?

**HON. ALPHA A. BAH:** then in that case Mr chairman, we would be making an error in amending another law, and we should be able to know that we are deliberately amending a particular law, Mr Chairman. But in this case, we seem not to be certain of what we are saying or doing; so we need to get an inventory of the laws that may be affected and then, we can amend them deliberately.

**THE CHAIRMAN:** No, I can very well understand why they are attaching immunity here, not only under this law, but any other law; he will be immuned, Okay?

**HON. ALPHA A. BAH:** That is why there should be a saving Clause always; in legislating, you have clauses that makes provision that those particular Sections of X&Y

law have been amended, that such sections have been amended. But in this case, we are not certain as to which law or which particular legislation; we are referring to Mr Chairman.

**HON. MATHEW S. NYUMA:** Mr Chairman, we are certain, we are really certain about this provision.

**THE CHAIRMAN:** Especially when he is acting in compliance with this Act.

**HON. MATHEW S. NYUMA:** Exactly. Mr Minister, do you have what we call 'Access to Information Act'? We are talking about disclosure of Data, which is a right to access information. Do you have the Access to Information Act? Do you know that you should disclose your data? [*Undertone*] There is the provision.

**THE CHAIRMAN:** no, I want...

**HON. ALPHA A. BAH:** Mr Leader with respect, that particular Law makes clear provision as to how you go about accessing information.

**THE CHAIRMAN:** Alright, okay. If not, we would be here endlessly, so let us stick a pin on it. And let me ask if there is any comment on page 36? No, you have another one?

**HON. ALPHA A. BAH:** Yes, the issue of territorial jurisdiction.

**THE CHAIRMAN:** Oh yes, extra territorial...

**HON. ALPHA A. BAH:** Yes. I see my learned senior; the Deputy Minister of Information is here. Firstly, subsection [1] of Section 17 reads; '*the High Court shall have jurisdiction over any violation of this Act...*'. That is the first limb. '*And generally, including any violation committed by a Sierra Leone national regardless of the place of commission*'; that one is clear. And B [2] says: '*the jurisdiction of the High Court under subsection [1] if an offence under this Act was committed within Sierra Leone*'. What if it is committed by a non-Sierra Leonean out of Sierra Leone? A non-Sierra Leonean out of Sierra Leone, I stand to be guided.

**THE CHAIRMAN:** Honourable Member, would you please read 17 [1] again? Then you would find the answer to your question.

**HON. ALPHA A. BAH:** 'The High Court shall have jurisdiction over any violation of this Act'...

**THE CHAIRMAN:** including...

**HON. ALPHA A. BAH:** any violation committed by Sierra Leone national...

**THE CHAIRMAN:** regardless, of the place of commission

**HON. ALPHA A. BAH:** It says: Sierra Leone national. Then we are talking about a non-Sierra Leonean out of Sierra Leone. Clearly, we have the jurisdiction within Sierra Leone; we have the jurisdiction over a Sierra Leonean out of Sierra Leone. I am asking *[Undertones]*, we are just helping the process. I am now asking about a non-Sierra Leonean outside Sierra Leone committing an offence under this Act, is he covered by these provisions? *[Undertones]*

**HON. MATHEW S. NYUMA:** Mr Chairman, just a Point of Order. I made this point and I believe I want us to put a hold on it; but let me just draw the attention of the Honourable Member. It is clear here, I have not read this provision but there is a provision they are making reference to. Go to page 39, 24; I have not read this provision but maybe you have done it. *'This Act complements the Extradition Act, No. 11 Of 1974 which makes provision for the extradition of persons accused or convicted of an offence in another country'*.

**HON. ALPHA A. BAH:** That is, if it is limited to those clearly covered by Section [17]. That extradition provision... *[Interrupted]*

**HON. MATHEW S. NYUMA:** The last one, Section [18]; *'subject to the provision of the Attorney-General and Minister of Justice, Law Enforcement Agencies shall have powers to prosecute offences under this Act in the case of a crime committed under this Act, Sections [24] and [26] of this Act as approved by the Attorney-General'*. So there is a provision for extraditable offences.

**HON. CATHRINE Z. TARAWALLY:** Mr Chairman, may I be heard?

**HON. MATHEW S. NYUMA:** Hold on, hold on, please, just a minute. We have...

**THE CHAIRMAN:** As long as that act so committed has a connection with Sierra Leone, it is extraditable.

**HON. ALPHA A. BAH:** Let me contextualize, Mr Chairman, we have...

**HON. MATHEW S. NYUMA:** Hold on, hold on, I am looking for Clause [26]. Mr Chairman let us not forget, it is not more about persons in general; but also about Data and Systems. So if you go to [26], it also explains about foreign States; so it is a whole process and do not forget, we have to accede to the Budapest Convention that will be charged with the responsibility to extradite persons. When you accede to the Convention as a foreign State, you would have the responsibility to even prosecute or to extradite somebody from another State.

**THE CHAIRMAN:** That is the answer to your question.

**HON. MATHEW S. NYUMA:** if you have the provision for extradition; that is what they have done, that is why we have made reference to all the provision and it conforms with the Budapest Convention...

**THE CHAIRMAN:** The example he cited, the person would come under Extradition Law.

**THE MINISTER:** Mr Chairman Sir, this is a very interesting one; but the answer has been given in passing. When you look at Part Five, under International Co-operations, foreign nationals can actually be brought to book, and there are processes and procedures to ensure that they face the force of the law.

**THE CHAIRMAN:** Of course.

**THE MINISTER:** Yes, so that is settled Sir.

**THE CHAIRMAN:** That is what extradition law is all about.

**HON. DANIEL B. KOROMA:** Meaning, this area can be rephrased to cover a non-Sierra Leonean.

**THE MINISTER:** No, it is already being taken care of under the International Cooperation on page 36, Sir.

**THE CHAIRMAN:** No, extradition Law covers non-Sierra Leoneans, as long as their activities affect Sierra Leone.

**HON. ALPHA A. BAH:** Yes, I agree, Mr Chairman, that extradition laws cover non-Sierra Leoneans, that is to say non-Sierra Leoneans are covered by this Act. The section which deals with extradition just talks about the extradition Act and that is limited to whether the person is affected by this Act. And to my mind, those clearly covered by these Sections, a non-Sierra Leonean who might be in the United States [US] and then have the sophisticated equipment to hack a system here and he is not resident within Sierra Leone cannot be extradited to be tried [*Undertones*].

**THE CHAIRMAN:** Why can't he?

**HON. ALPHA A. BAH:** Because he is not covered within this territorial jurisdiction

**THE CHAIRMAN:** No Sir, no Sir. There is a separate extradition...

**HON. KANDEH K YUMKELLA:** Mr Chairman, can we have a bite on this as well?

**THE MINISTER:** Just, so that we can calm down nerves, I understand...

**HON. MATHEW S. NYUMA:** Mr Minister , just a minute, please.

**THE SPEAKER:** Order! Order!

**HON. MATHEW S. NYUMA:** Mr Chairman,

**THE CHAIRMAN:** No, please. The answer to his question is; foreigners are covered by extradition law. Now look, there is only one condition that must be satisfied; the dual criminality principle. It must be a crime both in Sierra Leone, and in the country from which he is being extradited okay - the double criminality principle.

**HON. DR. KANDEH K. YUMKELLA:** Yes Mr Chairman, I want to come back to number 17...

**HON. MATHEW S. NYUMA:** Honourable please, just a minute, I will give you the Floor.

**HON. DR. KAMDEH K. YUMKELLA:** Okay, after you Sir.

**HON. MATHEW S. NYUMA:** Mr Chairman, I do not know what is the problem because with my colleagues on the other side. But on extradition, this Bill extensively covers that.

**THE CHAIRMAN:** It does

**HON. MATHEW S. NYUMA:** If you read 23, it is clear. As far as going to [5] unto [24] if you go to...

**THE CHAIRMAN:** In fact, if you look at [24],...

**HON. MATHEW S. NYUMA:** It is exhaustively covered; 24[v]

**THE CHAIRMAN:** Not only that, it also incorporates the extradition Act of 1974 in Clause [24].

**HON. MATHEW S. NYUMA:** Exactly, I have said that. Okay, thank you; he has conceded.

**HON. DR. KAMDEH K. YUMKELLA:** I want to go back to 17; but I agree, I was there and we made sure that foreigners can be brought here as well

**THE CHAIRMAN:** Of course, they can!

**HON. DR. KANDEH K. YUMKELLA:** Yes, we looked at that reciprocity, but 17,...

**THE CHAIRMAN:** The only thing that will stop them being brought is; if it is not a crime in the country of residence.

**HON. DR. KANDEH K. YUMKELLA:** Yes, we covered that Mr Chairman; but with 17, I am still confused; we said jurisdiction - the jurisdiction of the High Court, still seems to apply to only Sierra Leonean citizens; it bothers me because, I am just thinking aloud.

Imagine a young hacker comes on holiday to Sierra Leone ostensibly, sits in a Hotel and begins to hack our Banking system. He or she is not a Sierra Leonean, but he is right here committing a crime but the jurisdiction does not cover them.

**THE CHAIRMAN:** I am sorry; the fact that, the territorial jurisdiction within Sierra Leone, it does matter. Whether you came from Mars, as long you committed the crime within this country...

**HON. DR. KANDEH K. YUMKELLA:** It did not say Sierra Leonean, it says Sierra Leone.

**THE CHAIRMAN:** Foreigners committing within Sierra Leone you are liable.

**THE MINISTER:** The law is very clear in Section [23], let me read it, and let us follow, section 23 Sir. *The Attorney-General may make request on behalf of Sierra Leone to a foreign State for mutual assistance in an investigation commenced, or prosecution instituted in Sierra Leone relating to a Computer related offence or collection of electronic evidence.* So your fears are addressed here.

So that covers the young holiday maker who sits in the comfort of a hotel and begin to hack all our Banking and other systems.

**THE CHAIRMAN:** So with that comfort, we can now retire for this evening. Now, Mr Minister before I call on you, page 36? No comments; Mr Minister, please move.

**THE MINISTER:** Mr Chairman, Honourable Members, I move that Parts 1, 2, 3 and 4, Clauses [1] to [20], stand part of the Bill as amended.

*[Question Proposed Put and Agreed To]*

*Parts 1, 2, 3 and 4, Clauses [1] to [20] form part of the Bill as amended.*

*[THE HOUSE RESUMES]*

## **ADJOURNMENT**

*[The House rose at 3:45 p.m. and was adjourned to Wednesday, 24<sup>th</sup> June, 2021 at 10:00.a.m.].*