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Zondo Commission – Frolick: partly state capture probe would have undermined Madonsela’s

Former parliamentary house chairperson of committees Cedric Frolick has told the state capture commission that the reason Parliament did not pursue an investigation into state capture in 2016 was because the Public Protector had already started one. By launching an investigation of its own, Parliament would have created a parallel process to that of Thuli Madonsela, which would have been improper. He appeared on Monday in an evening session.

As the “chair of chairs”, he was aware of the numerous allegations in media reports as well as those brought forward by members of the opposition parties to the different portfolio committees affected. Despite several discussions over whether Parliament should investigate the allegations, a decision was taken within the ANC caucus that this would be improper. In his previous appearance earlier this month, Frolick attributed the general hesitancy by committees to undertake investigations to the lack of resources afforded to them for such work.

Challenged by evidence leader Advocate Alec Freund over the position taken in 2016, Frolick said the final decision was made by then national assembly speaker Baleka Mbete. Another opponent to the establishment of an investigation was then ANC chief whip, the late Jackson Mthembu, who cautioned on establishment of a parallel probe, saying it could come to a different conclusion to that of the Public Protector, and make Parliament appear to have undermined the work of a Chapter 9 institution, which would submit its report to them anyway.

“We were mindful of the Constitutional Court ruling, which stated that investigations undertaken by the Public Protector and the recommendations that are made can only be taken on review in a court of law,” said Frolick.

“Parliament was chastised at the time, after the Public Protector delivered the report on Nkandla, for what was deemed to be a second guess of what the Public Protector said.”

The DA tabled a motion in September for a parliamentary investigation to be launched, despite the Public Protector process, but this did not succeed. A month later, Madonsela released the *State of Capture* report.

Freund asked if Mbete did not use her political party power as national chairperson of the ANC to vote against the motion. Frolick said unlike the Westminster system, the South African parliamentary system allows for the national speaker to partake in caucus matters, and therefore vote along the party line in motions before the national assembly.

“Far from being neutral, she didn’t even pretend to be neutral. She was an active leader of the governing party...and she voted in line with the party whip,” said Freund.

“I cannot say why the speaker decided to vote in a particular manner, but the speaker ...voted against the motion,” Frolick replied.

There is a duty on Parliament to get to the bottom of state capture allegations, is there not, asked Freund.

“There is a duty on each member of Parliament to bring such information to the relevant structure, following the rules, and what is to happen is to get the buy-in of the different role players in Parliament to do as you say.”

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