

**COMMISSION OF INQUIRY INTO STATE CAPTURE**  
**HELD AT**  
**CITY OF JOHANNESBURG OLD COUNCIL CHAMBER**  
**158 CIVIC BOULEVARD, BRAAMFONTEIN**

**01 FEBRUARY 2021**

**DAY 335**



**Gauteng Transcribers**  
Recording & Transcriptions

22 Woodlands Drive  
Irene Woods, Centurion  
TEL: 012 941 0587 FAX: 086 742 7088  
MOBILE: 066 513 1757  
[info@gautengtranscribers.co.za](mailto:info@gautengtranscribers.co.za)

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TRANSCRIBERS:

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



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**PROCEEDINGS RESUME ON 01 FEBRUARY 2021**

**CHAIRPERSON:** Good morning Mr Freund, good morning everybody.

**ADV FREUND SC:** Good morning Chair.

**CHAIRPERSON:** Are you able to hear me quite clearly?

**ADV FREUND SC:** I have reasonable picture and reasonable sound; not perfect but quite reasonable.

**CHAIRPERSON:** Oh okay. Okay hopefully it will improve as we go along. I just want to announce that this week the  
10 evidence leader Mr Alec Freund SC who is going to be leading evidence relating to Parliamentary oversight is not physically here in the venue. We have not done this before it has been witnesses who have been away from the venues sometimes and appear via video link but the situation in which we are forces us to explore various ways and I have allowed that he appears virtually and we hope that this situation where both the evidence leader and the witness are not physically before me is going to be smooth but there may be some technical glitches but we hope that  
20 they will not be too much. Thank you Mr Freund with that introduction I now give you the floor.

**ADV FREUND SC:** Thank you very much Chair. Chair with your leave I propose to start with a fairly brief introductory address just to indicate where I anticipate this evidence will be taking us.

**CHAIRPERSON:** I am sorry ...

**ADV FREUND SC:** And as you have just indicated the topics for the present....

**CHAIRPERSON:** I am sorry – I am sorry Mr Freund I do not know whether there is some unusual delay when I speak before you hear; if there is the technicians should try and do what needs to be done to improve that. For certain reasons I suggest that we swear in your first witness and then you do your brief opening address. Is  
10 that fine?

**ADV FREUND SC:** Chair I am struggling to hear you. I have relatively poor audio and relatively poor visuals from the venue of the hearing.

**CHAIRPERSON:** Is that so.

**ADV FREUND SC:** I have a much clearer connection with the witnesses.

**CHAIRPERSON:** Is that so. Maybe – well maybe in that event I should allow you to do your brief opening address because for that you – you will just be the only one  
20 speaking because I can hear you quite well I think. Then thereafter and before – thereafter we might just swear in the witness and then take an adjournment to allow the technicians to attend to the problem. So I think let us start with your opening address instead of the other way around.

**ADV FREUND SC:** Yes. Thank you Chair and Chair I

would request that if at any particular time you really are not hearing me you would indicate that. But I will assume that as we proceed you can hear what I am saying.

**CHAIRPERSON:** Yes.

**ADV FREUND SC:** Okay. I propose to start with a brief reference to the Terms of Reference of the Commission because the Terms of Reference mandate the commission not only to investigate allegations of state capture, corruption and fraud in the public sector including organs  
10 of state but the Terms of Reference also require the commission to submit recommendations to the President.

So if in due course it should be found by the commission that there was any form of state capture or that there was any significant level of corruption in the public sector or organs of state then it will be necessary in order for the commission to make recommendations which may be of value to consider certain related issues.

And those are firstly whether our National Institutions designed to address or to protect the country  
20 or to prevent such conduct failed to do what they should have done to prevent or to address those sorts of problems.

And secondly if so how and why that came about?

And thirdly whether anything can be recommended which if adopted may contribute to avoiding or to reducing

similar failure in the future.

Now Parliament is one such National Institution. The Constitution imposes on Parliament not only a right but also a duty; a constitutional duty to exercise oversight over the executive and a constitutional duty to hold the executive accountable.

Now there are various provisions in the constitution relevant to that. I am just going to mention two of them.

One is Section 42(3) of the Constitution which says  
10 that the National Assembly must and I quote “scrutinise and oversee executive action.” And as the hearings on Parliamentary oversight proceed one is always going to have to have at the back of ones’ mind what does that mean a duty to scrutinise and oversee?

But more so and more directly in point of Section 55(2) of the Constitution which provides as follows:

“The National Assembly must provide for mechanisms to ensure that all executive organs of state in the national sphere of  
20 government are accountable to it.”

That is the language used. Accountable to the National Assembly.

And

“b. To maintain oversight.”

So we need to think through what is the oversight

that the Constitution has in mind. And it is oversight of:

- “1. The exercise of National Executive Authority including the implementation of legislation and
2. Any organ of state.”

And Chair you will be aware that the commission has been focussing not only on departments of government but on major state owned enterprises which are organs of state.

10           Now the focus of the evidence before the commission this far in the main has been on the executive, on leaders of state owned companies and on persons who were engaged in business dealings with the state and with SOE's.

          And the core question that has been under consideration in the evidence heard thus far is whether those persons; persons within the executive; within the SOE's; within the private sector and elsewhere dealing with them whether those persons have participate in – have  
20 participated in or colluded with state capture or corruption.

          If it should be found by the commission that this did occur then it will be necessary to consider whether Parliament did what it could properly have been ex – could have properly have been expected 00:09:45 in the exercise of the oversight responsibilities.

And the focus of the present set of hearings will be on that question. That in broad terms is the question.

More particularly the focus will be on the following:

Firstly did the National Assembly properly and adequately and responsibly exercise both its right and perform its duty to firstly maintain oversight over the executive – I have quoted the Constitution Provision.

And secondly to hold the executive accountable.

Now I understand that given the Terms of Reference  
10 of this commission we ask those questions only in relation to allegations made from time to time of either state caption or state capture or corruption or fraud in the public sector.

So the first question, did the National Assembly properly exercise its oversight responsibilities?

Secondly if and to the extent that it might be found that Parliament did not do so – did not do what it should have done then the following two further questions arise.

Firstly why and how did that come about? What  
20 explains that problem or that failure if it should be found that there was such a failure?

And secondly and possibly most importantly – most importantly ultimately what if anything should the commission recommend which if adopted may contribute to avoiding or to reducing the extent of similar problems in



the future?

Now the commission has received voluminous – and voluminous submissions. These include Members of Parliament. These include political parties. These include non-government organisations and they include academic experts.

Chair given the limited time available to the commission to complete its work and given that the written material can in any event be considered by the commission  
10 it will not be possible to present all of this material orally in the present hearings.

Nor will it be possible to present all that is contained in the affidavit or all that is contained in the submissions of those who have been selected and requested to testify orally.

But a selection has been made of what are considered to be the most informative or useful material received and that is to be explored in the present oral  
hearings.

20 Now initially it was contemplated that approximately 19 persons would be called to testify albeit in some cases quite briefly. But there have been some tragic developments which I wish to deal with right at the outset.

Firstly the former Auditor General Mr Kimi Makwetu cooperated extremely closely with the commission on the

issue of Parliamentary oversight. And I had anticipated he would be the very first witness to testify. An extensive affidavit by him was at an advanced stage of preparation; prepared I may say with enormous assistance from personnel within the office of the Auditor General of South Africa. But as you will know Chair Mr Makwetu tragically passed away in November last year and he did so before he could sign and formerly depose to the final draft of his affidavit.

10           There is no-one else at this late stage in a position to give the same evidence but we do have the benefit of the unsigned final draft affidavit. And that draft affidavit has been included in the bundles, the written material to which I should refer shortly together with multiple supporting annexures which bear out in almost every instance the content of the affidavit and also accompanied by two confirmatory affidavits from persons within the office of the Auditor General who were intimately involved I the preparation of the unsigned affidavit and I will be  
20           submitting to you Chair in due course that the unsigned affidavit can be regarded as admissible evidence having regard in particular to Section 3 of the Law of Evidence Amendment Act.

          Although I will be submitting to you Chair that regard must be had with certain sections precisely because

it will be only in the format of an unsigned draft affidavit.

I might mention that the first witness to be called will be asked to comment on certain aspects raised in Mr Makwetu's draft affidavit and certain other witnesses to follow will also be asked questions arising from it.

So it will serve as a point of reference for the evidence of certain other witnesses.

Secondly Mr Jackson Mthembu who had served as the Chief Whip of the Majority Party in Parliament from  
10 March 2016 until March 2019 and of course since then is a Minister submitted an affidavit to the commission. In this instance a signed properly deposed to affidavit. And he would I feel confident have made a very major contribution to the 00:16:06 on the question of Parliamentary oversight. Because he was the Chief Whip at the centre of the Parliamentary process in the years that are going to be of particular interest and of particular importance to the questions that we are going to be dealing with.

But as you know Chair he recently and tragically  
20 passed away. So his evidence is in the bundle; reference will be made to it but we will be sorely prejudiced by the inability of the late Mr Jackson Mthembu to testify.

Thirdly there is at least one further witness who had submitted an affidavit. He had been expected to testify; who is currently not in good health and whose health may

or may not enable that witness to testify in due course. But if so it will not be this week.

So where does that leave us for the present purposes? As you know Chair we have set aside a period of five days – Monday to Friday of this week and we will try to get through as much as we can and I am anticipating that we should probably be able to hear the oral evidence of about ten witnesses and even possibly more.

But it is anticipated that we may in all probability  
10 need to find if we possibly can another two a day witnesses somewhere in the very tight schedule of the remainder of the oral hearings of the commission.

The evidence that we will hear will fall broadly into two categories. First what we might call pure fact evidence. There would be evidence in the main from members of Parliament or former members of Parliament about what degree of oversight did and did not take place in certain relevant Portfolio Committees and of course oversight in respect of allegations of state capture and in  
20 respect of allegations of corruption.

And the primary focus in this regard will be firstly on the Standing Committee of Public Accounts known to all as SCOPA and then secondly on certain selected Portfolio Committees and those are the Portfolio Committees on Public Enterprises which of course shed

oversight in respect of many of the entities almost there has been a great deal of attention in the hearings of this commission.

My – also on the public – on the Portfolio Committee on Transport but only in relation to PRASA. PRASA has been selected just to demonstrate a certain tendency and a certain type of problem and also the – the Portfolio Committee on Correctional Services and there again only in relation to BOSASA.

10           This commission has already heard quite a lot of evidence not only about allegations of corruption involving BOSASA and the Department of Correctional Services but also in respect of the issue of Parliamentary oversight in relation to that and there will be certain further evidence on that theme.

And there will also be some but more limited evidence about the Portfolio Committees on Mineral Resources and on Home Affairs for reasons that will become clear to you in due course.

20           We will start with the evidence of the former Chair of SCOPA Mr Themba Godi. Now according to the affidavit that he has submitted he will testify to the effect that in the years during which he chaired SCOPA there was a widespread breakdown in financial control and a continuing ever increasing rise in irregular, fruitless and wasteful

expenditure.

And he will say that in his view SCOPA performed its oversight responsibilities properly. Made appropriate recommendations as regards required remedial action to be taken by the executive and that SCOPA's reports were adopted by the National Assembly.

But he will say the irregular, the fruitless and wasteful expenditure continued to rise. In other words that the oversight process did not result in any discernable  
10 improvement in fact on the contrary the situation got progressively worse.

So his evidence will raise a question firstly as to the extent of Parliament's oversight powers. What really are the limits of what Parliament is entitled to do; what can it be expected to do?

And secondly his evidence and a lot of the other evidence will raise the question of what if anything can be done to improve the effectiveness of oversight?

And this of course is against the context of  
20 committees and MP's who are genuinely trying hard to do their best to exercise proper oversight and to – and to require proper accountability.

We will also then hear evidence from a number of MP's who were active on the Portfolios Committees dealing as I said with Public Enterprises, Transport and

Correctional Services.

Some of that evidence will be evidence of appropriate oversight exercise on occasion. But other of that evidence will suggest that steps that should have been taken by Portfolio Committees were either not taken at all or if they were taken they were taken only belated one might say culpably belatedly and well after such oversight activities ought to have commenced.

There will also be evidence from a representative of  
10 a NGO which has taken particular interest in Parliamentary oversight in respect of allegations of corruption and state capture and that evidence will traverse broadly across the various committees that I have referred to.

Now the evidence was factual evidence on what oversight activities did and did not take place will require attention to be given as we go along to the following three sub-questions.

Firstly what allegations and what evidence were in the public domain at particular times? And that would  
20 include material published in the press; material made officially available to Parliament by means of reports – annual reports; reports from the Auditor General and such like.

And that of course is relevant to – to forming a judgment about the appropriateness of how members of

Parliament and how committees of Parliament responded. We have to assess not with the benefit of hindsight but fairly taking into account what those members of Parliament and Committees should have known or should have suspected or had reasonable grounds to suspect or had reasonable grounds to investigate at particular times so I am drawing attention to the importance of time as a consideration as we assess the questions that will be addressed.

10           Secondly having had some sense of what was in the public domain and what was – what was known to members of Parliament or what should have been known to members of Parliament the question will be whether Parliamentary structures were or were not remiss in failing to inquire into issues that that they should have inquired into whether timeously or at all?

                  And then thirdly to the extent if they knew they did not do what should have been expected what might explain that? How do we understand that? What are the causes of  
20 this problem?

                  So those fact witnesses in the main members of Parliament or former members of Parliament will deal with those issues and they will also be given an opportunity to deal in passing as they testify with the question if they wish to comment on it on what recommendations they



suggest the commission should make?

I want to make clear that an attempt has been made to allow conflicting voices to be heard before you in these hearings on the issues that I have raised.

If a Portfolio Committee has been criticised by one or more witnesses an attempt has been made to enable the Chair of that committee to – be have an opportunity to testify in response.

10 But it has not been possible to achieve this in every case. One of the Chairs who would have testified is currently medically indisposed. When I say Chairs – former Chairs very often we are looking backwards somewhat.

Another Chair Mr Smith, Mr Vincent Smith has taken the view that he has already contributed to the work of the commission sufficiently and we propose in response to that to leave it that.

That is the first category of evidence. What happened? What did not happen?

20 The second category of evidence and largely it will deal – be dealt with in the same sequence in other words we will only reach the second category after we have largely completed the first category will be evidence and submissions from a number of academics; from a number of NGO's; from MP's; from some political parties about

firstly what explains apparent failures of Parliamentary oversight?

And secondly what suggestions do these persons have the academics; parties and so forth as to recommendations that they suggest could be made by the commission?

Now we may or may not reach that phase of the evidence in the present – the five days presently set aside for this work stream and as I have said those same  
10 questions will be dealt with in passing by the other witnesses in turn who will be – but as I say this mainly be focus – we will mainly hear this second phase of the evidence after we have completed the first.

It is anticipated that the very final witness who very clearly will not be heard in this five day session will be a senior representative of the African National Congress who will give that party's overall views on the Parliamentary oversight issue and its views on what could be done to make Parliamentary oversight more effective.

20 And I think it is necessary that I should place on record Chair that all political parties represented in Parliament were invited in fact were twice invited if they so wished to place evidence before the commission or to make submissions to the commission about the issued to which I have referred.

Some of them have taken up that opportunity others have not.

Now finally Chair the Parliamentary oversight material is contained in Exhibit ZZ of the files of the commission. Exhibit ZZ comprises the entire Parliamentary oversight bundle. At present the bundle comprises five volumes of affidavits and written submissions. There is also a further bundle labelled Legal Framework and References. The Legal Framework part of that final bundle  
10 contains both the 8<sup>th</sup> and the 9<sup>th</sup> editions of the Rules of the National Assembly and the reason for that is that some of the events that you will hear evidence about took place whilst the 8<sup>th</sup> Edition was still in place and some once the 9<sup>th</sup> Edition had come into effect.

The differences are not very material for present purposes but that reference material is available to all witnesses and to yourself as we go along.

There is also in the Reference File certain other reference material which I need not deal with now but  
20 which we can use and I will refer to as we get there. And I might add Chair that there is a further bundle that is in the process of being created and that in all probability will not be referred to you this week.

That is all I wish to say by way of an introductory address. My proposal, assuming as you think it

appropriate and convenient to do so, is that I now call the first witness in this session, Mr Nelson Themba Gobi. Chair, I recall that you suggested that perhaps we might take a short break to attend to the question whether anything can be done about the quality of the transmission.

**CHAIRPERSON:** Thank you Mr Freund for your opening address. Yes, I think what we should do is, call your first witness, Mr Godi and let him get sworn in. And then we will take the adjournment after that.

10 **ADV FREUND SC:** As you please.

**CHAIRPERSON:** Yes.

**ADV FREUND SC:** Mr Godi, it may be while I come on screen and take off your mute.

**CHAIRPERSON:** Yes.

**MR GODI:** [No audible reply]

**ADV FREUND SC:** Thank you. Mr Godi, can you hear me?

**MR GODI:** Ja, I can hear you better now.

20 **ADV FREUND SC:** Thank you. So I will leave it to the Commission's officials to swear you in.

**CHAIRPERSON:** Good morning Mr Godi.

**MR GODI:** Good morning.

**CHAIRPERSON:** Can you hear me?

**MR GODI:** [No audible reply]

**CHAIRPERSON:** Can you hear me well?

**MR GODI:** Not so well.

**CHAIRPERSON:** Not so well? Okay what we ...[intervenes]

**MR GODI:** [Indistinct]

**CHAIRPERSON:** What we are going to do is have the oath or affirmation administered to you and after that has been done we will take an adjournment so that the technicians can attend to what needs to be done to make sure everybody can hear me well. You understand that?

**MR GODI:** [No audible reply]

10 **CHAIRPERSON:** Okay. Registrar, please administer the oath to Mr Godi or affirmation. He will tell you which one he prefers. Come and stand... Oh, you do not have the... You need that for the... Oh, that is the mobile one. Then come and stand where he can see you as well.

**REGISTRAR:** Please state your full names for the record.

**WITNESS:** Nelson Themba Godi.

**REGISTRAR:** Do you have any objection in taking the prescribed oath?

**WITNESS:** No.

20 **REGISTRAR:** Do you consider the oath binding on your conscience?

**WITNESS:** Yes.

**REGISTRAR:** Do you solemnly swear that the evidence you will give, will be the truth, the whole truth and nothing else but the truth? If so, please raise your right hand and say, so

help me God.

**WITNESS**: So help me God.

**NELSON THEMBA GODI**: (d.s.s)

**CHAIRPERSON**: Thank you Mr Godi. We are going to take an adjournment now and I do not know how long it is going to be. It depends on the technicians but I am given an indication that it might be ten minutes. Technicians, it is technically possible for me to see both the witness and the evidence leader in different screens?

10 **TECHNICIANS**: [No audible reply]

**CHAIRPERSON**: Okay alright. If it is technically possible, technologically possible, I will prefer to see both as the evidence leader asks questions and the witness answers questions, rather than having a situation where the leader, the evidence leader will ask a question and then he will disappear and the witness will come up. If possible.

But if that is going to take quite some time to do, then we can continue in the meantime and then at some stage then we can change. But if it is not technologically  
20 possible it is fine. We will make do with what we have. We are going to have the ten minutes' adjournment. We adjourn.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON**: Mr Freund, I understand that some improvement has been made but it does not solve the

problem completely, is that correct?

**ADV FREUND SC:** It is correct, Chair, but I must say I did manage to hear what you just said so I think the improvement for us to proceed.

**CHAIRPERSON:** Okay. No, that is fine, let us proceed then.

**ADV FREUND SC:** Thank you, Chair. Chair, the evidence of Mr Godi is EXHIBIT ZZ2, to be found in bundle 1 at page 101 and following.

10 **CHAIRPERSON:** Yes, so just for the record we will be using bundle 1 certainly during Mr Godi's evidence. I do not know whether that is the bundle we will use for the rest of the day but if there is a change you will announce.

**ADV FREUND SC:** Yes, I must just indicate to you, Chair, in advance that halfway through or two thirds of the way through the evidence of Mr Godi I will be referring him to the affidavit of Mr Kimi Makwetu, the late Mr Makwetu and that will be in bundle 4, but I will announce that when I reach that point.

20 **CHAIRPERSON:** Okay. No, that is fine.

**ADV FREUND SC:** Thank you. Mr Godi, is it correct that you deposed to an affidavit for the Commission of which you should have a hard copy available to you and is it correct that your signature appears at page 120 at the end of that affidavit?

**MR GODI:** That is correct.

**ADV FREUND SC:** And have you had an opportunity in preparation for giving your evidence today to read through that affidavit and are you comfortable that it is correct as far as you are aware?

**MR GODI:** That is correct, I am satisfied that the affidavit does not need any adjustment or corrections, it is fine as it is.

**CHAIRPERSON:** Before we proceed ...[intervenes]

10 **ADV FREUND SC:** Mr Godi, can I refer you now ...[intervenes]

**CHAIRPERSON:** I am sorry, Mr Freund? I am sorry, Mr Freund.

**ADV FREUND SC:** Yes?

**CHAIRPERSON:** Mr Godi, I must thank you for availing yourself to come and assist the Commission by giving evidence. I just – I normally say that at the beginning so I thought I would say that to Mr Godi.

20 **ADV FREUND SC:** Thank you, Chair. Mr Godi, I would like to start off just by giving a little bit of your personal background so that we understand on what basis you are in a position to give the evidence that you do. Could you turn please to paragraph 4 of your affidavit?

**MR GODI:** Ja.

**ADV FREUND SC:** Page 104. And is it correct, as we see



there, that you came to parliament as an MP in February 2004.

**MR GODI:** That is correct, Chair, and this is thanks to the former President of the PAC, Bishop Stanley Mogoba, who wanted to give me a two months preview before the 2004 elections in April so that I can acclimatise myself at parliament.

**ADV FREUND SC:** Right and at that time you were a – you were the then Deputy President of the Pan African  
10 Congress, is that correct?

**MR GODI:** Ja, that is very correct and may I add that I am appearing before you here as a proud and grateful product of the PAC.

**ADV FREUND SC:** Yes. Now you did, however, as I understand it, as you say in paragraph 4.6 in September 2007, leave the PAC and become the founding President of the African People's Convention, is that correct?

**MR GODI:** It is very correct, one of the most traumatic moments for me politically.

20 **ADV FREUND SC:** Now - and you remained a member of parliament all the way through until May of 2019, is that correct?

**MR GODI:** That is correct.

**ADV FREUND SC:** Now from a fairly early stage of your period of service as a member of parliament, is it correct

that you served as Chairperson of the Standing Committee on Public Accounts, otherwise known as SCOPA?

**MR GODI:** Ja, that is correct, I think as my affidavit indicates, I became Chairperson in November 2005 and I do think, Chair, that it might be important just to give a little background, that since 1994, the tradition has been that Public Accounts Committee is chaired by somebody who is not from the majority party. So I came in as part of that tradition, taking over from someone who was from the  
10 New National Party and the IFP before and all that stuff.

**ADV FREUND SC:** And you remained as Chair of SCOPA from November 2005 until May 2019, is that correct?

**MR GODI:** That is correct, stating (indistinct – recording distorted) ja.

**ADV FREUND SC:** Yes, so effectively over more than the fourth and fifth parliaments.

**MR GODI:** Correct.

**ADV FREUND SC:** Right. Now I would like to focus next on the functions of SCOPA and you deal with that in  
20 paragraph 6.1 of your affidavit where you refer to Rule 245 of the Rules of the National Assembly, as they currently stand, the ninth edition, is that correct?

**MR GODI:** Ja, that is correct.

**ADV FREUND SC:** There was a similar provision that preceded that.

**MR GODI:** Correct.

**ADV FREUND SC:** So ...[intervenes]

**MR GODI:** Except that in this edition, 6.1.1(iv) it is something that we initiated, added to the rules which was not there at the time when I became Chairperson in 2005.

**ADV FREUND SC:** Alright, I take your point but now let us just start at the beginning, let us just understand the core and basic functions of SCOPA. The rule says, as we read in your affidavit, the following:

- 10            “The Standing Committee on Public Accounts
- (a) Must consider
- (i) The financial statements of all executive organs of state and constitutional institutions or other public bodies when those statements are submitted to parliament,
- (ii) any audit reports issued on those statements, and
- (iii) any reports issued by the auditor
- 20            general on the affairs of any executive organ of state, constitutional institution of other public body.”

That, if I understand you correctly, has been the case throughout your period with SCOPA.

**MR GODI:** Correct.

**ADV FREUND SC:** Right, what you are drawing attention to is that in your period and when the ninth edition of the rules took effect, (iv) was added which also requires SCOPA to consider any reports reviewing expenditure of public funds by any executive organ of state and constitutional institution or other public body. That was in due course added to your official mandate.

**MR GODI:** Correct.

**ADV FREUND SC:** I then want to draw attention to sub  
10 rule 1C:

“The Standing Committee on Public Accounts

(c) May initiate any investigation in its area of  
competence.”

That has always been part of the SCOPA mandate, is that correct?

**MR GODI:** Correct.

**ADV FREUND SC:** And then to paraphrase (d) you also  
have to perform the same source of functions as other  
portfolio committees, you have tasks and duties concerning  
20 parliamentary financial oversight and supervision of  
executive organs of state. I think that rule speaks for  
itself, am I right?

**MR GODI:** Except that insofar it affects – it concerns  
parliament, this was not amended but parliament has taken  
away that responsibility from SCOPA and established a

body that is supposed to look at - review the finances of parliament. We only did it once.

**ADV FREUND SC:** Yes.

**MR GODI:** But – ja.

**ADV FREUND SC:** Alright, so you are drawing attention to the very specific issue of parliament’s own financing.

**MR GODI:** Ja, sure.

**ADV FREUND SC:** Which, you are correct, that is not really the subject matter of concern to the particular  
10 inquiry or involving the Commission.

**MR GODI:** Sure.

**ADV FREUND SC:** And then sub rule 2 says this:

“The Speaker must refer the financial statements and reports mentioned in paragraphs A1 to 4 to the committee, i.e. to SCOPA, when they are submitted to parliament irrespective of whether they are also referred to another committee.”

So your committee got all of these reports, the financial reports including the reports from the auditor general, is  
20 that correct?

**MR GODI:** That is correct.

**ADV FREUND SC:** Thank you. Now what I would like to do against that background is to summarise at the outset some of your core views and contentions as they are set out at an early stage in your affidavit and I would like to

refer you firstly, please, to paragraph 5.3 of your affidavit.

Now perhaps rather than me reading it into the record, could I invite you to read it into the record because this is something that you stress in your affidavit you want to emphasise at the outset.

**MR GODI:** That is paragraph 5.3.

**ADV FREUND SC:** That is correct.

**MR GODI:**

10 “What I feel I should emphasise at the outset is that  
in my view the extent to which parliament is able to  
exercise its active oversight over the executive is  
and has always been fundamentally a political  
question determined by political forces and proper  
application over principle, over separation of  
powers. Parliament and its committees can solicit  
information an explanation and can make  
recommendations but the extent to which such  
recommendations are the status quo(?), depends in  
practice on the integrity and political sensitivity of  
20 members of the executive.”

**ADV FREUND SC:** Alright, if I hear you clearly, we will in due course come back to that issue when we have considered some of the more substantive material that you have put to the Commission.

I would also like you please to read into the record

paragraph 5.4 because that is another point you say at the outside you wish to emphasise.

**MR GODI**: May I read it?

**ADV FREUND SC**: Please.

**MR GODI**: Right, 5.4:

10           “Another point I wish to emphasise about parliamentary oversight is that when one political party is dominant, the extent to which oversight will be effective depends on the internal dynamics within that party. Oversight by committees of parliament should ideally be nonpartisan and sometimes that is achieved but not infrequently partisan political battles including internal factional battles occur within committees.”

**ADV FREUND SC**: Thank you. I think in fairness to you we should indicate that there is a footnote to that where you say in footnote 1 that you think SCOPA largely managed to achieve the ideal of being nonpartisan, is that correct?

20   **MR GODI**: That is very correct and I am sure it is touched upon somewhere and I think it is an important factor to emphasise because that is what sets SCOPA apart from the other committees, the extent to which we could, as a team, irrespective of whether one came from the DA, the IFP, the EFF, the ANC, we all operated as a unit, we treated each

other as comrades, only serving the public good. It is that which actually sets us apart from all the other committees.

**ADV FREUND SC:** Thank you. I want to refer you now to paragraph 6.2 and paragraph 6.2, if I can paraphrase it in my own words...[intervenues]

**CHAIRPERSON:** I am sorry, Mr Freund?

**ADV FREUND SC:** Yes?

**CHAIRPERSON:** I just want to ask Mr Godi a question about his comment that he has just made. Mr Godi, the  
10 point you have made that SCOPA largely operated as a committee and as a team irrespective of the different political parties from which its members came and you have said that that set SCOPA apart from other committees. What do you think was responsible for that, namely for the committee or SCOPA to operate as a team irrespective of which political parties its members came from and doing so for the public good, which it seems implied in your evidence, was not the case with other parliamentary committees.

20 **MR GODI:** Chair, when I became Chairperson of SCOPA I found a committee that was driven by divisions, coming from the arms deal where they committed it and I set out deliberately and cautiously to inculcate that spirit and approach and unfortunate that members were respondents because we said look, if we are going to grandstand and



fight amongst ourselves, it is the thieves who are going to benefit, it is public money that is going to be looted and we somehow managed it.

I must say it was not easy, it was continuous work to manage the different personalities. It would from time to time emerge that members of a particular party would come with a particular perspective but by and large we managed to find our rhythm. I think in the fourth parliament, that is where we laid the foundation. In the fifth parliament I think  
10 – I think that was our best year where we had actually cemented that collegial relationship where whether that person is from the DA or the EFF or IFP, we worked as a team and the political parties somehow gave members of SCOPA some part of leeway on to build.

**CHAIRPERSON:** So I guess that was ...[intervenes]

**ADV FREUND SC:** Thank you, may I proceed?

**CHAIRPERSON:** I guess that what you are saying is you, as the Chairperson, made it your mission to try and achieve that spirit in the team and that commitment in the  
20 team.

**MR GODI:** Chair, very, very much so, it was a cautious and deliberate effort. In the fifth parliament I was well fortunate to have a committee whip like comrade Nyami Booi.. We spent a lot of lunchtime together as way of building between myself and him, a working relationship

that then assisted in cementing work amongst ourselves.

I had a lot of one-on-one with members of the DA, with the member of the IFP, with the member from the EFF to really work on this collegiality because that was the only way we could do the kind of work that we did.

**CHAIRPERSON:** Okay, thank you, Mr Freund, you can proceed.

**ADV FREUND SC:** Thank you, Chair. Mr Godi, arising from that I just want to draw attention to paragraph 4.4 of  
10 your affidavit in which you state that during your tenure in the National Assembly you served on the portfolio committees on Social Development, Labour, Education, Health and Trade and Industry. In other words, you did have experience on other portfolio committees, is that correct?

**MR GODI:** Correct.

**ADV FREUND SC:** And is it your evidence that the lack of partisanship in SCOPA was quite different from your experience in the other committees, to which I have just  
20 referred or to other committees in general?

**MR GODI:** Absolutely, absolutely.

**ADV FREUND SC:** Thank you. Now I would like to take you – I just want to refer you and this is still really introducing your views, which we are going to come to substantiate in more detail later, but in paragraph 6.2 I

think it is fair to say that the essence of your view is that you believe that in both the fourth and fifth parliaments SCOPA did discharge its assigned functions. That is your view, is it?

**MR GODI:** Correct, correct, we certainly did and I think the records are there to prove that we were the one committee that really took its job seriously.

**ADV FREUND SC:** And I think it will be fair to say on a reading of your affidavit that you believe that your  
10 committee did all that could be reasonably be expected of it. That is your view, is it?

**MR GODI:** Ja, I just want to add that the last sentence in the paragraph talks to the media coverage that we got which was reflective of the fact that we were actually doing our work and I must say that we must thank the media, the journalists in Cape Town, media houses, the radio stations because we made a conscious decision.

If you look at one of our strategic objectives it was to make sure that the public knows and understand the  
20 work of SCOPA and we could only use the media, that is why in SCOPA we refused to have closed hearings.

Whenever we had a hearing, whatever sensitivities officials say in there, we insisted it must be open so that the media could be there and could then take the message from the committee to the public.

**ADV FREUND SC:** Right, thank you. Now given that background that you say that you believe that SCOPA did discharge its obligations, that makes all the more significant what you say in paragraph 6.3. You say in paragraph 6.3 the following:

“During the same period...”

The period during which you say SCOPA was diligently discharging its obligations. Firstly, there was in your view a widespread breakdown in financial control, as reflected  
10 in the clear and emphatic reports from the auditor general and the reports of SCOPA. So despite you doing what you say was your job at the same time there was a widespread breakdown in financial control, is that correct?

**MR GODI:** I think that is an important contradiction to be kept in mind as we move along because we did our work very, very well but the outcomes of that work was reflected in a negative direction from the reports of the auditor general year in and year out.

**ADV FREUND SC:** And we will come back to that. The  
20 second point you emphasise about the same period, it is subparagraph 2 of 6.3, is that you say:

“During the same period the executive did not display a genuine political will to resolve this.”

Which is to say to resolve the widespread breakdown in financial control. That is part of your view, is that correct?

**MR GODI:** Chair, if I may, just to say what I meant here is that when you know what the problems are, because the auditor general reports to you year in and year out, when you sometimes make decisions on what you think needs to be done to correct the situation and then do not follow through, do not implement those decisions, then for me it is that there is a lack of political will.

And, if I could, there are three very important cases, which if they were done, maybe we would not be  
10 sitting here and, if we did, it would be under completely different circumstances or conditions.

Firstly, 2014 the executive took a decision that all supply chain management personnel throughout government, throughout state must be vetted so that the more than R500 billion procurement budget, we should be assured that it is in the hands of people whose financial integrity has been tested. But that was not implemented and when we called the State Security Agency they said well, we do not have regulations, the regulations that we  
20 have make it optional and so when they tried to vet the employees at SABC, at SAPS, at Transnet, at SAA, they all refused and the whole thing stopped.

So you are saying if vetting had been done on your SMS(?) personnel, maybe we could identified and weeded out dubious characters.

The second case relates to what was called an anti-corruption task team established in 2010 which was an inter-ministerial task team chaired by former Minister Jeff Radebe, which was supposed through the DGs to spearhead government's fight against corruption.

Now seeing the rise in levels of corruption, we called that team and what we found was a very disorganised and dysfunctional structure which if it was focused, should have been the government's spearhead in  
10 fighting corruption. What we had on the cases that had been resolved where – I think there out of 42 cases, about 40 were all resolved through [indistinct] 25.05 again, a person who has misused or caused the loss of millions of rands, 50 million, 60, 100 million, got five years suspended sentence and a fine of R20 000 or R30 000 and that can hardly be a course of action that cost the corrupt to pause and, you know, stand back.

And lastly, if I may, it relates to a decision by government to modernise its systems, modernise its  
20 systems and be sure that there is one system in government for financial management and human resource management and this was the integrated financial management system. But you see, Chair, the system was conceptualised around 2005/2006, but it had no business case and until today the business case was only done in

what was it, 2020 for a project that started that long and in between there have been so much mismanagement, starting and starting the process, there has been a forensic investigation that cost about R4.7 million and no action has been taken against officials who misused the system.

So if government had managed that system well, probably we would not be sitting here and, if we did, it would be under very different conditions. So, for me, that is what I call the lack of political will, that either do nothing  
10 or you take correct decisions but then you do not implement it properly.

**ADV FREUND SC:** Right, I am going to come back to that issue but I am still trying, in advance, to summarise some of your key views.

**MR GODI:** Sure.

**ADV FREUND SC:** The third point you make in paragraph 6.3 about another feature during the same period that you say SCOPA was doing its work properly was you say the following.

20 “Parliament failed to track and monitor compliance by the executive of corrective action proposed in parliament’s own adopted reports.”

That is another feature that you emphasise in your affidavit, is that correct?

**MR GODI:** Very much so, Chair. I think if this did not

happen, we, the parliamentary track, would not be here. Probably the Speaker's office would be the only one coming here and saying look, this is what we did to track these things but it did not happen.

**ADV FREUND SC:** And I will be coming back to that in some detail. And then fourthly you say, during the same period:

10           “Parliament failed to adopt any mechanism directed at compelling or encouraging ministers to ensure that such proposed corrective action was implemented.”

That is the fourth main theme in your affidavit, is that correct?

**MR GODI:** Correct.

**ADV FREUND SC:** Alright and again we will come back to that. Now what I would like to turn to now but only in summary and overview is what is addressed in paragraphs 6.5 through to 6.18 of your affidavit and just to focus very briefly and very generally on the way in which SCOPA went  
20 about its job. I think you have already emphasised – just bear with me – let us start at paragraph 6.5. It is correct, is it not, that every year SCOPA is required to consider something of the order of 200 to 250 audit reports.

**MR GODI:** Correct.

**ADV FREUND SC:** In other words, you have a vast scope



of material to deal with which emerges from the terms of reference of your committee that we have already looked at.

**MR GODI:** Correct.

**ADV FREUND SC:** What you do is you examine and then prioritise and then select where to focus on in particular, is that correct?

**MR GODI:** Well, as you indicated in the preceding paragraph is you have 200 reports of 220 reports, with the  
10 amount of time available for us, as a committee, you certainly cannot have hearings on everything so we had to prioritise and it was not against work on how we prioritise, there was a system, there was a process.

**ADV FREUND SC:** Right. Now before we look at that system the point you make in paragraph 6.7 is that all this documentation that routinely came to your committee revealed, would you say, and I quote:

“A disturbingly high number of cases of unauthorised expenditure, irregular expenditure,  
20 fruitless and wasteful expenditure in other material non-compliance.”

Disturbingly high you say.

**MR GODI:** But look Chair our approach in SCOPA was that we want accountability for every cent of public money, but when you have unauthorised expenditure, irregular

expenditure, fruitless and wasteful expenditure being counted in bills surely for anyone who seeks to serve the public good, that should be worry some.

**ADV FREUND SC:** And so would you explain in paragraph 6.8, is that your committee identified certain focus areas of particular concern, and I'm referring now to the fifth parliament 2014 to 2019. And right up at the top of those is compliance with supply chain management is prescripts. Is that correct?

10 **MR GODI:** That is very correct because there above that we spoke to in the preceding paragraph, are a product of non-compliance from non-compliance, everything else goes.

**ADV FREUND SC:** And you say in paragraph 6.8, you also say:

“Prioritised internal controls, you prioritised unauthorised, irregular, fruitless and wasteful expenditure.”

And you prioritise you make the point in 6.8.4:

20 “Consequence management against officials who do not comply with legislation.”

Could we just pause there for a moment and if you could just summarise your whole view on the problem of consequence management as you experienced it, in the period during which you chaired SCOPA.

**MR GODI:** Chair if you - if one looks at our resolutions, you hardly find a resolution where we are not calling for action to be taken against officials who have not complied with legislation. Because how then do you get things right, if there are no consequences?

I am talking here about the accounting officer in the first instance but also the executive authority, that is the Ministers because they get all these reports and if you find that there is persistent non-compliance, surely it should be  
10 interested in what action is taken.

And as has been the bane of the public sector that the people who do not comply, and action is not taken against them, or who resigned from this department and then they just go to the next department as if nothing has happened, or move to a municipality or to provincial departments and that I believe that sense of impunity, is what emboldened the looters to continue as if they have a democratic right to be corrupt.

**ADV FREUND SC:** Now, we are going to come back to  
20 that issue over and over again, it seems to me. If I can just continue with the theme of just trying to give some understanding of how your committee went about its work. In paragraph 6.9 you say:

“That the committee focused in hearings, primarily on entities that were proportioned the largest

budgets, and on reports that disclosed the most serious level of financial mismanagement.”

Is that correct?

**MR GODI:** Yes it is right, that said that our prioritisation had to you know, be based on something and we felt that where you have the largest budgets and where you have the high levels of financial mismanagement, that should be of interest and may I say if you link that up with the line above 6.8.8 deviations and expansions.

10 I must say that this is - we discovered this to be another form or another area of non-compliance to circumvent going through the tendering process departments will always do deviations that is deviating from normal processes, or expansions. That is if you get a tender for R20million and they say no, because you are doing a good job can we add another job for R5million just like that and this has become the favourite routes through which departments avoid compliance and Chair I bet you, if you were to say, let us look into additions and expansions,  
20 you would see a frighteningly high amounts that are involved.

And this process is given a veneer of legality by National Treasury because it is the one that must obtain it but our own experience and search has been that the processes at National Treasury were not fool proof and we

actually and we actually want to believe Transnet and say to National Treasury and we just opposite of all the requests that is being approved, project approved any of them because it just do not make sense why they had to be done.

So I am just saying that it is an area which is not really sufficient like regular expenditure but it is one area of high, very high and disturbing instances of non-compliance and we had requested National Treasury to  
10 report to us on a quarterly basis on deviations and expansions and the billions involved per quarter were quite staggering.

**ADV FREUND SC:** Thank you. Now, I just want to refer you briefly to paragraph 6.10. I am not going to take you to the annexure but the annexure that is referred there, Annexure TG1 is a document that lists voluminous hearings held, voluminous resolutions adopted and voluminous oversight reports and that is just in respect to the period 2015 to 2018. Is that correct? I am just trying to draw  
20 attention to the volume of the work and the volume ...[intervene]

**MR GODI:** Yes, it is very correct.

**ADV FREUND SC:** And then you deal in your affidavit with we have already touched on this on the question of creating a collegial spirit, so I will not go back to that. I

would like to focus on paragraph 6.15.

Now, there, you explained that before your tenure as Chair of SCOPA, it had not been the committee's practice to require Ministers to attend SCOPA hearings to account to SCOPA but that you took a different view.

Perhaps if you could just summarise very briefly the view you took and how that then played itself out?

**MR GODI:** Well, our view was that when departments or entities come the Ministers under whom they fall should  
10 also come because the issues and the challenges that are there should be of interest to them and in cases of assistance Ministers who themselves actually explained to us, what is it that they are doing to address the challenges that we are discussing.

And in a number of occasions Chair, we found that a Minister has actually been misled by his officials and Ministers would say but when we discussing the very enthusiastic, the very relevant but to SCOPA your stammering and stuttering because they were telling the  
20 Minister what they thought he would like to hear, but before us it was not the case. Oh yes there we said Ministers we said they should attend, yes.

**ADV FREUND SC:** Right, thank you. Now I would like to take you to paragraph 6.19 in following of the affidavit. We have already referred to this issue in summary, but I now

want to refer to it a little more detail. It is the section of your affidavit under the heading the persistence of financial mismanagement, despite SCOPA's efforts.

And as a convenient reference point, you have attached to your affidavit, what we call the SCOPA legacy report for the fifth parliament.

Now there we will be referred to other legacy reports in these hearings but to very briefly and crudely summarise, is it correct that at the end of each five-year  
10 term of parliament, each committee including SCOPA would do a report on the five-year period, what it had learned, what it prioritised and what it recommended should be prioritised by the next incoming committee. Is that a fair summary?

**MR GODI:** That is a correct summary, yes.

**ADV FREUND SC:** Alright. Now, I am not going to take you to the report itself but I would like to take you to the extract from the report that is quoted in paragraph 6.20 because this is, as I understand it, a report issued by  
20 SCOPA under your Chairmanship as it were at the termination of your period as Chair of SCOPA. In other words, fairly recently, just before the last elections, and if I may say so it sounds somewhat like a cry from the heart. It sounds to me like this is you trying to summarise and that is long before this Commission was interested in this

topic, your views on this issue.

So I would ask you, please, to take us through what we read in paragraph 6.20 because this seems to summarise what you reported in your legacy report, which summarises your experience.

**MR GODI:** Ja, well Chair the 6.20 the quote from the Chairperson's quote that is my statements as the Chairperson, which looks back and say, what were the problems.

10 As you can see there the first thing that I talk to is the fact that the exponential increase in irregular fruitless and wasteful expenditure was not a reflection on the effectiveness of the committee, effectiveness in terms of doing our work as assigned by the rules of parliament.

But that is the level of responsiveness to the recommendations of parliament from the executive was at the heart of it all. The lack of political and administrative will to do what is right for the country to stop the looting of public funds and I also in the second paragraph, just  
20 indicate that we had called out the malfeasance in a number of entities and I have picked up those that were very frequent, or those that we considered has been right there on top, but to no avail. I am sure you would have seen maybe some of the annexures in the literature of solutions on the SABC or something like that.



And I believe that the relationship between parliament and the executive does need to be looked at as a practical necessity, but also a legal necessity. How is it that the judiciary for instance say the sentence this style of pertinence and the executive and the executives respond by locking you up in prison for that period?

But parliament says, we recommend that do A, B, C, D to comply with the law and there is tardiness or there is no recourse if that is not dealt with then oversight would  
10 actually become a ritual. I understand that the constitution says we must over see it, it must hold to account but I asked towards the end, at the bottom.

What is the enforcement mechanism of holding to account, hold them to account here we call them, we tell them this is all when they agreed and say go and correct it as we will and then we adopt. What is the enforcement mechanism in the absence of responsiveness? I think that is a legal and a political question that needs to be answered.

20 **ADV FREUND SC:** Thank you and I just want to highlight one part of that passage that you did not refer to it is above the sixth line and you say this:

“The executive branch is not responsive to the recommendations from parliament. There is not sufficient political and administrative will to do what

is right for the country to stop the looting of funds.”

Is that a view that you formed on the basis of extensive personal experience?

**MR GODI:** Well, like I indicated at the beginning, I was there for 13 and a half years, and finally we got these reports from the Auditor General and they all made for, you know, depressing reading. There was always hearings where we highlighted but the persistence was there and actually the worsening of the situation was there.

10 So there was no other conclusion to come up to than to take, well, the political leadership does not seem to have a way to address this problem, the administrative leadership, that is Boards of entities and the DG’s and the entities or executive management. We are just not doing that which is expected in terms of the law.

**ADV FREUND SC:** Alright, if I can move you on then to paragraph 6.12, which follows similar patterns.

**CHAIRPERSON:** I am sorry, Mr Freund, Mr Godi are you quite confident that out of all those years, during which  
20 you served as Chairperson of SCOPA and I think you said 18 years. Effectively, the position is that the financial statements, or reports relating to SOE’s or certain important SOE’s or all of them and government departments, wherever there had been reports that were not acceptable the previous year, the following year

SCOPA would raise the same issues again and they would just not be - the response would not be one that would be the right response from either the Ministers or the accounting officer's.

So in other words, are you quite confident that as a matter of fact, even if it is not all the entities, but those important SOE's and then maybe certain government departments, problems that had emerged in the previous year, would be raised in the following year to say, what  
10 have you done about this?

And it would be year in, year out and most of the time, the problems would not be addressed that SCOPA had raised, including problems that were pointed out in the AG's reports about such government departments and SOE's, actually do you say that is likely to be the position?

**MR GODI:** Chair I am saying it very emphatically so because we – SCOPA maybe 99% of our times we rely on the reports of the Auditor General and those reports were submitted to parliament and signed on by the Minister and  
20 the accounting officers as correct.

Indeed, like you have put it yes you may find that this year Department of Health has improved to find that agriculture has gone down but you will have others like your Correctional Services colleagues – the only other time Correctional Services had an unqualified audit was when

we had seven audits[?] and sued them in one financial year. But even that unqualified audit, it was merely the fact that they just wanted different things not that it was clean, there was still a huge, huge problem. So yes, we have not been moving forward in terms of controls and accountability.

**CHAIRPERSON:** Well, I am sure Mr Freund d will deal with this later but I want to ask this question now. With the frustrations that I assume SKOPA must have felt over the  
10 years arising from raising issues with the executive year in year out and the issues not being addressed either at all for a number of years, or not being addressed adequately.

Did it every occur to SCOPA that it should consider saying to the National Assembly, the accounting officers, the DG's, or chief executive officers of these Boards, and the Boards themselves are not addressing serious problems involving taxpayer's money for a number of years and the Ministers concerned do not seem to take any action against the chief executive officers Board.

20 This should be raised with the President whoever the President was to say this is unacceptable. This is how long it has taken. Instead of improving maybe the situation is deteriorating. This is taxpayers and to then see what the President whoever the President was, would do and if he did not do anything I would like to find out whether you

as SCOPA or maybe you yourself, because maybe you did not discuss this would not feel that that should form grounds for the National Assembly to lose confidence in the President if under his administration, such things affecting taxpayers money were not addressed and he was not doing anything about it or was not prepared to take necessary actions.

**MR GODI:** Thank you, Chair. Well, if one looks at SCOPA's resolutions, which the National Assembly  
10 adopted, we always indicated that these are not new issues, these are persistent issues.

In the Speaker's office the office that is responsible for oversight, it is the House Chair for committees what we call the Chair of Chairs. I have committed ...[indistinct – distorted] Obed Mabella and I would in our frequent engagements highlight the fact that we have these challenges and they were also aware because the Auditor General also found in parliament.

20 So the problem and the persistence of the problems, were not a hidden factor to the leadership of parliament through our reports that we gave and every time we made a request for meetings, you need to explain what the meeting were about and it is always dictated, this is what we want to do, this is how we want it and it will then have to go to the Chief Whip for approval.

So the key officers in parliament are very much aware of the things that we are taking on. And I must say that towards the end of our tenure, I do remember there was a time when our committee with Jan Booie actually met the then President, President Zuma and getting a copy of the fax we got from the Auditor General, a document from the Auditor General he also shared it with the then Deputy President, the current President Cyril Ramaphosa. He shared it with the Chief Whip of the ANC the late Jackson

10 Mthembu, who I must say never put roadblocks on our work, always supported us to say look these are the things that we are dealing with. I think also Minister Dlodlo in her capacity as something in the ANC.

So, yes, but in terms of a formal resolution that says this is what we need to do, we did not do that, we were also alive to the dynamics that I started with for such a motion to succeed...[intervene]

**CHAIRPERSON:** Ja, yes, continue.

**MR GODI:** Ja, I was saying that for such a multi-stage

20 firstly, and within SCOPA it will need the support of the ANC, because all colleagues from cooperative committee is the majority. Then from there the cooperative committee must agree to, to program it and then in the House, the ANC must oppose it. So sometimes you look at the political dynamics and you already understand the limits of

what can or cannot be done.

**CHAIRPERSON:** No, I understand, I understand but from what you are saying, part of what you are saying is that in the end, a lot of things in parliament that may be necessary to be done cannot be done or will not be done if the majority party does not support those things, so in the end, very often you come down to that.

**MR GODI:** Absolutely.

**CHAIRPERSON:** Yes, thank you, Mr Freund.

10 **ADV FREUND SC:** Yes, thank you Chair, I will come back to that. I would just prefer just to lay a little bit more of a foundation before I come back to it. And I was at paragraph 6.21 of the affidavit and we were looking at the legacy report at the end of the fifth parliament and what we see in paragraph 6.21 is that the legacies of fortress refer to a number of them...[intervene]

**CHAIRPERSON:** I am sorry again, Mr Freund to interrupt you. We did not take the tea break at quarter past 11 because we had had some, we had wasted, we had lost  
20 some time. It is 12 o'clock I think we should take it now 15 minutes.

**ADV FREUND SC:** Sure.

**CHAIRPERSON:** Because it is 12 o'clock at quarter past 12 we will resume. We adjourn.

**ADV FREUND SC:** Thank you, Chair.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Okay let us continue.

**ADV FREUND SC:** Thank you Chair. Mr Godi can you hear me clearly?

**MR GODI:** Ja.

**ADV FREUND SC:** Thank you. Mr Godi I was about to take you to paragraph 6.21 and this is just summarising a summary. Your Legacy Report summarises the views you  
10 held and reported at the end of the 5<sup>th</sup> Parliament and this paragraph summarises what you said there. It talks about a disregard of applicable legislation including for example the PFMA and the Treasury Regulations by officials and senior management. It talks about a lack of consequence management for officials responsible for non-compliance with legislation and it talks about SCOPA recommendations not being implemented. Is that a fair summary of what you said in your Legacy Report?

**MR GODI:** Ja, no that is very correct Chair.

20 **ADV FREUND SC:** What I would like you is just to illustrate that by reference to some examples. So if we could go to paragraph 6.22 and you will see there there is a reference to Annexure TG3. That annexure Chair is in Bundle 1 starting at page 156. That is the PO1 number on the top left and Mr Godi if you could have a look at that – at that annexure and I



am going to take you to a particular page in it shortly but just so that we can get our bearings if you go to page – Bundle 1 page 157 you will see what it is that the document is.

**CHAIRPERSON:** We...

**ADV FREUND SC:** You will see I presume that it is headed Report on the Committee on Public Accounts on its oversight visit to the South African Airways Group; SAA and Transnet 00:02:11 in Johannesburg from 13 to 17 August 2018. Is this a report prepared under your leadership?

10 **MR GODI:** Correct.

**ADV FREUND SC:** Now for the moment I am going to leave aside SAA and I am going to look at Transnet and you start dealing with Transnet at page 166 on portion 5, is that correct?

**MR GODI:** The – yes, yes, yes.

**ADV FREUND SC:** And in that section I am only going to focus on one paragraph in your conclusion. And your conclusion is at page 167. In fact first look at two paragraphs. The first two paragraphs.

20 “The committee further recommends that the Executive Authority submits a progress report on the implementation of all the above recommendations to the National Assembly within 60 days of adoption of this report by the House.”

And then the paragraph to which I was intending to pay particular attention.

10 “The committee was generally disappointed by the extent to which the Accounting Authority and Management seemed not to have addressed the financial management weaknesses identified in the Audit Report especially as some of these matters had been raised in the Audit Report of previous years.”

Now did that report reflect what you found in this particular oversight exercise?

**MR GODI:** That is correct Chair.

**ADV FREUND SC:** And was this untypical – was this unusual?

20 **MR GODI:** Not at all. That is why I said earlier when the Chair asked me a question I said our reports usually would actually raise the fact that the problems that we are addressing were not new issues but they were persistent issues. So it was – it was not unusual to have this kind of sentence or to encounter this kind of situation.

**ADV FREUND SC:** Alright thank you. And in paragraph 6.23 and I am not going to take you through the detail of that but there you address a similar point in respect of the SABC. Oversight visits non-compliance, failure to correct previous

non-compliance, further repetition of similar non-compliance.  
Is that a fair summary?

**MR GODI:** That is correct. Not that we had extensive meetings with the SABC including on-site visits to actually our oversight visits would now always arise from the hearings. So if there would be a hearing and there are particular issues that we are concerned about we then say no I have to do an oversight visit to visit your place. And when we are there we would then meet with the different  
10 sections within say SABC. We would like say want to meet with the internal auditors. We would want to meet with this section or that section without management being there so that they can speak freely and all the people that the Auditor General would have reported on when you speak to the workers they will actually confirm all those things and even more.

**ADV FREUND SC:** So to highlight and illustrate the same point can I take you to paragraph 6.23.6.

**CHAIRPERSON:** Are you going back to his affidavit now?

20 **ADV FREUND SC:** This is in Mr Godi's affidavit at page 114 in Bundle 1 and paragraph 6.23.6. So in paragraph 6.23 you deal in some detail which I am not going to lead now with various engagements with the SABC but ultimately what you do is you furnish a further report that is referred to in paragraph 6.23.5 which is SCOPA's report on SABC's

2018/2109 financial statements and Chair just for your reference although I am not going to take you there that is in Bundle 1 page 204. All I want to refer you to is the extract that we see in 6.23.6 where Mr Godi you say in your affidavit:

10            “I pointed out in the introduction which is of this report the following: That in that interaction the following stated. Despite several hearings having been held with the SABC during the 5<sup>th</sup> Parliament and oversight visit that the committee undertook in March 2017 the audit outcomes have not given an indication of improvement in the SABC’s financial performance.”

So I take it this is just another illustrative example of what you have been trying to tell the Chair about?

**MR GODI:** Correct.

20            **ADV FREUND SC:** Thank you. Now I want to move on to the portion of your affidavit that starts at page 13 under the heading Absence of Effective Mechanisms to ensure the real...

**CHAIRPERSON:** Sorry Mr – Sorry Mr Freund you say page 13?

**ADV FREUND SC:** Sorry it is page 115 in the – in Bundle 1.

**CHAIRPERSON:** The black numbers?

**ADV FREUND SC:** It is – sorry I 00:07:38.

**CHAIRPERSON:** The black numbers.

**ADV FREUND SC:** Sorry page 13.

**CHAIRPERSON:** Okay.

**ADV FREUND SC:** But at page 35 Bundle 1. And I will repeat the heading Absence of Effective Mechanisms to ensure real accountability. So you refer there quite understandably and correctly to the doctrine of the separation of powers but I do not really want to get engaged  
10 in a long legal debate with you now. And you say in paragraph 6.26:

“SCOPA speaks chiefly through its reports which are tabled before Parliament.”

And then you say in paragraph 6.29:

“SCOPA’s reports within the ordinary course be adopted by the National Assembly.”

Have I got all that correct?

**MR GODI:** Yes that is correct Chair. We as a committee – we are a committee of Parliament whatever work we do we  
20 do it on behalf of Parliament so we then need report to Parliament and it is Parliament that must then adopt the reports. And I must say that I do not remember any report of SCOPA having been rejected by the House. All the reports to the House were always debated. They were always debated. We requested and we were granted the fact that all

of our reports would be – yes we did not have enough time because sometimes we – we would submit three, four reports at the same time but the time we had will be thirty minutes, forty minutes and surely that was not enough but at least there were debates on some of the reports that we submitted.

**ADV FREUND SC:** And what you also tell the Chair is that as a matter of usual experience the SCOPA reports would be adopted by the National Assembly as approved by  
10 Parliament?

**MR GODI:** Ja I mean look there was always this understanding that whatever SCOPA brings the House would not have issues because the assumption is that the committee does a very thorough job and no-one would want to stand up and say you know we do not think there stance against corruption is wrong we must defend this. So it was almost a given that our reporting be adopted but that adoption what did it mean and what effect and impact it had beyond adoption?

20 **ADV FREUND SC:** That is the issue I am going to come to if you just give me a minute or two. So I would like to take you to your paragraph 6.28. You say there the following:

“In the period during which I chaired SCOPA all of our reports contained recommendations as regards required corrective action. For example our reports

would request certain Ministers to report to Parliament on specified steps taken to address particular issues within a given period.”

And then you continue in brackets.

“(some reports requested the Speaker to repeat requests made in earlier reports until such time that there was compliance).”

Now I take it that is factually correct, is it?

**MR GODI**: Yes it is.

10 **ADV FREUND SC**: And what you say in paragraph 6.30 is that generally the office of the Speaker would issue requests to Ministers in accordance with SCOPA reports, is that correct?

**MR GODI**: That is correct Chair and every time the Speaker wrote to a Minister I would be copied so I would know that the adopted resolution has been communicated to the relevant Minister.

**ADV FREUND SC**: Well if I may say so, so far so good. It looks we have like a system that is functioning. But you  
20 then continue in paragraph 6.31 as follows:

“But there was no structured mechanism in place to follow up adequately and ultimately to hold the executive accountable. In my view and the view of the committee this severely hamstrung the exercise of adequate

oversight. Committee members became increasingly frustrated with the lack of responsiveness of the executive.”

Could you maybe just elaborate on that please?

**MR GODI:** Well Chair may I say that in as much as I have ever said that whenever the Speaker rules to relevant Minister forwarding the House resolutions I was copied. I have never received or I was never copied of any letter of follow up from the Speaker’s office on any of those  
10 resolutions that were passed indicating that the – the resolutions that were forwarded to the Ministers and the time frames to that are being – are being pursued. So we would go to the House debate the resolutions, adopt them and I will be copied the letters from the Speaker to the relevant Ministers and that is where it ended.

**ADV FREUND SC:** Alright now you deal with the obvious consequence of that with – in paragraph 6.32. You say there:

20 “In an effort to remedy this I approached the Chair of Chairs Mr Cedric Frolick sometime during the postponement. He gave me an assurance that the office of the Speaker would configure a so called dashboard which would keep track of deadlines and follow up and ensure compliance with all the house



resolutions.”

Can you confirm that?

**MR GODI:** Well Chair I can confirm that this is factually correct that members of SCOPA were quite frustrated with this – dealing with the same things almost year in and year out. I must say that I – I had a very good working relationship with the Comrade Cedric Frolick and he had an open door policy with me that any time I needed any assistance I could knock on his door. And so it was easy for  
10 me to go and raise this issue about the fact that the committee is unhappy and I must say that he appeared genuinely convinced that the 00:14:29 was going to be – was going to be configured as a matter of time and they will be able to track. The concern was not just about SCOPA resolutions but it was just about the business of the House. Of course I had gone there for SCOPA but he 00:14:40 that not in relation to SCOPA but generally in relation to most of the resolutions in the House they are not able to get feedback timeously and promptly so {?} but [?] did not  
20 happen.

**ADV FREUND SC:** That is my next question. What happened if anything? Did it happen? Did it come about? Is it in place to this day?

**MR GODI:** Well it – it did not happen and it remained a sore point to the committee and there was no indication of what

transpired. By the time I left Parliament in May 2019 there was no such 00:15:34 who figures many there was still no system to track, to monitor the resolutions compliance with the resolutions of the House or actually responses to the resolutions of the House from the executives.

**ADV FREUND SC:** Now you are talking about an approach you made to the Chair of Chairs in the time that you were Chair of SCOPA but I would like to refer you to paragraph 6.37 of your affidavit. That refers to a document which the  
10 Chair will be hearing quite a bit about in the course of these hearings known as the oversight and accountability model adopted by Parliament in 2009. Are you familiar with that document Mr Godi?

**MR GODI:** Correct.

**ADV FREUND SC:** And Chair just for your – for your benefit but I am not going to take you there now that is to be found in the Reference Bundle at 1-48 and following. Now the evidence from various witnesses will be that this was the product of the consideration by structures of Parliament as  
20 to how they should – how they should deal with the question of oversight and accountability.

And you will see in this 2009 document paragraph 4.1.4 commences as follows:

“In developing the oversight model the need was identified. I stress this was published in

2009 for support services relating to the monitoring and tracking of issues between Parliament and the executive and on all other related matters within Parliament's border mandate. An oversight and advisory section ought to be created in response to the need identified. It's main functions will be to provide advice, technical support, co-ordination and tracking and monitoring mechanisms on issues arising from oversight and accountability activities of members of Parliament and the committees to which they belong."

Now my question to you Mr Godi is to the best of your knowledge has any of this ever been implemented?

**MR GODI:** Well Chair it has not been implemented and I – I must say my understanding was that between 1994 and 2004 the focus was on dismantling the apartheid legislative architecture and trying to align it with a new constitution. Not that we are done with that I think there are still lots of 00:18:22 bylaws that are still in 00:18:26 but from 2004 it was now this focus on oversight and that is why this model was developed. It was an extensive process, debates, discussions but like we spoke about the executive earlier on [indistinct] because when I went to Comrade Frolick I did not

even look at this oversight model. It merely arose from the concerns of members on the lack of tracking mechanisms but yes you are correct; here it is, something that should have been done not because we have made a request but because Parliament had committed itself to doing it and has not done it.

**ADV FREUND SC:** Alright thank you. Now I want to draw attention to another recommendation in the OVAC model if I can refer you to page – to paragraph 6.40 – 40 of your  
10 affidavit it is Bundle 1 page 118. Again it is not necessary to go to the document because we have quoted the relevant paragraph. And the paragraph reads as follows:

“It is recommended that Parliament develop rules to assist it further in sanctioning Cabinet Ministers – Cabinet Members for non-compliance after all established avenues and protocols have been exhausted. For example naming the Cabinet Minister by the Speaker of the National Assembly or the  
20 Chairperson – there is a typographical error – or the Chairperson of the Counsel based on full explanation.”

And I see you say in your affidavit you support that recommendation.

**MR GODI:** Chair the – that synonym of the Speaker maybe

members of Parliament it is not a new. On any occasions when members of Parliament they impede Cabinet Ministers are deemed to have 00:20:36 in some transgressions there are instances where the Speaker would call the member to stand up and that member would be given addressing down right in the – right in the House. So the paragraph that we just quoted actually extends it specifically to when Ministers do not respond to the resolutions of the House and I – I fully support it because the previous paragraph that you quoted

10 said there should be [?] to follow up but then when you follow up and there is no response then what do you do? So this last paragraph actually provides a mechanism, shame them, call them out so that they – the House and the public would know that here is a delinquent Minister or whatever. So it was a mechanism – it is a mechanism that should actually have been applied.

**ADV FREUND SC:** Thank you. Now I want to move on to a slightly different issue. You referred at an earlier stage in overview to your view about the importance when we under –

20 when we analyse Parliamentary oversight. But we have regard to the political realities. And I would like to take you to paragraph 6.35 of your affidavit it is Bundle 1 page 117.

**MR GODI:** 6 can you repeat 6?

**ADV FREUND SC:** 35 – 35.

**MR GODI:** Oh okay.

**ADV FREUND SC:** And perhaps if you could just talk to this issue and elaborate on your views in relation to the implications of – of a Parliament that is dominated by one strong party and the relevance of politics to this oversight question we are talking about?

**MR GODI:** Well Chair the – what I mean here is that the political dynamics within the party that has the majority in the House would certainly determine how Parliamentary work is done. Because like I said at the end of the day oversight  
10 is heavily 00:22:54 upon by politics and I can tell you that I have seen in Parliament how members of various political parties who come to the House on a particular issue with political mandates on that stance to take and the reason and facts will not sway them otherwise. So politics remain a – a determinant and this sometimes it is unfortunately and especially with the majority party you would see it in the work of the Portfolio Committees and I say this with no malice that many of our comrades in the Portfolio  
20 Committees are very pliable and acted like useful 00:23:42 of the executive if I can use that word. In terms of not plain oversight but having instances where they will actually 00:23:52 officials in meetings instead of assisting over the side to the point where members of SCOPA, from the ANC, from the EFF, from the DA would actually request that I should never schedule 00:24:08 hearings with Portfolio

Committees because they felt they were a hindrance to effective oversight. So whatever the political dynamics were but there were a lot of our – of colleagues in the Portfolio Committees who were actually an embarrassment to the notion of public presentation and to oversight itself. So I believe that it is – it is the political dynamics that play themselves out either as an enabler of 00:24:47 or embarrassed of it.

**ADV FREUND SC:** I would like to turn to a related issue and  
 10 that is the consequence to individual members of Parliament if they do stand up and insist on exercising appropriate oversight could you comment on that with reference to yourself, to members of your own SCOPA committee and any other committees of which you have any knowledge?

**MR GODI:** Well Chair I am not in Parliament because the IEC said you know this country is not a vote for me or did not see value in me. That is okay. But I think political parties that displaced seriousness to the question of oversight and especially the fight against corruption. And I  
 20 will make two examples. 00:25:48 he had a member there Team who is the qualified forensics expert and we used him a lot in SCOPA when we dealing with police, with correctional services. He did a lot of work for us to empower us as a committee but after these elections the DA did not retain him. I understand it is somewhere in the NCOP and

they have new members in SCOPA. You look at the ANC I do not know whether it is coincidence but all SCOPA members from the ANC were not returned to Parliament. Now here are your members who served in the best committee in Parliament and have shown diligence in fighting corruption and in advocating for good governance. And you feel those people are not worthy of being retained and you have new members altogether in that committee. So I think that yes the talk is there but you must demonstrate that talk. I do not

10 know what the dynamics are within the ANC but I know that always we would talk in the corridors that the step that they were taking was going to have negative consequences for their political careers so to speak. And for those that I had in the 5<sup>th</sup> Parliament all of them – all of them not even one has gone back to Parliament and tell me that it is mere coincidence.

**ADV FREUND SC:** Mr Godi I want to just deal with one last aspect in your affidavit before I turn to the – the draft affidavit of Mr Makwetu. At the end of your affidavit you deal

20 with the recent statutory amendments to the Public Audit Act and I think the committee – the commission has already heard evidence that the member legislation gives the Auditor General's office certain additional powers. If you could maybe just comment on your views on that legislation?

**MR GODI:** Well Chair I – just two comments for me. Firstly



this Act gives someone or a body outside the executive or the Accounting Officers and Authorities a responsibility to do their work. Essentially the AG must now chase after the thieves – after the thieving Ministers and officials because they cannot help themselves. It is impassive. So they need someone outside themselves to do it. I have personally in as much as we supported the Act because at the end of the day we needed to have something but in principle I have stood and proposed to this Act and I have said so in public

10 and I repeat so that it is – there is a shame – it is shameful that Ministers and their Accounting Officers and Authorities cannot deal with corruption and must now delegate this responsibility to a constitutional structure and that Parliament connived in that process. It is a poor reflection on us because if our people are now going to rely on a constitutional bodies on matters that should be handled by elected officials then what is the relevance of Parliament? What is the relevance of elected officials? I – I think that this is a very, very wrong legislation to the extent that it

20 actually acknowledges that our system is unresponsive and therefore we give up being able to deal with the ...[indistinct] [00:00:03] of public funds which denies our people the right to timeous and quality service.

**ADV FREUND SC:** Mr Godi, I would like to change that completely now. I want to refer to the unsigned draft

affidavit of Mr Makweto which is to be found in Bundle 4 on page 847 onwards.

**MR GODI:** Can I just have a minute? Can I just change my files?

**ADV FREUND SC:** [No audible reply]

**CHAIRPERSON:** Just before you proceed Mr Freund. Can I ask another question to Mr Godi relating to something in his affidavit?

**ADV FREUND SC:** [No audible reply]

10 **CHAIRPERSON:** This phenomenon Mr Godi... This phenomenon you are talking about of all ANC members of SCOPA not being retained. Is that something that happened at the end of one particular term of Parliament for five years or is something that happened – something similar had happened during other terms as far as you know or is it something that you do not know?

**MR GODI:** Well, in the previous terms – what happened was that - I think since I came to SCOPA, the only person who had been retained in the committee was Comrade

20 ...[indistinct] [00:02:04]

**CHAIRPERSON:** Yes.

**MR GODI:** But all other members had not been retained and did not come back to Parliament. It was only Comrade ...[indistinct] [00:02:19] who joined us during the course of the Parliament. But in the Parliaments – every time we were

starting a new – but in the instance, in the sixth Parliament there is no one who is even a member of Parliament that you could say maybe they could have retained.

**CHAIRPERSON:** H'm, h'm. Okay thank you. You may proceed Mr Freund.

**ADV FREUND SC:** Thank you Judge. Mr Godi, back to the draft affidavit of Mr Makweto which starts at page 847 of Bundle 4.

**MR GODI:** Yes, I have access to the bundle and I had time  
10 to go through it and consider the contents thereof.

**ADV FREUND SC:** Alright. Now I would like to ask you just a general question. Having read this long detailed, and if I may so depressing affidavit, what is your view in general terms about the contents of that affidavit?

**MR GODI:** Well, Chair I fully identify with the contents because the things that Mr Makweto had said here are issues that are of public knowledge because they are extracted from the annual reports or the ...[indistinct]  
[00:03:58] reports of the Auditor-General.

20 The views that he has expressed on this page, overall are views that are consistent with the views that would serve from time to time, either in official meetings or whenever we met unofficially and formally and discuss issues of what was said.

**ADV FREUND SC:** Would it be fair to say that you had a

reasonable regular and a reasonable close relationship with Mr Makweto? You were familiar with his views and you had regular discussions.

**MR GODI:** Well, look that is correct. Remember, SCOPA is the one committee that uses the report of the Auditor-General more than any other committee. But also, beyond this and besides our official work, you know, Mr Makweto's late uncle was my leader ...[indistinct] [00:05:03].

10 So there was that personal touch and we would discuss issues much more relaxed than maybe some of his predecessors. So yes we did interacted a lot. I could access him anytime and anytime he wanted to access me he would do so and ...[indistinct] [00:05:25].

Yes, we interacted regularly fairly well. I must say.

**ADV FREUND SC:** And having read this affidavit, I think you have more than once, could you tell the Chair whether what you read in this affidavit is consistent with what he would be saying in your dealings with him?

20 **MR GODI:** Ja, that is why I said the views – firstly the evidence that he has presented in terms of narrating what transpired at Transnet, it is a matter of public record. His interpretation of those facts are from what I have read they are really consistent with what I would think should be his hearings or his views always use ...[indistinct] [00:06:20]

**ADV FREUND SC:** Yes, if I can just clarify. You made

mention of Transnet. I was wondering whether you are intending to refer to PRASA.

**MR GODI:** Oh, PRASA. Sorry, PRASA. Yes, PRASA.

**ADV FREUND SC:** Now can you please turn to page 871 in Bundle 4?

**CHAIRPERSON:** I am sorry. What is that reference Mr Freund again?

**ADV FREUND SC:** 871, Bundle 4. PO-04871. And in particular to paragraph 61.

10 **MR GODI:** One?

**ADV FREUND SC:** 61. Sixty-one.

**MR GODI:** Yes, yes. I have it.

**ADV FREUND SC:** You have it? Chair, do you have it?

**CHAIRPERSON:** I have got it. Thank you Mr Freund.

**ADV FREUND SC:** Thank you Chair. Now Mr Godi, if we look at the table in paragraph 61. It really is summarising a lot of what appears on the rest of this affidavit. And it is talking about irregular expenditure within PRASA and the developments on an annual basis.

20           So if we look at the right hand column, you will see that what he deals with initially, he deals with five annual periods, 2013/2014, 2014/2015, 2015/2016, 2016/2017, 2017/2018. Now we look at the right. He says on the 2013/2014 year, the irregular expenditure is 0.01 billion.

          In the next annual period it is a little over half a

billion. Over the next annual billion it is more than 15 billion. In the next annual period it is more than 20 billion. And in the next annual period it is more than 24 billion.

Now what is your comment on those facts?

**MR GODI:** Chair, I think one of the reports in this – one of the castings in his general reports was focussed on the irregular expenditure. And what we notice. Not just for PRASA but overall on an annual basis there was an increase in irregular expenditure.

10           And what this tells you is that the compliance – the rules and regulations, they were not being followed. And it tells you that there is a progressive deterioration in financial controls and operational controls. And that is at the heart of it all because as much as Chair, we say that irregular expenditure does not mean that there was corruption.

          But what it means is that the rules that have been put in place and the process that has been put in place have not been followed. And we always argued that those rules are not for deliberation. They are there to be followed.

20           And whatever reason is there for not following the rules. And also taking into account that the people who are supposed to implement these rules are not just common idiots picked up in the street. These are professionals who are actually specialist in financial management.

          So if you find instances where there is no

compliance. Surely, it is a red flag. It is a warning sign.

**CHAIRPERSON:** But Mr Godi, you might not be able to say anything about this but this is really shocking. I mean, even in regard to PRASA. I have heard a lot of evidence about allegations of corruption at PRASA.

But even in regard to PRASA who have a situation where in the 2013/2014 financial year irregular expenditure is 0.1 billion. And in the following year it goes up quite substantially about half a billion irregular expenditure.

10 I mean, the following year, financial year 2015/2016 you have R 15.3 billion irregular expenditure. How – the previous year it was bad enough being half a billion but it was not even one billion.

The following financial year it is R 15 billion. As if that is not enough. The following financial year is R 20.3 billion. And of course, 2017/2018 it is R 24,2 billion.

I mean, what kind of thing is that? I mean, where are the people who were supposed to make sure that these rules are complied with?

20 As you say, irregular expenditure does not necessarily mean it is corruption but when it is at this level and happening the way this table seems to show, there would be great suspicion that a substantial part of it is corruption as far as I am concerned.

But how it is possible? Where is the relevant

Minister if the CEO is not doing his job, if the board is not doing its job? Where is the President who should be getting reports about the state of affairs of SOE's who should be told about this situation at PRASA?

Where are the politicians? What are they doing? And then of course, we go back to Parliament. Parliament gets told about this. SCOPA does what he can.

The National Assembly becomes aware of this, year in and year out but National Assembly can see that the  
10 people at PRASA are not taking any note of disapproval from SCOPA about this level of expenditure every year. Actually, it looks like each time as SCOPA say something they say we are going to show SCOPA. They are not going to deter us.

The following financial year it is worse. How does one explain this? It is as if there is no government. It is as if there is no leadership. It is as if government does not care about taxpayers' money that – how taxpayer's monies are used at PRASA. It is shocking!

And I guess it just confirms what you said earlier on  
20 that as SCOPA you would raise issues and the issues were the same every year and they had not been sorted out and you would tell the National Assembly in your reports and nothing would happen. That is what it says, I guess.

**MR GODI:** Chair, if I may. I am sure we would ...[indistinct]  
[00:14:12] for ...[indistinct] Your Worship [00:14:12] SCOPA



because now you are looking at PRASA and we had to look at everything because the Auditor-General would then write the accumulative total of all the irregular expenditure within the National Government and the provinces.

And it was really, really hard indeed. Those for us who wanted to do good for our people. We knew that this waste of monies was supposed to change the lives of people out there in the rural areas, out there in the informal settlements but who are not able to get services because monies are being expended in ways that are contrary to the provisions of the laws of legislation.

**CHAIRPERSON:** Ja.

**ADV FREUND SC:** Now I want to... I am sorry Judge.

**CHAIRPERSON:** No, I am done. I am just shocked. I am just really shocked. Yes, you may proceed Mr Freund.

**ADV FREUND SC:** Thank you Judge. I want, through you Mr Godi, just briefly to get a sense of what this affidavit of Mr Makweto's does because it lays a foundation for some further questions that I want to ask you.

Can I ask you please to go to paragraph 43? It is at page 863 of Bundle 4.

**MR GODI:** Yes.

**CHAIRPERSON:** You said 863?

**MR GODI:** I am there.

**ADV FREUND SC:** 863, paragraph 40.

**MR GODI:** Ja.

**ADV FREUND SC:** Now you ...[intervenes]

**MR GODI:** I have it.

**ADV FREUND SC:** ...as somebody who has read this affidavit, you will know that this is just a foundation for the rest of this affidavit. What **Mr Makweto** is showing in his affidavit, in his draft affidavit, is basically the procedures that he goes – well, his office goes through.

And he says:

10                   “The Auditor-General’s office engage and continued to engage with the following oversight structures to assist in exercising their own oversight functions.”

And he starts with the board or the Administrator during times when PRASA was under administration. May I say that he used PRASA simply to illustrate the more general problem.

20                   Secondly the Audit and Risk Committee which is a sub-committee of the board which is currently not place but it is due to the particular constituencies of PRASA.

Thirdly the Executive Authority and in this case would be the Minister of Transport. And then only fourth and fifth the Portfolio Committee on Transport and SCOPA.

And he spends a lot of his affidavit dealing not only with the Portfolio Committee and with SCOPA but with the

anterior levels of oversight with which he engages. Can you confirm that?

**MR GODI**: I want to confirm but it is correct and I think the – that process was intensified under – was set under **Mr Makweto**'s predecessor, **Terence Nubane(?)** [00:17:28] to say: Look, as auditors, it does not just look at the numbers and write reports. We are South Africans, we are patriots, we reduce to contribute to our country. That is taking it a step further.

10           So see Chair by the time PRASA comes to SCOPA they are bought. Hence they engaged by the Auditor-General on the problems and what needs to be done.

The Audit and Risk Committee within PRASA would have been engaged. The Minister would have been engaged. So by the time we appear before Parliament, they were not dealing with new issues. We are dealing with issues that have been in.

20           But in most cases, they are not Chair. If you look at the recordings of our hearings, you will find officials who sometimes look as if they have just woken up from a sleep or they do not understand or have an idea about the other reports which is their product. And what we did with PRASA Chair is once the Auditor-General's office does it with every department and every entity.

And I know it is not added here but I do know that

the Auditor-General who actually addressed Cabinet at the end of the audit process to say: Look, this is what we have. These are the things that are there.

But they would still address individual ministries, not only once but throughout the year, you will seek to engage almost on a daily basis.

So when they come to Parliament and say things are wrong, it is not as if something has just emerged from behind the bushes. It is something that they have been dealing with throughout the year with the Auditor-General.

**ADV FREUND SC:** And then ...[intervenes]

**CHAIRPERSON:** So as far as you know. I am sorry Mr Freund. So as far as you know the Auditor-General and in particular **Mr Makweto** used to address Cabinet at certain points to point out to them the challenges that his office was finding with regard to various departments and SOE's. Is that what you are saying?

**MR GODI:** Chair, what I am saying is that at the end of the ...[indistinct] [00:20:02], the Auditor-General with the Cabinet about the audit outcomes, the overall audit outcomes, the picture that emerges or what is emerging from the audit process. Yes, that is what I am saying.

**CHAIRPERSON:** Yes. So I did not hear you. You said at the end of the financial year or what?

**MR GODI:** That is the end of the auditing process.

**CHAIRPERSON:** Oh, at the end of the ...[intervenes]

**MR GODI:** Remember Chair, the financial year ...[intervenes]

**CHAIRPERSON:** Yes. I am sorry.

**MR GODI:** And ...[intervenes]

**CHAIRPERSON:** Go ahead.

**MR GODI:** I am saying at the end of the auditing process when the annual reports have been submitted to Parliament and he has drafted a general report. The general report  
10 summarises his views of the audit cycle. This audit cycle, these are the key things that have emerged. He will then share most overviews with the Cabinet.

**CHAIRPERSON:** Which means that whoever was a member of Cabinet at any particular time when **Mr Makweto** or the Auditor-General would have briefed Cabinet can be expected to have had a picture of what the challenges are in regard to these types of issues that were of concern to the Auditor-General.

And if they wanted to know more they would have  
20 known how to find the reports of the AG to get to know more about what was happening. Would that be correct?

**MR GODI:** Chair, in the first instance. Each Cabinet member would have had this briefing with the AG on his or her own portfolio.

**CHAIRPERSON:** H'm.

**MR GODI:** So when they go to Cabinet, then they have a bigger picture to say no portfolio is performing in this context, is performing like this. But the broader context within the performance is evaluated is this.

**CHAIRPERSON:** Yes. No, no. That is important. That what you are saying says two things. One, in regard to each portfolio each minister would have had this interaction with the AG or at least the report relating to - the AG's report relating to his or her department.

10 But apart from knowing about the situation in his or her department. When the briefing is made by the AG to the whole – to the Cabinet, they would get to know what the position is in other departments and other SOE's.

And therefore, they would have a good picture of what the situation is. That is what you are saying.

**MR GODI:** Correct. Correct Chair.

**CHAIRPERSON:** And that raises the question that if that is factually true, the question that would arise is. To the extent that this Commission might find that certain things were  
20 brought to their attention that they should have done something about it and nothing was done about those things. There may be no reason why they should not all be held liable because then they were told.

You do not have to comment on that but I am just thinking aloud that the implications of this, if this is factually

true, would raise those questions that they knew what the picture was.

**MR GODI:** Chair.

**CHAIRPERSON:** Yes? Yes, Mr Godi?

**MR GODI:** Chair, I just want to say at least what is confirmed in the draft affidavit of **Mr Makweto**.

**CHAIRPERSON:** Yes?

**MR GODI:** Is that the Minister in relation to his or her portfolio does get the briefing. Then make sure that the  
10 Cabinet agreed and its own cycle.

**CHAIRPERSON:** Yes. No, no. That is fine. Mr Freund.

**ADV FREUND SC:** Yes, thank you. Can I just follow you up on that and I do not know if you know this or not Mr Godi but if you, you could help us. The Auditor-General is governed by legislation which describes the duties of the Auditor-General.

And to put it very crudely and briefly. The Auditor-General is required to audit a whole slew of public entities, entity by entity. And the Auditor-General's comments  
20 become part of the reports that are required by law to be submitted to Parliament and are submitted to Parliament. Do you agree with me so far?

**MR GODI:** Ja-no, that is correct. When you read out the rules ...[indistinct] [00:25:59]. It talks about reports of the Auditor-General on the financial statements.

**ADV FREUND SC:** Yes. But now I want to take that a little step further. As I understand it but I might be wrong and if you are able to correct me I would be grateful. Now I understand it, there is also a statutory duty on the Auditor-General to produce a single combined annual report. And that too, not only – that too, amongst others, is submitted to Parliament. Is that correct?

**MR GODI:** That is correct.

**ADV FREUND SC:** So when we talk about whether or not  
10 a specific matter is raised in Cabinet meetings which I certainly have no knowledge one way or the other. What we should know is this. That government as a whole and therefore all Cabinet Ministers have access annually to the Auditor-General's annual report which gives annually an overview of the sorts of issues we have been talking about. Can you confirm that?

**MR GODI:** Yes.

**CHAIRPERSON:** Okay Mr Freund.

**ADV FREUND SC:** Now ...[intervenes]

20 **CHAIRPERSON:** Mr Freund?

**ADV FREUND SC:** Yes, Chair.

**CHAIRPERSON:** I think we have gone past one o'clock. We both did not keep an eye on the watch. Let us take the lunch break. It is now about thirty minutes past one. We will resume at quarter past two. We adjourn.



**ADV FREUND SC:** Thank you.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Okay, Mr Freund, we may proceed.

**ADV FREUND SC:** Thank you, Chair. Mr Godi, I want to just pick up and issue that we touched on and that is the question of the various reports that come from the auditor general. Now in the main, if I understand your affidavit correctly, your committee would receive as part of the  
10 departmental report or entity report that comes to you annually a portion containing financial statements and containing the auditor general's comments, is that correct?

**MR GODI:** Correct.

**ADV FREUND SC:** And in addition to that, I have been instructed over the lunch break that the auditor general produces what is called a general report. So, for example, I have in front of me the cover sheet of the general report of the auditor general on audit outcomes for the financial  
20 year 2003 to 2004 and I understand that a similar general report was issues annually. Does that type of report also find its way to you?

**MR GODI:** Yes. No, that it is correct, I kind of thought we were talking to that, you understand, the end of the audit cycle the auditor general would then write a general report, yes.

**ADV FREUND SC:** That is all I wanted to clarify and what I have been instructed is that that particular report, I may have given the impression that it is a compulsory – that it is compulsory under legislation. What I have been led to understand is that it does happen as a matter of practice every year, it is permitted but not compulsory under Section 5(3) of the Public Audit Act but going back to the years of Mr Fakie, as auditor general since then every year a report of that nature has been generated and you would  
10 be familiar with those sorts of reports.

**MR GODI:** Correct, correct.

**ADV FREUND SC:** So those reports, leave aside anything else that might or might not be sent to cabinet, those reports give a broad general oversight of what you might call the state of public finances and the state of irregular expenditure.

**MR GODI:** Absolutely, ja.

**CHAIRPERSON:** One second, Mr Freund, I have no pen here, I think I left my pen somewhere. Yes, you may  
20 proceed, Mr Freund.

**ADV FREUND SC:** Thank you, very much. What I would like to do now, Mr Godi, is to take you back to Mr Makwetu's draft affidavit, paragraphs 8, 9 and 10. That is in bundle 4 at page 851.

**MR GODI:** Ja. Ja, I have it.

**ADV FREUND SC:** Now you will know, Mr Godi, having read this affidavit, that this is the very introductory part of the affidavit under the heading:

“Overall Observations in relation to the Management and Oversight of PRASA.

It is very brief and then following hundred pages or so really is directed at substantiating in detail what we read in these few paragraphs here and I would like to refer you from paragraph 8 onwards what the then auditor general  
10 said, was the following:

“The significant instability in PRASA’s leadership and oversight structures exacerbated the dilemma. So many resolutions had been taken at so many levels to address these root causes but there was hardly any follow-through on these resolutions.”

Then he says in the next paragraph:

“The net effect of the failure to address the root causes gave rise to the systemic financial and performance management breakdown at PRASA.”

20 And then he says this:

“Impunity settled in at all levels.”

And then he moves on from dealing with that to the more general point of relevance to our part of inquiry:

“Eventually this weak culture spilled over to those structures in parliament tasked with PRASA’s

oversight and made a mockery of any effort to exercise meaningful oversight over the entity. Oversight bodies, who had all been in place throughout the period under review, were properly informed about the resources and knew all along what had to happen to arrest the declining performance of the entity. It was disheartening to witness the ineffectiveness of parliamentary structures to perform the mandate assigned to them in terms of Section 55 of the constitution and how the mechanisms at their disposal were not used appropriately. These structures oversight was largely superficial, they papered over the cracks despite so much information at their disposal. The Transport Portfolio Committee and SCOPA would listen carefully and even promised action but nothing came of it. This superficial compliance-driven exercise was contrary to the constitutional value of transparency. Although the latter was clearly visible, I could not and still cannot judge whether it was done deliberately.”

Now those are some very strong words and let us just take them bit by bit.

I think you would agree, would you not, that for whatever reason the root causes of the continuing financial

decline – and I mean the decline in financial probity, the decline in financial control, that continuing decline continued, got worse and it got worse because the root causes were not addressed. I think you would agree with that, am I right?

**MR GODI:** Ja, no, very true, I think paragraph 8 talks to the problem of instability in the leadership of PRASA which I am not sure we will go into later but it is a very important comment. Not only for PRASA but throughout the various  
10 entities and departments and it was one of the most frustrating things for us as a committee that you would meet with an accounting officer today who would promise that I will sort things out and a year and half down the line that person is no long there, you have a new person who is starting from scratch, you can hardly build a culture of compliance instituting where there is instability of [indistinct – dropping voice]

**ADV FREUND SC:** Yes. No, instability is clearly a problem but of course it is not state capture or corruption  
20 or not necessarily, in any event. So I want to move beyond that point to the general observation that impunity settled in at all levels. Now that might be overstating it but what is your view on impunity as a phenomenon that did or did not become entrenched, not only in PRASA but in other comparable SOEs and departments?

**MR GODI:** Impunity or sense of impunity was in a large measure one of the fundamental reasons why noncompliance persisted and actually worsened because those are there to be observed or to be enforced. In instances where they are not observed there should be enforcement and in the absence of enforcement then it will merely replicate itself. I must overemphasise the fact that the inability to take action, stern action against the wrong, merely exacerbated the problem and what Mr Makwetu here  
10 indicated with PRASA I can safely say is a general problem throughout the public service.

**ADV FREUND SC:** And then what Mr Makwetu ...[intervenes]

**CHAIRPERSON:** Once again, Mr Freund, I am sorry again I am interrupting you. One second? Okay, you may proceed, Mr Freund.

**ADV FREUND SC:** Thank you, Chair. You will see, Mr Godi, that what Mr Makwetu then refers to is the ineffectiveness of the parliamentary oversight and I do not  
20 think that that is any different to the view you have expressed that no matter what attention you paid, the net result was not effective. I think you would agree with him on that, is that correct?

**MR GODI:** Ja, so I will so agree.

**ADV FREUND SC:** Right. Now what he then deals with in

a lot of detail and I am not going to deal with it in any detail at all, is the year by year engagements on PRASA but what you will have noted when you read this affidavit is that he makes the point that every year the auditor general was represented in hearings of the Transport Portfolio Committee which would have considered, amongst things, PRASA, and he says:

“SCOPA has to make a decision year on year which entities to focus on.”

10 He says:

“Some years SCOPA did call the auditor general to a hearing that related to PRASA, some years it did not.”

I think you would agree that that is factually correct, am I right?

**MR GODI:** Yes, that is correct.

**ADV FREUND SC:** Alright. And what I would like you then to look at is what he says about SCOPA oversight which he deals with from paragraph 254 and following in his affidavit  
20 and just for the convenience of the Chair, paragraphs that are relevant are 254 through to 266 but in the interest of time I am not going to deal with all of those, I am going to just focus on a schedule(?) of those. Firstly, paragraph 254, he makes the following point.

**CHAIRPERSON:** Hang on, Mr Freund. It is not usual that

we have so many paragraphs in one affidavit, so when you said 254 I thought that is 25.4 so I first went there.

**ADV FREUND SC:** No, I am terribly sorry but I am referring to page 960 in volume 4.

**CHAIRPERSON:** Yes, okay, I am there. Thank you.

**ADV FREUND SC:** And it was 254 and following that I was referring to.

**CHAIRPERSON:** Yes.

**ADV FREUND SC:** And I am going to start by referring to  
10 that particular paragraph where Mr Makwetu says that:

“In the AGSA’s integrated annual report for 2013/2014 we recognise SCOPA as a structure that continued to play a catalytic oversight role. By making use of the AGSA’s findings, SCOPA structured all its hearings around the root causes as identified during the briefings by the AGSA. This was strategically a wise approach.”

I take it you are not going to disagree with his praise of your committee in that paragraph.

20 **MR GODI:** I take this as objective statement, what had happened.

**ADV FREUND SC:** Now leaving out some paragraphs I want to take you then to the paragraph 262 at page 963.

**MR GODI:** Yes.

**ADV FREUND SC:** This is something that you have



already touched on in your evidence and I think there is a slight difference of view between yourself and Mr Makwetu.

What he says in his affidavit is the following:

“Despite SCOPA’s efforts to table its reports and recommendations in the National Assembly these reports never received the attention they deserved, reports were simply adopted and never debated in the house. The debate of committee reports in the National Assembly is a parliamentary instrument  
10 that could have been utilised better and could have led to appropriate follow-ups on resolutions including calling the relevant minister to account.”

Now what you testified before the lunch break is that your reports were debated but if I understood you correctly, were debated but if I understood correctly, were debated fairly briefly. Could you perhaps just elaborate on the adequacy of the debates that took place?

**MR GODI:** No, I must reconfirm that that statement is actually incorrect, being [indistinct – dropping voice] and  
20 secondly, the difference in parliamentary resolutions is whether the resolution was noted or adopted. If it is adopted, whether debated or not, the procedure is the same, it must be processed by the Speaker to the minister concerned but if it is noted, it just goes into the records of parliament and it is not taken forward.

Now we – remember I said we, in our strategic objectives we said we want the public to know and understand the work of the committee and one of the ways of course was the media but the other one was having debates in the house.

We worked on this because initially we kind of – we find that members of parliament will go and do the usual thing where they can stand and we had to agree as the committee that please, let us not then stand because then  
10 you are taking the focus away from the issues to the policies(?). Like I said, you have five reports and you have – members are given two minutes each or so to come and debate. Clearly that is not enough. That is not enough time but I must say that we were better off than other committees because like I said, all our reports were debated. I will be given five minutes to introduce the reports then the other members would come in but clearly was not enough time.

**ADV FREUND SC:** Alright, thank you, I just wanted to  
20 clarify that. Now if I can take you ...[intervenes]

**CHAIRPERSON:** I am sorry again, Mr Freund. So, Mr Godi, in that first sentence of paragraph 262 the only part you take issue with is that the reports were never debated in the house otherwise you have no problem with the rest of that sentence and maybe with the whole paragraph.

**MR GODI:** No, I will leave that paragraph, like I say that the next part which speaks to suggest that if a report was not debated and was only adopted it is of the level than if it was debated. I said no, whether it was debated or it was merely adopted, processing would be the same. The only difference is it is noted. If it is noted, it is merely for parliamentary reports, it is not taken outside parliament. So whether debated or not debated, as long as it was adopted.

10 **CHAIRPERSON:** Yes.

**MR GODI:** It was subjected to the same process.

**CHAIRPERSON:** Yes. Well, I understand the point you make but I wonder whether Mr Makwetu may not have been trying to say the content of the reports called for serious debates but this is a situation where – well, he says there were never debates but you say there were debates but they might not have – the time might not have been adequate, whether he might not have simply meaning to say reports that revealed the kinds of things that these  
20 reports were revealing to the National Assembly should have opened the eyes of member of the National Assembly and if they were really serious, if they were really concerned about the revelations in the reports there should really have been serious debates. I am just wondering whether he might not be meaning to say that it might not

be so that the difference between the two of you might be very slight. You are not sure?

**MR GODI:** I think I (indistinct – recording distorted) what you have said.

**CHAIRPERSON:** Yes.

**MR GODI:** That due to - times were short.

**CHAIRPERSON:** Yes.

**MR GODI:** But if you look at the last part of his sentence, it seeks to suggest that if reports (indistinct – recording  
10 distorted) it can then lead to appropriate (indistinct – recording distorted) implying that if it was not debated then you do not have the mechanisms of follow-ups.

**CHAIRPERSON:** Yes.

**MR GODI:** But I do think, like I said, that the issue of the need to take serious cognisance of the issues raised, were things that we will always discuss and things that (indistinct – recording distorted) no sense about it.

**CHAIRPERSON:** Yes.

**MR GODI:** So it may as well be that maybe the  
20 construction could have been done better or differently.

**CHAIRPERSON:** Okay.

**MR GODI:** But the concerns that you making, no, those are concerns that we had from time to time.

**CHAIRPERSON:** Yes, yes. Okay. No, that is fine. Mr Freund, continue?

**ADV FREUND SC:** Yes, thank you. Just following on from that, I understand the points you have made, Mr Godi, and I do not have an issue with them, but I would like to pose the problem a different way. Do you think that the National Assembly, having had sight of not having adopted report shows adequate concern to ensure that the problems addressed in those reports were resolved?

**MR GODI:** Well, you know when we started, reports would go to the house, they would be adopted but then what?  
10 And I think that is where we are following short and I think Mr Makwetu if actually reconfirming that, Chair, as the position. In the absence of follow-ups there is no other demonstration that the concerns raised by committees are taken seriously and I think that is what we were missing and that is what is missing and I think here we are basically saying the same thing as Mr Makwetu.

**ADV FREUND SC:** I understand. Now if I can refer you to paragraph 264, which is at page 964, you will see that what Mr Makwetu says in the draft affidavit is that:

20           “Although SCOPA’s engagements...”

Well, let me just pause before I ask you this question. You told us earlier that some years you did and some years you did not specifically have hearings on PRASA, could you perhaps tell the Commission about any intervention made by the then Chair of the board, Mr Popo Molefe, on the

question of seeking parliamentary interventions and SCOPA interventions?

**MR GODI:** Well, Chair, I can only confirm what Mr Molefe said to the Chair when he appeared that he – and I confirm that he did, he wrote a letter addressed to the Speaker but copied to the Portfolio Committee and SCOPA. I do not know how the other two offices acted but we, as SCOPA, we viewed the letter seriously and we actually called the PRASA board and management to appear before us. I am  
10 sure in Mr Makwetu’s bundle it does appear, it is in one of the annexures. The (indistinct – recording distorted) of the two meetings were heard. We met them, it was 2015 and we said no, let us meet in 2016 and indeed in 2016 we met. So we, as SCOPA were responsive to the cries or the complaints that we heard, even though they were not addressed to us but to the higher office but we felt duty bound that we needed to react.

**ADV FREUND SC:** And did you feel that he was rightly concerned and about the right issues and he was trying to  
20 have the right things done to sort them out?

**MR GODI:** Well, I mean, the issues that he had raised were issues that were arising from what we knew from the reports of the auditor general about controls, financial controls, governance and all that. There could have been other issues that fell outside our scope but because we

knew from the general reports of the HD that PRASA was not in a good state so we were not hesitant therefore to call them, yes. In relation to the issues that were at hand, yes, he showed concern and if you look at the minutes of our engagement with them you will realise that indeed the attitude of the discussions was focused on the very issues that Mr Makwetu is raising here in his affidavit.

**ADV FREUND SC:** Yes, thank you. Can I ask as a point of clarification whether you were also familiar at that time  
 10 with the report of the Public Protector issued in 2015, the Derailed Report about PRASA and alleged irregularities within PRASA?

**MR GODI:** Ja, correct, we were aware of that report because it was – we were also aware of the investigation that National Treasury was doing, we were also aware that there were, you know, criminal cases that were opened with the Hawks. I, in my capacity as Chairperson, did have a one-on-one with Mr Molefe because I wanted to understand for myself fully and properly what the concerns  
 20 were, what the issues were, what their frustrations were especially with the Hawks in terms of their investigations. So yes, we were of the totality of the challenges and reports pertaining to PRASA.

**ADV FREUND SC:** And did you form an impression about the adequacy or otherwise of the stance being adopted by

Mr Popo Molefe to these issues? 24.44

**MR GODI:** Well, the – yes from the reports that he shared with us, yes, we accepted that he was adequately concerned. The only concern I expressed to him was on the investigations done by Werksmans because it seems to be open-ended and when you look at the expenditure thus far incurred, it was too high and we were not yet in a situation where we could say this is the end [indistinct]

25.22 and he then invited me to go to Werksmans' offices  
10 and meet in Sandton. I went to sit and listen to those lawyers explain what they are doing, what they are trying to do, the scope, but still I insisted that we need to have a timeframes, we cannot have open-ended investigations especially when they involved costs, money that PRASA does not have in (indistinct – recording distorted)

**ADV FREUND SC:** Right, thank you. Now against that background if we can go to the paragraph that I had intended to refer you to which was paragraph 264 at page 964 and the auditor general's team having sat in on several  
20 SCOPA engagements with PRASA, the auditor general makes the point elsewhere in his affidavit that they were essentially there as observers more than as participants in those particular hearings but he then goes on to say what we see here at paragraph 264:

“Although the SCOPA's engagements on PRASA's



performance had not been as regular as those of the Portfolio Committee, the sessions had been robust. Members did not shy away from expressing their utter dismay with PRASA's reported results."

Would you confirm that what he says is correct?

**MR GODI:** Well, that was the standard operating norm for our SCOPA hearings, whether with PRASA or any other. Our members were robust and we read, we paid attention to detail, much more than the officials themselves.

10 **ADV FREUND SC:** Right but now let us look at the next sentence. He says:

"However, no specific resolutions or recommendations were issued that PRASA could be tracked against and this allowed PRASA to continue operating within impunity."

I wonder if you would like to comment on that.

**MR GODI:** Well, I cannot confirm whether indeed the resolution was done or not. If I had received this draft affidavit a month or so I think I could have verified with my  
20 staff, we have very good recordkeeping systems. Except to say, if you look at the minutes of our 2015 hearing you will realise that actually we stopped the hearing at midpoint because we realised that we were not making progress. The board was saying they are new, management was new and so we could not get

accountability. That is why we said let us stop this hearing, we will meet you in 2016. So what I would have needed to check was whether after the 2016 hearing was there a resolution passed. At this point I cannot confirm or dispute what is it.

**ADV FREUND SC:** Alright, I understand. And I want to refer you finally to – in paragraph 268. Well, that and a couple of further paragraphs. Paragraph 268 at page 965. This is an issue that was touched in your earlier  
10 discussions between yourself and the Chair where Mr Makwetu says:

“One of the key indicators in this regard would be a reflection on the extent to which all role-players would have dealt with areas such as irregular expenditure. Irregular expenditure is defined as expenditure incurred in contravention of or not in accordance with legislation and is normally a good warning signal of accountability failures that created a fertile environment for inappropriate  
20 management of public resources.”

Do you agree with those views?

**MR GODI:** Ja, I do.

**ADV FREUND SC:** And then after dealing with some statistics about the accumulative extent of irregular expenditure, it refers in the fifth last line to a very large

number and then he says:

“This figure is indicative of a lack of action on audit findings and risk indicators generally which in turn is a disappointing reflection in the impact of the work of all role-players in the accountability chain. The latter statement includes the impact of the work done by parliamentary oversight structures.”

I think from the tenure of your evidence you would also agree with that?

10 **MR GODI:** Except that it is important to indicate that the work Parliament ...[indistinct – distorted] at the end of the day the person who must hit the nail on the head, it is the Board, it is management.

I can give an example with the integrated ...[indistinct – distorted] management system at ...[indistinct] Station. When we were meeting ...[indistinct] we called out the wrong parties of putting an accountant in charge of a Systems Development Process when the head of State Development is there, but I can tell you, now as  
20 we're talking...[indistinct – distorted] they've appointed a strategic planner in charge of Assistance Development and yet Assistance Developer is there. So, sometimes Parliament can say, do this, this is the right thing to do but then officials go and do their own thing and what can you say, we have to agree that despite all the good work and

the practicing was done the room has not moved.

**ADV FREUND SC:** And then finally, I just want to draw to your attention, that another odd issue on which you seem to be in complete agreement with Mr Makwetu, is on the problem of tracking measurements, tracking implements. So, he says in paragraph 270 at page 966, halfway through the paragraph,

10 “Speakers Office, during the fifth Parliament plan to implement a resolutions tracking mechanism. The mechanism was intended to facilitate regular follow-up on resolutions thereby holding the Executive accountable. This tracking mechanism was not implemented, and Parliament missed an opportunity to effect consequences and result”.

I think, we know from your evidence already, that’s a view you agree with, am I right?

**MR GODI:** Well, I’m actually glad that Mr Makwetu has put this ...[indistinct 2.05] I said, I spoke to Comrade Frolick in the fourth Parliament. Now Mr Makwetu says, in  
20 the ...[indistinct 2.14] there was a repeat of such commitment which was not fulfilled. So, what you see, Chair, when I spoke about the lack of ...[indistinct 2.25 – audio distorted] is that you have an Executive that is unresponsive, but you also have the leadership of Parliament, through the Speakers Office that is equally – at

a theoretical level about issues and not implementing its own decisions and resolution. So, if you have that gridlock, from the Executive to Parliament then those of us who are busy with ...[indistinct 2.52 - distorted] on the ground ...[indistinct – distorted] members, what chance was there for us to bring about the desired changes, almost zero?

**ADV FREUND SC:** Thank you Mr Godi, I have no further questions.

10 **CHAIRPERSON:** Mr Godi, do you have, having spent – I don't know if you said 13 years in Parliament and in SCOPA do you do you – yes in SCOPA or some of those years in SCOPA, one of the points you have made is that there was simply no action to enforce the recommendations that SCOPA made and that will be the same with any recommendation, I would imagine, coming from any Committee and try and address these challenges in Government Departments and in SOE's, of course, here we are talking, in particular about PRASA. Do you have any  
20 views as to what action you think could have been taken but was not taken?

**MR GODI:** No Chair, I think in my submission being quoted from the ...[indistinct 4.34] contradicting model, I don't think there can be anything besides that model because it – I fully remember the spirit during the

...[indistinct 4.47] of that model, there was really this belief from commitment and desire to up oversight of Parliament, but it was not implemented. My view would be, let's implement that oversight and accountability model and then in the course of practice, then we'll be able to see where the deficiencies are but without having touched on those critical provisions of that model, I don't think that it will be prudent to look for something else outside that.

**CHAIRPERSON:** Well, of course, some of us have read  
10 your affidavit, I heard of your testifying but a lot of people who are listening to your evidence and who are keen to know what action could have been taken, they might not have read this. Would you like to lie to articulate what action you think could have been taken but wasn't taken? I mean, obviously, you align yourself with what is in the model, so articulating what the model – what action the model contemplates could be taken by Parliament, but which were not taken – actions that were not taken.

**MR GODI:** Thank you very much, Chair. The history here,  
20 Chair, is that, on an annual basis the Auditor General give us his support and he and SCOPA will look at the report, pick up what is right and what is wrong, call the Departments to account before us and at the end, write a resolution to the House ...[indistinct 6.30] and say, in our engagement with Department X these are the problems that

we encountered as in these are our recommendations in terms of what we think, needs to be done, to correct the situation. Once it is adopted by the House, it is now the House speaking, no longer SCOPA. Now the problem that we had, was that once the Speaker has forwarded the resolutions, that was the end of it. Many such Departments would just get those recommendations and not do anything. So, what was missing and what needs to be in place, it's a mechanism and a process to track House  
10 resolutions and what we did in SCOPA, which I think was excellent, was always to put timeframes. So, you know, if a report is adopted today on the 1<sup>st</sup> of February and you say, within 60 days, then it means by the end of March you want to get a response. Now, it means the Speaker's office must have the capacity and the mechanism to check on the due dates and be able to follow up with the various Departments that the due dates are in place, that was not there but now, even it was there, if the Departments don't reason what is it that should happen. The Speaker should  
20 be able to, in the House, indicate that Minister so and so is frustrating us, Mr so and so is unresponsive as a way that will say to Parliament and also to the public, Minister so and so is not doing his or her work. So, especially there was a lack of a follow up process or mechanism which rendered the hard work, the hard work that we did to

...[indistinct 8.22].

**CHAIRPERSON:** Well, okay, thank you very much Mr Godi for coming to assist the Commission we appreciate that you took your time to be able to share what your experiences in Parliament and SCOPA with the Commission, thank you very much. Should we need you to assist us if there's verification that we need, we'll ask you again but hopefully we won't bother you, thank you very much, you are now excused.

10 **ADV FREUND SC:** Thank you Mr Godi.

**MR GODI:** Thank you.

**ADV FREUND SC:** Chair?

**CHAIRPERSON:** Yes, Mr Freund.

**ADV FREUND SC:** Now, I do have, available, Ms Natasha Mazzone as soon as you wish to commence your evidence.

**CHAIRPERSON:** I think, if she's ready she can just – you can just call her, she can come in, we continue.

**ADV FREUND SC:** I think she may be following so...[intervenes].

20 **CHAIRPERSON:** Or if you need me to adjourn for a few minutes, shall I adjourn for a few minutes?

**ADV FREUND SC:** I beg your pardon?

**CHAIRPERSON:** Do you know – do you think we should adjourn for a few minutes for her to come in?

**ADV FREUND SC:** I am, entirely in your hands, we can



continue immediately, or we can take a short break, if you prefer.

**CHAIRPERSON:** Okay let's take a short break, just to make sure she comes in and then I'll be told when everything is ready, we adjourn.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Good afternoon Ms Mazzone.

**MS MAZZONE:** Good afternoon Judge Zondo.

10 **CHAIRPERSON:** Thank you for availing yourself to help the commission we appreciate it very much.

**MS MAZZONE:** Thank you very much for allowing me.

**CHAIRPERSON:** Thank you. Registrar please administer the oath or affirmation?

**REGISTRAR:** Please state your full names for the record?

**MS MAZZONE:** My name is Natasha Wendy Bonita Mazzone.

**CHAIRPERSON:** Do you have any objections to making the prescribed oath?

20 **MS MAZZONE:** I have no objection to taking the prescribed oath however I am a Buddhist but the oath is binding on my conscience.

**REGISTRAR:** Do you affirm that the evidence you will give will be the truth; the whole truth and nothing but the truth; if so please raise your right hand and say...

**CHAIRPERSON:** Hang on one second. Hang on one second. I understood you Mr Mazzone to be saying you will take the oath. Did I misunderstand you but I see she is switching to an affirmation?

**MS MAZZONE:** I would prefer an affirmation Judge Zondo if that is possible.

**CHAIRPERSON:** An affirmation is available. An affirmation is available. Okay then we use the affirmation ja.

**REGISTRAR:** Do you...

10 **CHAIRPERSON:** Start afresh ja.

**REGISTRAR:** Okay. Please state your full names for the record.

**MS MAZZONE:** Natasha Wendy Bonita Mazzone.

**REGISTRAR:** Do you have any objection to making the prescribed affirmation?

**MS MAZZONE:** I do not.

**REGISTRAR:** Do you affirm that the evidence you will give will be the truth; the whole truth and nothing but the truth; if so please raise your right hand and say, I truly affirm.

20 **MS MAZZONE:** I truly affirm.

**CHAIRPERSON:** Thank you very much. I suspect that I am not pronouncing your surname correctly from what I heard you when you were giving your name. I always want to try my best to pronounce people's names and surnames correctly. I was saying Mazzone but I seem to have heard

you say Mazzone or something like that. Do you want to just give me the correct pronunciation?

**MS MAZZONE:** Judge Zondo thank you very much that is very kind of you Mazzone is absolutely fine. Thank you.

**CHAIRPERSON:** Okay, okay thank you, thank you. Mr Freund you may proceed.

**ADV FREUND SC:** Thank you Judge. Ms Mazzone your affidavit and the record is Exhibit ZZ5 in Bundle 2 starting at page 005. You have a hard copy of that affidavit available I  
10 understand, is that correct?

**MS MAZZONE:** I do indeed.

**CHAIRPERSON:** Mr Freund let me interrupt. Mr Freund I think.

**ADV FREUND SC:** Yes I ...

**CHAIRPERSON:** I think if I am not mistaken we did not admit Mr Godi's affidavit as an Exhibit it may have escaped both our minds. I think this one we will just have to remember to do that. But I think because he confirmed everything with his we can do – we can admit Mr Godi's one  
20 later on once we are done with Ms Mazzone.

**ADV FREUND SC:** That was a 00:04:00.

**CHAIRPERSON:** Okay alright.

**ADV FREUND SC:** May I then proceed.

**CHAIRPERSON:** Yes you may proceed.

**ADV FREUND SC:** Thank you. Ms Mazzone if you look at

the end of your affidavit it is at page 1 and 2 page 54 if I have it correctly. There is a signature there; is that your signature?

**MS MAZZONE**: That is my signature.

**ADV FREUND SC**: And have you had an opportunity to reread this affidavit and are you comfortable to confirm what it says is correct?

**MS MAZZONE**: Thank you Advocate Freund I have had an opportunity to read it. Advocate upon my last reading of it  
10 last night I did pick up two typos which if I may I would like to bring to the commission's attention. The first type is under point 19 which is the Democratic Alliance view on improving Parliamentary oversight. Point 19.1 reads:

“As the Chief Whip of the official opposition  
in Parliament and a Deputy Federal  
Chairperson – Counsel Chairperson of the  
Democratic Alliance”

There is a word former missing from before Deputy  
Federal Counsel Chair. I did not stand for re-election so I  
20 am a former Deputy Chair and the – the other one also just a typo please Advocate Freund on the second page of my affidavit it says that I was elected in 1988 as the Federal Youth Leader. I would have only been 9 years old so that should also read 1998.

**CHAIRPERSON**: I saw that. I saw that when I read the

affidavit I said could not be correct.

**MS MAZZONE:** No.

**CHAIRPERSON:** Yes so what – what is the correct year?

**MS MAZZONE:** It is 1998 Judge Zondo.

**CHAIRPERSON:** Okay thank you.

**ADV FREUND SC:** Right and with those corrections you are now – you confirm the rest?

**MS MAZZONE:** I do.

**ADV FREUND SC:** So I would like to just start with a little of  
10 your personal background. I am looking at page 6 in Bundle  
2 at paragraph 4 and you make the point in paragraph 4.4  
that you were elected as a member of Parliament  
representing the DA in 2009, that is correct is it?

**MS MAZZONE:** That is correct.

**ADV FREUND SC:** And you say in 4.7 that in February 2012  
you were appointed as Shadow Minister of Public  
Enterprises, you became a member of the Portfolio  
Committee on Public Enterprises, that is correct is it?

**MS MAZZONE:** That is in fact correct and the date strangely  
20 enough was today the 1 February.

**ADV FREUND SC:** Oh okay.

**CHAIRPERSON:** Mr Freund...

**ADV FREUND SC:** And then you make clear in paragraph  
4...

**CHAIRPERSON:** Mr Freund I am sorry I do not want to

forget this. What we normally do when there are corrections being made that are made in an affidavit is to follow up with a supplementary affidavit of the witness.

**ADV FREUND SC:** Yes.

**CHAIRPERSON:** Just making those corrections then it is convenient. So – so if it could be done ja.

**ADV FREUND SC:** As you please Judge. Ms Mazzone if I take back we were at paragraph 4 and you make the point in paragraph 4.8 that with effect from early 2017 you were  
10 informally appointed by the then leader of the DA Mr Maimane as Chief Spokesperson for the DA on alleged state capture and then on 22 September 2018 this position was announced formerly, is that correct?

**MS MAZZONE:** That is correct.

**ADV FREUND SC:** In other words you came to assume prime spokesman's status on the – on the issue of alleged state capture?

**MS MAZZONE:** That is correct.

**ADV FREUND SC:** You were also as we have already  
20 covered a member of the Portfolio Committee on Public Enterprises which perhaps you could just describe very briefly the primary entities of any known relevance to the commission that would have fallen within the – the responsibility of that Portfolio Committee?

**MS MAZZONE:** Although there are many public entities in

our country and many state owned entities the Department of Public Enterprises at that particular time looked after the entities of Denel, Transnet, Alexkor, Safcol, South African Airways, South African Express Airways and Eskom.

**ADV FREUND SC:** And Eskom thank you. And I think my understanding that at a later stage South African Airways was shifted across to a different department as a consequence of its financial difficulties.

**MS MAZZONE:** That is right it went under the administration  
10 of Treasury because of the continual bailouts that were being made to the airline.

**ADV FREUND SC:** Now in preparation for your evidence you deposed to in affidavit and in preparation for your affidavit you furnished to the commission quite a lot of information including if I can take you to paragraph 5.1 a so called timeline document.

That document is lengthy document literally referring to hundreds of incidents and occasions, is that correct?

**MS MAZZONE:** That is correct.

20 **ADV FREUND SC:** And instead of trying to deal with the myriad of detail there what has happened in this affidavit is a selective focus on some of what you regard as the more important and more relevant aspects to illustrate the evidence you want to give. Is that correct?

**MS MAZZONE:** That is correct.

**ADV FREUND SC:** And that is really the point you make in paragraph 5.3 of your affidavit. In paragraph 5.4 you really give a heads up on where are you going with your affidavit and with your evidence and I think it might be convenient if I just deal with that now so that – so that the Chair and anybody who is following these proceedings gets some idea where are we going. You say here:

“I shall deal initially i.e.

10           1. With issues that arose before and led up to  
              my unsuccessful attempts in March of 2016  
              to persuade the PCPE that is the acronym  
              we used for the Portfolio Committee on  
              Public Enterprises to summon the Gupta’s to  
              answer allegations in the public domain.”

So that is the first primary issue.

              “I will then deal secondly with the events  
              leading up a refusal by Parliament on the 8  
              September 2016 to support a DA proposal  
              that it should establish an Ad-hoc Committee  
20           to investigate allegations of state capture.”

That is the second issue.

              “I will thereafter deal – the third issue – with  
              the events that eventually led for PCPE in  
              June 2017 to commence an inquiry into  
              allegations of state capture at Eskom and



further.”

So I want to deal with your evidence in those three chapters as it were and the first chapter is the events before and leading up to an attempt in March 2016 to persuade the PCPE to have an inquiry to which the Gupta’s should – you would have wished should be summonsed to answer questions. And in that regard I would like to jump to the end and then we will go back to the beginning. I would like to take you please to paragraph 13.1 of your affidavit that is at  
10 Bundle 2 page 18.

**MS MAZZONE:** Yes. I have it before me.

**ADV FREUND SC:** Right. Now that paragraph 13.1 refers to a statement that you issued on the 8 March 2016 and it is Annexure NN28 to your affidavit and if you just give me a moment to get the right file? I believe that should be at page 185 but I just want to check that. Yes at page 185 could you please go to page 185 the Annexure to your affidavit which is dated the 8 March 2016?

**MS MAZZONE:** I am on page is it the ZZ5 NWAM 185?

20 **ADV FREUND SC:** Let me make clear. I am about the black numbering top left of the pages. So there is a series which goes PO and then...

**MS MAZZONE:** Alright.

**ADV FREUND SC:** Which means Volume 2 and then PO 02185 and when I refer to page numbers I am always going

to be referring to that sequence of page numbers.

**MS MAZZONE**: Right.

**CHAIRPERSON**: And...

**ADV FREUND SC**: You have that page now?

**MS MAZZONE**: I have that in front of me.

**CHAIRPERSON**: I am sorry Mr Freund. Also Ms Mazzone when he refers to a page he will not repeat PO-02- he will just go to the actual page number which is the last 2 or 3 or 1. Okay.

10 **MS MAZZONE**: Thank you Judge I will remember that thank you.

**CHAIRPERSON**: Okay alright.

**ADV FREUND SC**: And just so that you understand what is going on PO is Parliamentary Oversight; the 02 is Volume 2 so we are in Volume 2 all the time in your evidence and I will be referring to pages in Volume 2.

**MS MAZZONE**: Great.

**ADV FREUND SC**: Now do you now have the page to which I am referring with a – an article or a press statement in your  
20 name dated the 8 March 2016?

**MS MAZZONE**: I do indeed.

**ADV FREUND SC**: And is it correct that you issued this as a statement which in due course became published?

**MS MAZZONE**: Yes.

**ADV FREUND SC**: And you did so in your capacity that you

have just told the Chair about as Deputy Chair of the DA Federal Counsel and as Shadow Minister for Public Enterprises.

**MS MAZZONE**: That is correct.

**ADV FREUND SC**: I am going to just read into the record what you say in the first two paragraphs of that document.

You say:

10           “The DA will today write to the Chairperson  
of the Portfolio Committee at Public  
Enterprises requesting that the Gupta  
brothers are summonsed to Parliament in  
terms of Rule 138A of the National Assembly  
rules to answer for what appears to be the  
undue influence they enjoy over President  
Jacob Zuma which they seem to have  
exerted over government and its officials.  
Under this rule Parliament is entitled to:”

And you then quote.

20           “Summon any person to appear before it to  
give evidence on oath or affirmation or to  
produce documents.”

And then you continue.

“It follows a slew of business agreements the  
Gupta’s have entered into with the South  
African government. It is indeed common

knowledge that the Gupta brothers are close to President Zuma and one of his sons Duduzane Zuma he is a shareholder in a number of companies owned by the family.”

And then what you go onto to do and I am not going to read this all into the record. You go on to say that – in the last two paragraphs that Parliament has stood on the side lines for too long and in the last paragraph you say:

10 “Parliament needs to satisfy itself that organs of state and the prescripts that govern them are not being pilfered for the benefit of an elite few.”

And on you go. Now what you say there and what we will come back to in a few minutes is a series of exchanges that then followed in terms of which you attempted to procure the – this Portfolio Committee would inquire into the allegations of that type and further type that we are going to refer to shortly.

20 What I would like to do now is to try to put ourselves back into the position that you were in as of March of 2016. In other words to try to reconstruct what was known and what was not known? What allegations had been made; what denials had been issued and so forth? And with that in view I would like you now to go back and we are going to touch on the fairly lightly in the interest of time. If we could

go back to paragraph 6.1 of this affidavit? That is at page 9 of Bundle 2.

**MS MAZZONE**: Yes.

**ADV FREUND SC**: Now you deal there with the question of support by state owned enterprises for the New Age Publication and you summarise in the beginning of paragraph 6.1 about how the DA have consistently opposed in Parliament the abuse of SOE funds to subsidise the Gupta's New Age Newspaper and associated events and you deal  
10 with that in the whole of the rest of paragraph 6. Now it is fair to summarise to say that there was no – that ultimately there was clear admission about the extent of this funding but there was a dispute as to whether there was anything inappropriate about that. The DA taking the view there was something inappropriate about it and the ANC taking the view there is nothing inappropriate about it. Is that a fair summary and if not could you qualify it?

**MS MAZZONE**: No that is absolutely a fair summary. It became very obvious to us that the New Age Newspaper was  
20 receiving special deals based on nothing more than the association with the ANC and the obvious close relations between the Gupta family and at the time Jacob Zuma and the DA had on numerous occasions asked questions regarding funding of New Age businesses because these newspapers often have businesses that result in a huge

amount of funding. And we even asked questions about why the New Age Newspaper was the newspaper distributed on SA Air – SAA airlines for example and bought en masse of all government offices and why that particular newspaper. So it was very public knowledge that the New Age was getting precedence over other newspapers.

**ADV FREUND SC:** Alright and moving on then in paragraph 7 you deal in some length that even that in summary with some tension that developed over the role played by Ms  
10 Dudu Myeni in the affairs of SAA and certain issues that were raised in Parliament by you and other members accurate?

**MS MAZZONE:** That is correct.

**ADV FREUND SC:** Then if I can take you to paragraph 8 you deal with the issue of Transnet and you draw attention to a couple of newspaper reports and may I say that these are extracts which there would be more if one went into your detailed timeline presentation. But here you have taken a few examples and let us start at paragraph 8.2 where you  
20 refer to a document NN12. NN12 if I am not mistaken you should find at page 130 in the black numbering on the left hand and the actual body of the newspaper report you will find at page 132.

**MS MAZZONE:** That is correct.

**ADV FREUND SC:** So what we are looking at now is what

has been published in the Mail and Guardian early of July 2014. This is quite some time before the motion that you put in 2016.

**MS MAZZONE:** Yes.

**ADV FREUND SC:** And the newspaper asserts that under the headline Transnet Tender Bosses R50 billion Double Gain it alleges the following:

10           “Gupta’s and Duduzane Zuma are hidden stakeholders in a strategic locomotive sub-contracting company brought while the main tender process was ongoing. The man who presided over Transnet’s R50 billion tender for locomotives has joined forces with the Gupta family and President Jacob Zuma’s son Duduzane in a move that potentially puts them in pole position to benefit from key sub-contracts. The Chairperson of Transnet board tender committee entered into negotiations in December to buy a Gauteng Engineering firm

20           VR Laser Services that produces steel plate components for heavy vehicle bodies.”

And on it goes. It is a long report and I am not going to take you through it. But it is clearly alleging rightly or wrongly an improper set of relationships underlying a very major procurement deal at Transnet. Did that come to your

attention?

**MS MAZZONE:** It did come to my attention it did indeed.

**ADV FREUND SC:** And was it a matter of general public attention in political circles to the best of your knowledge?

**MS MAZZONE:** To the best of my knowledge it was but further to that it was also a matter that was discussed and aired during a meeting of the Public Enterprises Committee and it was one of the issues that we would air regularly was the procurement processes of Transnet's railway  
10 infrastructure and who was involved, who the directors of these companies were and the amount of money that were being paid and whether or not any conflict of interests were being declared.

**ADV FREUND SC:** Alright. Now there is an area of overlap between your testimony and the testimony of the witness who is going to come after you and that is one Ms Rantho but just for the convenience of the Chair I could give a further reference to this same article being referred to. In Ms Rantho's affidavit at – at page 539 in Bundle 2. Now I  
20 know that going back to where we were at page 12 in Bundle 2 your affidavit.

**MS MAZZONE:** Yes.

**ADV FREUND SC:** You highlight in paragraph 8.3 another press report. It is the press report which is Annexure NN13 and the relevant portion you will find at page 137.



**MS MAZZONE:** Hm.

**ADV FREUND SC:** And you summarise it I am not sure that it is necessary to go to the article itself. You summarise it here in paragraph 8.3 and you say:

10           “AmaBhungane Reported in July of 2015 a report under the heading Kickback scandals engulfs Transnet revealing what a 00:24:27 paid by Neotel to Homex a letterbox company allegedly linked to the Gupta’s so the article says in respect of deals worth R2 billion from Transnet.”

And the sting of the – of the allegation is that there are in payments being made to a third party allegedly linked to the Gupta’s to assist in procuring a major contract from Transnet. So those are two of the examples in the public domain by that time. Am I right?

**MS MAZZONE:** You are absolutely correct.

20           **ADV FREUND SC:** Right. Then we deal in paragraph 9 in a lot more detail with issues at Eskom. And in the interest of time I am trying to avoid reading too much of this into the record but you deal in paragraph 9.1 with certain concerns that have been expressed over the turnover in leadership and something about which evidence has already been led before this commission. In – in 9.2 you refer to concerns about certain coal contracts by Eskom – awarded by Eskom

to Gupta related companies and you refer to certain questions you had put in Parliament in relation to that. Incidentally there is a theme that runs through your affidavit that you are critical about the incompleteness and candour of the answers that you got to questions such as this, is that correct?

**MS MAZZONE:** It is correct yes.

**ADV FREUND SC:** And then if we can jump to 9.6 – paragraph 9.6 in your affidavit you refer to a further press  
10 statement that you issued on the 13<sup>th</sup> September 2015 NN20 and I think you will find the relevant part of that at page 163. That should be helpful actually look at just the first part of that affidavit – of that article.

**CHAIRPERSON:** I am sorry Mr Freund what – I am sorry Mr Freund what page did you say the article is?

**ADV FREUND SC:** Bundle 2 page 163.

**CHAIRPERSON:** 133?

**ADV FREUND SC:** 163.

**CHAIRPERSON:** 163?

20 **ADV FREUND SC:** 163 yes – 163.

**CHAIRPERSON:** Okay. Okay I have got it.

**ADV FREUND SC:** Thank you. Now we can all see there Ms Mazzone that it under the headline What the Gupta's up to at Eskom. It is apparently written by you and issued by you and the first paragraph is:

“Is paper reports today confirm that state owned and state controlled power utility Eskom bent over backwards to ensure that the politically connected Gupta family were awarded a gold – a coal deal to the value of R4 billion.”

And you have gone to deal with that at some length. And that relates if I understand it please correct me if I am wrong to the Tegeta Exploration company was then under control of  
10 – or allegedly control of the Gupta family.

**MS MAZZONE:** That – that is correct and it also went on to deal with the fact that then Deputy President Cyril Ramaphosa who was leader of government business was also in charge of the War Room that was in charge of the Energy crisis. So it was incumbent upon me to request of him to provide Parliament with a full explanation of how this particular occurrence happened under his watch and whether he was in fact informed of the deal while he was in charge of the War Room and what role he had played in the – the fact  
20 that this matter – this money had exchanged hands so what I then did and I explain it in my statement is I wrote a letter to then Deputy President Ramaphosa asking him for further particulars.

**ADV FREUND SC:** Right and if we can just clarify the roles then being played by Mr Cyril Ramaphosa. You have

referred to him – he was at the time firstly Deputy President of the country, is that correct?

**MS MAZZONE:** That is correct he was the Deputy President of the country. He was...

**ADV FREUND SC:** In that capacity he had been – he had been allocated certain responsibilities in what you call the War Room on Energy. So he had some political leadership role in relation to that.

**MS MAZZONE:** Yes. Well maybe to take one step back  
10 Advocate in terms of the rules of Parliament we appoint a leader of government business and it is normally the Deputy President but it does not have to be. The rules make an allowance for it to be anyone that Parliament chooses however it is practice in the Parliament of South Africa that the Deputy President becomes the leader of government business. So Deputy President Ramaphosa was the leader, he was also the Head of the War Room dealing with the energy crisis and he was the Head of the ANC's Cadet Employment Operation.

20 **ADV FREUND SC:** Yes. And I just – you beat me to it. I was going to take you to this issue of Leader of Government Business. But could you maybe just very briefly describe. When you talk about Leader of Government Business, you mean government business in Parliament.

**MS MAZZONE:** In Parliament.

**ADV FREUND SC:** Okay. Describe that role entails.

**MS MAZZONE:** Well, that role is actually incredible important. It is a role which makes sure that Parliament meets regularly. It is the role that ensure that certain issues are placed on the Parliamentary agenda and are not. It is the role that ensures that Parliament deals with the necessary legislation that comes before it.

And if certain legislation is lagging behind, the  
10 Leader of Government Business steps in makes, you know, does an inquiry as to why the legislation is not being heard.

That particular role also ensures that the Cabinet is kept up to speed as to who is appointed to suit certain boards that deal with state owned entities and legal government business.

You have to inform the Cabinet as to what decisions, pertinent decisions are being made in the state owned entities that will have any effect on Parliament whatsoever.

**ADV FREUND SC:** Right. Thank you. Now I want to  
20 move on to paragraph 9.7 of your affidavit. Where you refer to what you call there yet another evasive reply from Minister Brown. This time about the value of the coal supply contract between Eskom and Tegeta. And you refer to Annexure MM-21 which you will find at page 166.

**MS MAZZONE:** Yes.

**ADV FREUND SC:** Now you will see if you read that that the first paragraph or the question: How many contract does Eskom have with a certain company? Name, details furnished. It does not say in the question what the company is but we see in the reply there is a reference to Tegeta exploration and the sources. Can we assume that that was the company that was named in the question?

**MS MAZZONE:** Yes. If I may by way of an explanation. When you ask a kind of this kind of sensitivity, the Questions  
10 Department withhold the name of the question if it is commercially sensitive or if it would in any way infringe upon the economic impact that a sale may have, for example. But when the question is answered by the Minister, the name of the company is then revealed.

**ADV FREUND SC:** Thank you. And then the second question or second part of your question: What is A – what is the a) nature b) value and c) details of each of the specified contracts? And the answer to A and C which you get is: The details of the contract are commercially  
20 sensitive as per contractual terms. The contract is for supply of coal to Eskom.

Did you regard that as an adequate answer and what do you say about the proposition, the commercial sensitivity justifies not answering the substance of your question?

**MS MAZZONE:** I do not consider that to be an adequate answer to the question. And I have many a time given, at that stage, Minister Brown the opportunity to, if she felt, that the commercial sensitivity was of such a nature to allow me to sign a declaration that I would not, you know, disclose the amounts of money.

But that I would satisfy myself upon seeing the amounts of money and the directors of the company the money was going to but there was nothing to be worried  
10 about.

So I offered that particular option to Minister Brown. She turned me down and remained steadfast that it was too commercially sensitive for members of Parliament to be informed of.

**ADV FREUND SC:** Alright. Thank you. You can then go to paragraph 9.9 of your affidavit. It refers to another statement issued by you in 23. And that we find at page 172.

Again, in the interest of time. I do not propose to  
20 read much of this into the record. But really the heading tells the story that in something issued by you.

The heading you have selected is: ANC hiding information on Gupta coal contracts with Eskom. And then you deal with the very issue we just been talking about. The issue of the apparent reluctance or unwillingness to

produce information that ought to be in the public domain.  
Is that a fair comment?

**MS MAZZONE**: That is a fair comment. And the reason I said that was because I am a firm believer that any money that goes into a state owned entity is money that belongs to the South African country as a whole. And we have every right to know where every cent of that money is going.

**ADV FREUND SC**: Moving on to Denel. You deal in paragraph 10 or under the heading - Chairman, actually paragraph 11 - with another article. We are dealing with VR Laser alleged to be a Gupta linked entity.

And a contract that you say apparently having – without having complied with the requirements of Section 54 of the PFMA. That is the Public Finance Management Act. And this was another matter in controversy at that time. Is that correct?

**MS MAZZONE**: That is correct.

**ADV FREUND SC**: Now I want to move to paragraph 12 because thus far I have largely been focussing on particular SOE's. Now paragraph 12 starts to look at is 20 particular allegations raised about the Gupta family and their influence.

And you say in paragraph 12.1:

“The year before 2016, there had been well-publicised allegations of the Gupta brothers



exerted improper influence over key government appointment decision for the purpose of advancing their business interest.

Press reports to this effect were prevalent as early as 2011.”

I understand these will be referred to in other evidence before the Commission and I can just indicate to the Chair the next witness will be dealing with this issue.

You then refer to, in paragraph 12.2 to be highly publicised the airbase Gupta wedding incident. And again I think the Commission and the Chair are fully aware about that. There has been enough evidence about that.

**CHAIRPERSON:** Ja.

**ADV FREUND SC:** And there would be no need to repeat it. Then if I could pick it up in paragraph 12.4.

“The issues during 2015 to 2016 referred to above relating to Eskom, Transnet, Denel and the New Age, amongst others, to believe you say by many by the beginning of 2016 that it was necessary to the allegation of influence by the Gupta’s over government and SOE decisions should be properly investigated.”

And you elaborate further as we go into this affidavit. You talk in 12.5 of what Mr Julius Malema apparently told Parliament about a Minister with close

relations to the Gupta family and that members of the family knew about Cabinet appointments before Ministers. This is something raised in Parliament itself if I understand you correctly. Is that right?

**MS MAZZONE:** Correct.

**ADV FREUND SC:** Then in your 12.6 you refer to apparent concern within the ANC itself about the issues, a reporting about a meeting involving, amongst others, Mr Mantashe, President Zuma and Mr AJ Gupta. And  
10 apparently a discussion, according to these reports, about their influence over ANC leaders.

Perhaps you could just comment? If we can just stop there because we are now at February 2016. And try to remind us, what was, as it were, the state of the nation apropos of allegations and denials about the question of undue influence by the Gupta's by that time.

**MS MAZZONE:** Well, I think it is fair to say that at that particular point in South Africa's history there were many social media photographs doing the rounds of the Gupta's at  
20 various events held by the ANC.

Probably the most famous one was the big fund raiser held by the ANC where the Gupta's sat at the table with Jacob Zuma. We knew about Gupta dealings that were taking place in state owned entities and the fact that Ministers were taking instructions from the Gupta's.

We knew a lot of corridor talk that was happening where very concerned members of the ANC were discussing how much of an influence were having on the ANC in terms of their involvement in parliamentary operations, in terms of the appointment of heads of state owned entities.

And there was a general split starting to happen within the ANC that was becoming very obvious. And you could see that there were those who were very uncomfortable with the situation that they found themselves  
10 in. And there were those that every time the name Gupta was mentioned, they would heckle and boo and try and drown it out.

But there was definitely a split in the process happening and there was definitely an exposé happening of just how much of an influence the Gupta's were having over Zuma.

The problem, however, was this. Where do you turn when the very person who you would turn to in the normal set of circumstance being the President and the leader of  
20 your organisation is the very person who is being accused and who is known to be a friend and an accolade of these particular individuals.

And at that stage, we now know that the term "connecting the dots". We had started connecting the dots but we had not yet formed the spider web that we now know.

And it was very difficult to pinpoint exactly who was on what side and who was trustworthy and who was not.

**ADV FREUND SC:** Alright. If I can just stop you there. I want to put to you something that appears in the affidavit of a witness yet to come. This is not from your affidavit but I'm trying to set the scene.

And I want to put - I am going to read to you what this witness says and then I am going to ask what you recall and so maybe you can confirm this.

10           What this witness says is:

“By this time, March of 2016, a host of allegations have been made public including the following.

It was reported in The Sunday Times on the 13th off March 2016 and confirmed by his public statement of 16 March 2016 that be Gupta’s has offered him R 600 million bribe in October 2015 if he will take the post of Finance Minister and do the bidding which we  
20           said he had assumed.”

If I can just stop there. Do you remember that being in the public domain as an allegation of this report?

**MS MAZZONE:** I do indeed and it forms part of my affidavit as well.

**ADV FREUND SC:** Carrying on. This witness refers to an

allegation:

“That the new person appointed instead of him as the new Finance Minister in early December 2015...”

Him being of course Mr Jonas.

“Mr Des van Rooyen was accompanied to his new post on his appointment by Gupta linked aids.”

And then she refers to the press report which  
10 deals with that. Do you remember that allegation being in the public domain?

**MS MAZZONE:** I do indeed.

**ADV FREUND SC:** Then she refers to allegations during a radio interview. That in 2010 according to her, she had been offered Barbara Hogan’s job as Minister of Public Enterprises by the Gupta’s. If she cooperated with them in assisting Jet Airways to replace SAA on Mumbai route, do you remember that as well?

**MS MAZZONE:** I do remember that.

20 **ADV FREUND SC:** And then Barbara Hogan’s allegation also in March of 2016 back they were and she has being quoted “definitely sinister forces” operating behind her back when she was Minister of Public Enterprises until October 2010. And there is reference to several news articles here. And that she too had faced pressure

regarding Jet Airways. Do you remember that being in the public domain?

**MS MAZZONE**: I do indeed.

**ADV FREUND SC**: Alright. So I attempted to try and seek the scene at the time that you now start to procure a hearing by the portfolio committee on public enterprises. Now remember we started that paragraph 13.1 and we looked at your statement.

So if we move from that point I would like to follow  
10 the content of your paragraph 13 of your affidavit. Now you saying paragraph 13.1 and 13.2 that as indicated in the press statement that we have already read of the 8<sup>th</sup> of March, you wrote to the chairperson of the PCPE Mr Koko and you asked for the Gupta brothers to be summonsed to Parliament and what appeared to be undue influence that they enjoy of the then President Zuma, the government and its officials. But you say in 13.2 you have tried but have unable to actually find that particular letter. Is that correct?

20 **MS MAZZONE**: It is correct, yes.

**ADV FREUND SC**: Not to turn on that because as we will see shortly there are further letters that then follow. And you refer in your paragraph 13.3 to some of those allegations.

And you refer in your paragraph 13.4 as you have

already mentioned to me the press reports on the Jona's meetings with the Gupta's, the alleged meeting. And I want to now focus on paragraph 13.5.

You say you addressed the letter to Ms Letsatsi Duba on the 14<sup>th</sup> of March 2016 and that is MM-30 and that we would find I believe at page 192. If you can go to that page, please.

**MS MAZZONE**: I am there.

**ADV FREUND SC**: For the purposes of the record. It  
10 might help if you can just read into the record your letter of the 14<sup>th</sup> of March 2016 to Ms Letsatsi Duba.

**MS MAZZONE**: With pleasure.

“The request for a full Parliamentary inquiry into the Gupta's.

Dear Ms Letsatsi Duba. I am writing to you to request that the Portfolio Committee of Public Enterprises conducts a full Parliamentary inquiry into the capture of state owned entities by the Gupta's.

20 In recent weeks a number of allegations of undue influence had been raised regarding the Gupta's involvement in a number of state owned enterprises. (SOE's)

These allegations necessitate an urgent investigation into the Gupta state owned

entities by the Portfolio Committee.

The committee must:

- Immediately summon the Gupta's to appear before and answer these allegations as per my previous letter to you in this regard.

- Call former Ministers of Public Enterprises, Barbara Hogan and Mr Gigaba to provide full details of their relationship with the Gupta Family. Mr Gigaba, in particular, must account for the allegation of preferential treatment of the Gupta's for state contracts during his tenure.

10

- Summons the CEO and chairpersons of the larger state owned entities to appear before it to answer questions about their ties to the Gupta's.

I would greatly appreciate your prompt response in this regard. Your sincerely Natasha Mazzone, Shadow Minister of Public Enterprises.”

20 **ADV FREUND SC:** Thank you. You read there in your first bullet to your previous letter. That is the letter I take it, referred to in paragraph 13.1 of your affidavit, the letter you are unable to find?

**MS MAZZONE:** That is correct.

**ADV FREUND SC:** Now if we look at your paragraph 13.6



which takes us to a reference of page 194. We need not go there but the papers show that you again urge the chair of the PCPE to see to your request to summon the Gupta's. And according to your affidavit, you have as yet received no response. Is that correct?

**MS MAZZONE:** It is correct.

**ADV FREUND SC:** You then refer in 13.7 to what Mr Jonas publicly confirmed. And then in 13.8 you refer to a statement, another statement that you issued about  
10 growing evidence.

Now Ms Mazzone, that particular statement was not referred to as an annexure to your affidavit and it is therefore not in the file with your material.

But is it correct that in preparation for these hearings, I asked you to furnish to me and you did furnish to me and to the Commission a copy of that particular statement.

**MS MAZZONE:** Correct.

**ADV FREUND SC:** And I do not know if you have this  
20 Ms Mazzone but the Chair should have and you may have. In the Reference Bundle it refers where the sixth unnumbered bundle. It is part of that sixth bundle and there we find the first statement: Urgent inquiry into capture of SOE's by Gupta's needed 18 March 2016.

It is a statement issued by you as Shadow Minister

of Public Enterprises for immediate release That is the document which you are referring a you ...[intervenes]

**CHAIRPERSON**: What page number?

**ADV FREUND SC**: The page number is 85 in the Reference Bundle.

**CHAIRPERSON**: 18.5?

**ADV FREUND SC**: In the Reference Bundle.

**CHAIRPERSON**: Yes.

**ADV FREUND SC**: Not in bundle 1 to 5.

10 **CHAIRPERSON**: Yes.

**ADV FREUND SC**: It is the separate Reference Bundle.

**CHAIRPERSON**: Yes, I have to go the Reference Bundle.

What page in the Reference Bundle?

**ADV FREUND SC**: 85, eighty-five.

**CHAIRPERSON**: 85. Okay.

**ADV FREUND SC**: And then Ms Mazzone, do you have a copy of the document?

**MS MAZZONE**: I do have a copy.

20 **ADV FREUND SC**: Alright. So in that document you say in the first paragraph:

“There was growing evidence to suggest that a number of state owned entities are being captured by the Gupta’s with the family alleging influencing not only ministerial ...[intervenes]

**CHAIRPERSON:** I am sorry.

**ADV FREUND SC:** ...but also ...[intervenes]

**CHAIRPERSON:** I am sorry Mr Freund. I thought you said page 85 in the Reference Bundle. Is that correct?

**ADV FREUND SC:** That is correct. Judge, if I can just ...[intervenes]

**CHAIRPERSON:** On page ...[intervenes] ‘

**ADV FREUND SC:** ...in this bundle, there is a section called legal and a section called reference. It is not in the  
10 legal section which is about the rules. This in the section called reference. Ja. It may be that it has not been inserted in your file. I have not thought of that.

**CHAIRPERSON:** Well, what they should do. We should not have – the numbering, the pagination should be sequential by which I mean there should be only one page by – only one page 8 in the whole bundle and... So if you say page so and so, I should just be able to rely on the page numbers to get to the right page.

**ADV FREUND SC:** Yes, indeed.

20 **CHAIRPERSON:** Without talking about the different sections. But I am not on the reference. I was at the legal framework section. I am now on the reference section and I am at 85, ja. If they could attend to that, your team and make sure that we have sequential numbers from page 1 in the bundle up to the last page.

**ADV FREUND SC:** Certainly Chair. My understanding that should be the case already. This should follow 184. I am hoping that that is in fact the situation but I will ask that it be checked.

**CHAIRPERSON:** Yes. No, what they have done is what I said sometime back it should not be done. What they have done is there, it looks like they have one pagination for one section of the bundle namely legal framework that starts from – I do not know if it starts from page 1.

10 **ADV FREUND SC:** Yes, Chair.

**CHAIRPERSON:** Or from whatever page and it goes up to I think page 4075. And then they went into the reference section and started from page 1 instead of continuing saying 86 and so on.

**ADV FREUND SC:** Yes. No, I understand. That is indeed what happened. I think the intention was that it was going to be in a separate file.

**CHAIRPERSON:** Yes.

**ADV FREUND SC:** And they thought put it in one bundle.

20 **CHAIRPERSON:** Yes.

**ADV FREUND SC:** But ...[intervenes]

**CHAIRPERSON:** Well, if they keep them in separate files they do not have to change the numbering. It is just that of course you might have to – if they do that later – you might have to place on record so that the – whoever reads the

transcript knows that initially these sections were in one bundle but they were ultimately separated.

**ADV FREUND SC:** Yes, I understand. Thank you.

**CHAIRPERSON:** Ja. Okay but I found the page on the reference section, page 85.

**ADV FREUND SC:** Thank you Chair. And Chair, I think I have already read the first paragraph. May I propose to read it into the record again.

**CHAIRPERSON:** Okay.

10 **ADV FREUND SC:** Then the balance of the document refers to a number of allegations that have been made. In fact, allegations to which we have already referred this afternoon in the immediate preceding two or three weeks.

And the prayer statement, once again, for the Gupta's to be summoned and for certain Ministers to be summoned to answer questions as to the correctness or otherwise of the allegations about which we have been referring. Is that correct?

**MS MAZZONE:** That is correct.

20 **ADV FREUND SC:** And you spell some of that out. I am not going to repeat it. On page 21 of your affidavit, paragraphs 13.8.1 through to 13.8.6 you spell out all the allegations that you say justify the need for this type of inquiry to take place at that time. Is that correct?

**MS MAZZONE:** That is correct.

**ADV FREUND SC:** I am going to take you now to paragraphs 13.10. Therein you say that:

“An investigation was required was obvious even to the ANC...”

And you say:

“On the 20<sup>th</sup> of March 2016, ANC issued a statement, Annexure MM-32 after its ANC meeting of the 18<sup>th</sup> to the 20<sup>th</sup> of March...”

And that annexure in MM-32 just for the record is  
10 at page 197. I am not going to take you there. It is an article in the Pretoria News but you describe in this paragraph the point of most pertinent relevance. According to the article it is said that:

“The ANC’s National Executive Committee had frank and robust discussions on the serious allegations surrounding the Gupta family and its purported influence in the appointment of Ministers, their Deputies and other key state owned entities and their interests.”

20 And the article says that the view had been expressed presumably by the NEC:

“But such actions have no place in the ANC’s government but that the ANC continues to confirm its full confidence in our President...”

And then it purports that:

“The ANC had mandated the officials of the NWC (presumable the National Working Committee) to gather all pertinent information about the allegations to enable the ANC to take appropriate action in respect of the matter.

That is something that came to your attention at the time I presume to the press.

**MS MAZZONE**: That is correct.

10 **ADV FREUND SC**: Now just to dispose to that particular issue. You deal in the very next paragraph at 13.11 out of date sequence of what became of that investigation. It was announced publicly on the 31<sup>st</sup> of May 2016 by the ANC that it had abandoned the exercise. So it was no longer pursuing the inquiry process or the investigation process referred to in the preceding article.

Now in paragraph 13.12 you deal with yet another letter to Ms Letsatsi Duba.

**MS MAZZONE**: Yes.

20 **ADV FREUND SC**: And that is the letter at – that is the letter Annexure MM-33 and that is at page 199 in the bundle. And really what you do there – it is perhaps not necessary to turn to it – but you refer to previous correspondence, you refer to the arguments you previously made, you make the same argument and you say: Please

can I have a response? Is that correct?

**MS MAZZONE**: That is correct. That is quite correct.

**ADV FREUND SC**: And I take it you have as then as at that time not received a response?

**MS MAZZONE**: No response.

**ADV FREUND SC**: In 13 of your affidavit you referred to other articles or another article making further allegations. And in 13.14 another article making further allegations. All to do with the Gupta family and alleged influence. And you refer in paragraph 15 to a further press statement that you issued on the 24<sup>th</sup> of March, Annexure MM-35 which you will find at page 208. This one perhaps... Sorry.

**MS MAZZONE**: It is there on 209.

**ADV FREUND SC**: 209? Yes. If I can just get my ducks here in a row if I may. Yes, that is 36. Alright. And what you are doing yet again is really following the same course of conduct we have already seen. The letters and the statements trying to push for this inquiry on the basis we have already discussed. Is that correct?

20 **MS MAZZONE**: Absolutely. But I go a stick further Advocate. And I wonder if it would not pertinent for me to perhaps read this particular statement. I realise we are very cognisant of time. But this statement was really the beginning of the ball rolling and perhaps I could read this into the evidence so that people do not ...[intervenes]



**CHAIRPERSON:** Ja, you may read it.

**MS MAZZONE:** A brief extract. And what I find the important part is if one goes down to the middle of that particular page which is page 209. I say:

10 “Reports today revealed that the following high-ranking ANC figures are embroiled in the business network expanding across major state owned entities, Transnet, PRASA and Telkom. ANC deputy Secretary General, Jesse Duarte, Minister of Mineral Resources, Mosebenzi Zwane, former Finance Minister Des van Rooyen. Also underlying these relationships are the CEOs and CFOs of state owned entities allegedly controlled by the Guptas to ANC leadership, the fullest can be found here. Based on these damning allegations we call upon the committee to immediately summons the Guptas and to answer these allegations as per my letter.”

20 Then I ask again for the calling of Minister Hogan and Minister Gigaba and I then ask also to summons Minister Zwane, Ministers van Rooyen as well as Ms Jessie Duarte to answer the allegations. I then say:

“This past week we have witnessed crisis management involving a private ANC MEC meeting as a result of the governing party being caught red-handed without any more lies to hide. ANC youth

leader, Bathabile Dlamini spoke of skeletons in the ANC...”

And I must say that is an error on my part, it would be ANC Women’s League leader.

“...and it was time for them to be exposed. The ANC must take a stern stand against Guptas and President Zuma to ensure on the corruption on the highest level is eradicated. The long the country waits for answers the greater the chance of our economy being engulfed by the Guptas and others who are using their proximity to the ANC for personal gain.”

**ADV FREUND SC:** Thank you very much. Now I would like to turn to paragraph 13.16 of your affidavit which refers to an article NM36 which is to be found at page 212. You might have a look at that? Now perhaps you could sketch the background to what led to this article appear in the press because it is the first time in which the name of Mr Jackson Mthembu is going to be raised in the evidence before this Commission on these issues.

**MS MAZZONE:** Right, so to give the Commission a bit of background, every Wednesday during a normal sitting of parliament, you know, when a session is open, there is a meeting that takes place that is known as the Chief Whips Forum and it is customary for the chief whip and the deputy

chief whip of every party represented in parliament to attend that particular meeting. The chairpersons of portfolio committees attend that meeting, the ANC chief whip and the deputy chief whip attend the meeting and then certain staff members attend the meeting.

Now this is a meeting that is closed to the public so it is a closed door meeting and the aim of the meeting is for the Chief Whips to find consensus on certain items.

So, for example, we will look at the way in which we  
10 schedule debates and whose debates will be up next, we discuss personal issues such as MP's homes at the parks that they live in and we discuss the general upkeep of parliament. So it really is – it is not a decision-making committee at all but it is a meeting where the chief whips – what we like to do is we do what we call finding one another.

At the time – and when you ask for an *ad hoc* committee, your first port of call would be to ask at the Chief Whips Forum because not only does the chief whip  
20 sit at that Chief Whips Forum but the chair of chairs also sits at that particular forum and the chair ...[intervenes]

**ADV FREUND SC:** Can I interrupt you there, Ms Mazzone, sorry to do this to you because you refer, when you want an *ad hoc* committee, I think that needs a little explanation. So the rules of parliament provide for a

number of portfolio committees but they also provide for the possibility can choose to appoint an *ad hoc* committee. We will see in due course, for example, that such a committee was appointed in respect of the SABC and when you were referring a moment ago to if you want the appointment of an *ad hoc* committee, were you referring to an *ad hoc* committee of that type?

**MS MAZZONE:** Yes of that type or you can ask for an investigatory committee. There are many kinds of  
 10 committees that parliament can ask for but of course it is very unlikely for an *ad hoc* committee or an investigatory committee – so, in other words, an – so for example, the Eskom Commission was not an *ad hoc* committee, it was a Commission of Inquiry as established by parliament.

So it is a lot easier if you have consensus of the chief whips and the consensus of the chair of chairs before you go into parliament and simply ask for this particular committee be because there is a very good chance that it would be thrown out otherwise if you catch people off  
 20 guard. So you would seek to find consensus amongst other chief whips in the establishment of such committee and then bring it to parliament for formalisation and that is one of the roles that Chief Whips Forum plays.

I, at the time, I was a whip of the DA in parliament but I was not the chief whip or the deputy chief whip, so I

did not attend the Chief Whips Forum. However, I had in my mind that there was this absolute necessity for a *ad hoc* committee or a Commission of Inquiry to be established for the Guptas and more especially in our case to start off by looking at Eskom and then going one by one through the state owned entities and I had asked the then chief whip of the DA, Mr John Steenhuisen, to please raise it at the Chief Whips Forum and to get a feeling for whether or not we would be able to establish a Commission of Inquiry or  
10 an *ad hoc* committee and what the general feeling was of the fellow chief whips.

**ADV FREUND SC:** And then what the report then refers to – if I can take you to page 212. The article – or the article is headed:

“ANC, DA’s claims goes to court for Gupta probe delusional.”

And the first two paragraphs read as follows:

“The African National Congress on Thursday rejected reports that it had agreed to support a  
20 parliamentary probe into the alleged Gupta family influence over the government.”

And then in quotes:

“The Democratic Alliance chief Whips ridiculous claims...”

That would be a reference to Mr John Steenhuisen, if I

understand you correctly.

**MS MAZZONE**: That is correct..

**ADV FREUND SC**:

10 “...the ridiculous claims in the media that the ANC chief whip Jackson Mthembu had agreed to the DA’s opportunistic proposals to parliament to institute an investigation into the alleged state capture by the Gupta family are imaginary and baseless, said the DA in the statement attributed to the office of the party’s chief whip.”

That of course is the office then of Mr Jackson Mthembu, is that correct?

**MS MAZZONE**: That is correct.

**ADV FREUND SC**: And then if we go later into that particular article we find in the third last paragraph of the substance of the report on page 213:

“The ANC said that only “delusional misapprehension” would interpret this pure assertion on parliamentary debates...”

20 And I should make clear that earlier in the article Mr Mthembu is quoted as saying any party is entitled to ask for something in a debate.

“...this pure assertion on parliamentary debates to mean that the ANC chief whip supports the DA proposal for parliamentary investigation into the

alleged state influence by the Gupta family.”

Now there will be evidence later and I doubt that anybody will contract it. There will be evidence later that Mr Jackson Mthembu became very supportive of at least the TCTE’s Eskom Inquiry, is that correct?

**MS MAZZONE:** That is absolutely correct, he was absolutely supportive of all our endeavours.

**ADV FREUND SC:** But what appears to be the case, from what I read here, is that as of March 2016 he was not  
10 supportive of that, would that also be correct?

**MS MAZZONE:** I think that there was perhaps a heated debate that happened in the Chief Whips Forum and now being the chief whip of the DA myself, I had sat through enough of these meetings to know just how heated they become. They become very rowdy, they are not calm and collected meetings. Also I suppose because they are done behind closed doors, one lets one’s guard down a little bit and I think that there was perhaps a misunderstanding about what was agreed to and what was not and I can only  
20 imagine that Mr Mthembu took exception to the fact that Mr Steenhuisen had very happily announced that there was an agreement, that there would be an inquiry and I think that Mr Mthembu perhaps intended the advice that he had given for a debate – that he understood that to have been taken as an misunderstanding as an inquiry. But you are quite

right that Mr Jackson Mthembu was very supportive later on and I can only imagine that it was some form of great misunderstanding that happened from a rather robust meeting.

**ADV FREUND SC:** Alright, thank you. Now I want to take you now to your affidavit, paragraph 13.19.

**MS MAZZONE:** Yes.

**ADV FREUND SC:** The first annexure NM37 which I believe we will find at page 218. Well, letter is 219. I  
10 think it will helpful if you turn to that please. Just before I take you further on this, if I can just observe to the Chair that I am conscious that we are now well past the normal four o'clock adjournment time and I am happy to go as late as the Chair finds convenient.

**CHAIRPERSON:** Yes.

**ADV FREUND SC:** So I just look to Chair, as to how long you want to go.

**CHAIRPERSON:** Yes. No, no, no, that is fine, actually I did not look at the time. At four o'clock we normally talk  
20 about the way forward. I can still sit longer and I am quite happy to do that. What is your estimate of how long we are still with Ms Mazzone? Of course if we finish with her and we can still go on, we can take the next witness but I just want an idea.

**ADV FREUND SC:** Chair, we still have a substantial road



to travel with Ms Mazzone, so ...[intervenes]

**CHAIRPERSON:** Yes, an hour?

**ADV FREUND SC:** I do not believe that we will get to another witness.

**CHAIRPERSON:** Oh.

**ADV FREUND SC:** In terms of how long, it is a guess but certainly no less than an hour.

**CHAIRPERSON:** Yes. No, no, that is fine, that is fine.

Ms Mazzone, are you available for us to continue with your  
10 evidence for another hour? Maybe one and a half hours,  
maybe two hours?

**MS MAZZONE:** Judge Zondo, I am completely at your disposal and how long you require me, I am happy to be at the Commission's disposal.

**CHAIRPERSON:** Yes. No, thank you. Okay, I suggest we take a short adjournment and then continue. We are at twenty one minutes past four, let us take a short adjournment and resume at twenty five to five. We adjourn.

20 **ADV FREUND SC:** Thank you, Judge.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Okay, let us continue.

**ADV FREUND SC:** Thank you, Chair. Ms Mazzone, I would like to take you to paragraph 13.19 of your affidavit

at page 25.

**MS MAZZONE**: Yes.

**ADV FREUND SC**: In that paragraph you refer to the response you finally receive from Ms Letsatsi-Dube.

**MS MAZZONE**: Yes.

**ADV FREUND SC**: And that response we find in the bundle 2 at page 209.

**MS MAZZONE**: Yes. Yes, I have it in front of me.

**ADV FREUND SC**: I am just waiting for the Chair to have  
10 an opportunity.

**CHAIRPERSON**: Yes, I have got it.

**ADV FREUND SC**: Thank you.

**CHAIRPERSON**: You said page 209 of ...[intervenes]

**ADV FREUND SC**: 219.

**CHAIRPERSON**: Oh 219.

**ADV FREUND SC**: Two hundred and nineteen.

**CHAIRPERSON**: Ja, okay. Okay, that is the letter dated  
6 April 2016.

**ADV FREUND SC**: That is correct, thank you. Ms  
20 Mazzone, the letter will speak for itself but to summarise it, she is saying to you that on legal advice the Portfolio Committee on Public Enterprises has no legal authority to conduct the inquiry that you have asked that committee to conduct, is that correct?

**MS MAZZONE**: That is correct.

**ADV FREUND SC:** And what she is arguing or saying that she has been advised is that rule 138 requires a house resolution to initiate an investigation. In other words, a motion from the National Assembly I presume she is suggesting. Now your subsequent correspondence shows that you took issue with that, you disagree with that and I think it would be helpful that we look at the actual rules themselves briefly and this would be the first time that they will be referred to in this hearing, so I would like to – I  
10 would like you please to go to the bundle which is called Legal.

**MS MAZZONE:** Yes.

**CHAIRPERSON:** Bundle which is called?

**ADV FREUND SC:** Legal, it is the bit that preceded reference, that is the bit where earlier you said the numbering was not sequential afterwards.

**CHAIRPERSON:** Oh, okay, alright. That is the reference bundle. Okay.

**ADV FREUND SC:** It is the reference ...[intervenes]

20 **CHAIRPERSON:** The legal framework and reference bundle.

**ADV FREUND SC:** Yes.

**CHAIRPERSON:** Ja.

**ADV FREUND SC:** And you will see, Chair, certainly in my copy, I do not know in your copy, in my copy they are very

clearly separated between legal framework and reference and the legal framework comes first and it is that part that I am talking about and Chair, just for your convenience, the legal framework, if I can just take you, Chair, to the index page, is that it contains the 8<sup>th</sup> edition and the 9<sup>th</sup> edition of the rules of the National Assembly. There is nothing else in the legal framework bundle.

**CHAIRPERSON:** Yes.

**ADV FREUND SC:** And just for us to get our bearings, I  
10 would ask Ms Mazzone and Chair that you just go to page 172 of that bundle.

**CHAIRPERSON:** Just for the record I think we must say, Mr Freund, that whereas in the other bundles we follow black numbers. In this one there are no black numbers, it is just the red – only the red numbers, the page numbers.

**ADV FREUND SC:** Only the...

**CHAIRPERSON:** Ja.

**ADV FREUND SC:** And of course what I am referring to, Chair, for the record, is PO-Legal-172. Do you have the  
20 page Ms Mazzone?

**MS MAZZONE:** I do.

**ADV FREUND SC:** And you will see that that is the rules of the National Assembly 9<sup>th</sup> edition and the only point I want to draw attention to at the moment is the date, the 26 May 2016. In other words, these were rules that were

subsequently adopted. You were engaging with Ms Letsatsi-Dube in March of 2016. So these rules had not yet come into force and the preceding set of rules were in force, am I right?

**MS MAZZONE**: That is correct.

**ADV FREUND SC**: Now the preceding set of rules are the rules of the National Assembly that start at page 1 of this same bundle and I want to draw your attention firstly to rule 138, which is at page 73 of that bundle.

10 **MS MAZZONE**: Yes.

**CHAIRPERSON**: Did you say 138 or 133?

**ADV FREUND SC**: Sorry, page 73, rule 138.

**CHAIRPERSON**: Oh, okay. I have got it, thank you.

**ADV FREUND SC**: Thank you. Now this is the rule that lays down the general powers of the committee of parliament and the portfolio committee on Public Enterprises was, as I understand, a committee of parliament, is that correct?

**MS MAZZONE**: That is correct.

20 **ADV FREUND SC**: What rule 138, as it then stood, said was the following:

“For the purposes of performing its functions a committee may, subject to the constitution legislation and the other provisions of these rules and resolutions of the assembly

- (a) Summon any person to appear before it,
- (b) give evidence on oath or affirmation or to produce documents,
- (c) conduct public hearings.”

So at face value on the rule you can conduct a public hearing and you can summon any person to testify under oath. Are you with me?

**MS MAZZONE**: I am.

**ADV FREUND SC**: Now if I can refer you to the same  
10 bundle, page 98.

**MS MAZZONE**: Yes?

**ADV FREUND SC**: Rule 201. These are the – this is part of part 9 which deal with portfolio committees in general which are a particular kind of committee whereas the other rules we were looking at were general for all committees. It says a Portfolio Committee under the heading Functions:

“A portfolio committee...”

I will leave out (a) which is presently irrelevant and I look at (b):

20 “Must maintain oversight of, exercise within its portfolio of national executive authority including the implementation of legislation and also any executive organ of state falling within in its portfolio.”

Now those were the rules, as they then stood. You deal in

your affidavit with what are the equivalent rule numbers in the new rules and they are very much the same but those are the rules as they stood at the time of your engagement with Ms Letsatsi-Dube on the requests you have made, is that correct?

**MS MAZZONE**: That is correct.

**ADV FREUND SC**: So against that background I want to deal just very briefly with your paragraph 13.20 because you respond to her in correspondence – we do not need to  
10 go to the actual letter you sent – but you made very clear that your view was that rules 138 and 201 read with Section 56 of the Constitution which says in terms that a committee – that parliament must summon – empower the committee to summon members of the Gupta family to give evidence without any requirement of a resolution of the National Assembly and to elaborate it further. So you were in dispute with her as to whether there was a good legal reason not to have such an inquiry.

**MS MAZZONE**: That is correct and if I may, Advocate  
20 Freund, one of the reasons that I went into such a hard dispute was because the rules committee had a subcommittee that was sitting at the time that all of this was happening and we were redrafting certain sections of the rules and I was the DA representative on that rules committee and I had dealt specifically very closely with

this particular angle of the rules and I knew that in the subsequent rules, the edition 9, the rules were changed very – hardly at all in terms of this particular section. So I do and I did at that stage consider myself to be an expert on the rules in parliament.

**ADV FREUND SC:** Now, be that as it may, your affidavit indicates that you got nowhere.

**MS MAZZONE:** No.

**ADV FREUND SC:** This issue became ventilated not just  
10 between yourself and the chair of the committee but inside the committee itself, the Portfolio Committee on Public Enterprises you deal with that in paragraphs 13.22 through to 13.25 and in short I am going to summarise and ask you to confirm whether I have got it right or not. In short, the ANC majority did not favour that there should be an inquiry of the type that you sought and therefore, it did not happen.

**MS MAZZONE:** Correct.

**ADV FREUND SC:** And you say in paragraph 13.25:  
20 “I was not surprised by the lack of support for my proposal, the members of the majority party act in the PCPE in accordance with party decisions and instructions and in my view had no appetite at the time to pursue the inquiry I had proposed nor to summon the Guptas to answer questions. After the



meeting with Denel..”

Which is referred to elsewhere in your affidavit.

“...almost a year later there was no support from the majority party members of the PCPE for the inquiry I had proposed.”

So as at March 2016, still as at May 2017 until we come to later events, we could not persuade the PCPE as an entity in which the majority representatives were members of parliament for the African National Congress to pursue the  
10 inquiry that you had wanted the Portfolio Committee on Public Enterprises to pursue. Would that be a fair summary?

**MS MAZZONE**: That is correct.

**ADV FREUND SC**: Let us move on to ...[intervenes]

**CHAIRPERSON**: Ms Mazzone – I am sorry, Mr Freund, I understand that you say that when this issue that started between yourself and the chair of the committee was that in the committee did not receive majority support, did not receive support from the majority party in the committee  
20 and you say you understood this attitude on their part because they did not have the appetite for pursuing these issues but what I would like to say, if you are able to, is what reasons did they give for not supporting this proposal that you put forward? That is now the ANC members of the committee.

**MS MAZZONE:** Thank you, Judge. The excuses they gave were a myriad of excuses ranging from the fact that we could go and do oversight at the necessary institutions, that they would ensure that the auditor general would come and give to our committee the outcomes of the audited financial statements, that we had at our disposal the process of questions and motions in the house which we could use and that there were other processes in parliament including the questions and answer sessions  
10 that we would have in parliament that we could utilise instead of going into an inquiry.

They also used the excuse that the parliamentary terms were going to be shortened somewhat because we were soon going to be heading into an election, that we had had an election in 2014 that had shortened periods of parliament which, in my opinion, was moot for our committee as we do not ever deal with any type of legislation.

And I think that the big problem is this, the ANC has  
20 study groups so they do not just have a study group for example for the Department of Public Enterprises, they will have a study group for the economics cluster as well as then for the Department of - you know, the portfolio committee of Public Enterprises and if a decision is made that it is not politically viable or politically expedient for

such an inquiry to happen then their majority is used to shut down any possibility of an inquiry from happening and at that stage I think that there was a great deal of strife going on within the ANC and it was thought that it would just be better to, to coin the phrase, to let sleeping dogs lie and to try and keep the opposition happy by making sure that Eskom and Transnet and whoever else would come and do presentations to our portfolio which, quite frankly, had become a complete waste of time.

10 **ADV FREUND SC:** Could I just ask you to elaborate on what you mean by a study group because that is not obvious to people who are not familiar with the workings of parliament.

**MS MAZZONE:** So the Democratic Alliance has it as well, we just call – we term it work streams and what we do is we keep one another abreast of what is happening. So, for example, I am chief whip and I have working alongside me 13 other whips and I separate the whips into groups and those groups deal with the economics cluster, of which I  
20 had three, they have the social cluster, they have the environmental cluster and what we do is we look at information that is happening in parliament and possible legislation that is coming up in parliament and anything that we should be aware of and the ANC also have exactly the same kind of formula except they call it work study

groups, that they have, they do not call them work streams and they also have parliamentary research staff that join their specific study groups and those researchers then also sit on our committee and they produce the study material and the information per committee meeting that we have to give to everyone on the portfolio committee.

**ADV FREUND SC:** Do you have any knowledge or insight into whether issues that come before portfolio committees and particularly the Portfolio Committee on Public  
10 Enterprise are first debated within the ANC's study group and whether decisions taken in the study group have any effect on the decisions of the portfolio committee itself?

**MS MAZZONE:** They absolutely are, they are fully ventilated in the study group. All problems, all foreseeable eventualities, any letters that may have been written by the opposition would have been fully ventilated in an ANC study group. Legal advice would have been taken during that particular study group perhaps from the state law  
20 adviser that we would have to ask parliament itself but it would have been fully ventilated in an ANC study group before it then came to the portfolio committee and it happened then, it happens now, it always does and always will happen before a portfolio committee meeting.

**ADV FREUND SC:** So now ...[intervenes]

**CHAIRPERSON:** Now you – I am sorry, Mr Freund. Ms

Mazzone, Mr Freund earlier summarised your evidence and said it appeared that what you were saying is that from about March 2016 to sometime in 2017, I am not sure if it is March also in 2017, but quite some time, you were saying that the committee was not – or the majority of the committee was not supporting your proposal for a public inquiry.

My question is whether, apart from the meeting of the committee that you have just told me about where the  
10 majority of the majority party in the committee did not support the proposal, whether there were other occasions between March 2016 and sometime in 2017 that you are talking about when you revived this proposal in the committee and each time it did not – it was not supported by the majority party?

**MS MAZZONE:** Absolutely, Judge, I used to mention this committee on a regular basis and in fact sometimes I would suggest going so far as to perhaps attaching certain assets of some of the state owned entities when things were really  
20 getting bad.

I also proposed motions in the house which is something that we can do. We can either give a notice of motion or propose a motion without notice in the house which I did asking for a committee to be established to discuss and to investigate state capture and I asked my

chief whip to raise it in the Chief Whips' Forum in the hope that he would be able to get enough of the chief whips together to persuade the ANC to have either an inquiry or an *ad hoc* committee. So there were many times where I requested that either an inquiry or an *ad hoc* committee was established to investigate what was now obvious state capture within the state owned entities.

**CHAIRPERSON:** Well, it would help if your situation permitted you to identify other occasions or meetings of  
10 the Portfolio Committee other than the meeting that you have told me about where you raise this issue again and again and you are able to say what the response was but it seems that the response is quite clear from your evidence but if you are able to do that, it would be helpful but if you are unable, that is fine.

**MS MAZZONE:** Judge, I am absolutely able to. What I would then need you to do is to refer to the timeline which I handed in.

**CHAIRPERSON:** Yes.

20 **MS MAZZONE:** So, Advocate, I am not sure about your numbering, I have printed my timeline completely separately so I am not sure if Justice Zondo has a copy of that timeline.

**ADV FREUND SC:** [inaudible – speaking simultaneously]

**MS MAZZONE:** There is not.

**CHAIRPERSON:** I am sure I have got the timeline but I think – so if what I am looking for is in the timeline then you do not have to prepare anything, I can look at it but if it is not – it is information that we do not have then I would be happy to get a supplementary affidavit from you just saying here are other occasions when I raised this issue, it is a meeting of such and such a date and if there are minutes then you refer to the minutes but if there are no minutes but you know that you did raise the issue and what  
10 the date was or the occasion was, that would be helpful.

**MS MAZZONE:** Justice, excuse me for having left your screen for a second, I just want to quickly refer so that you have a clear indication of what I mean. So I just had to – because I have got a table in front of me here.

**CHAIRPERSON:** Yes.

**MS MAZZONE:** And I am just – sorry, Justice, if you just give me one second I can find the date. On the 11 April, Judge Zondo, I wrote to the then Minister of Public Enterprises to request the details of the Eskom penalty  
20 settlement with the Gupta-owned Tegeta resources. I also – and I am sorry to take you back...

**CHAIRPERSON:** Yes.

**MS MAZZONE:** On the 13 February I made a submission in terms of the prior to gain access to the full and original unredacted Denton report.

On the 15 February 2017 I called for the full text of another Deloitte report, this time on Eskom's 2008 procurement of the energy coal valued at R10 billion to be made publicly immediately.

I then on the 16 February requested the Chairperson of the Portfolio Committee on Public Enterprises, Ms Letsatsi-Dube to summon the full original unredacted report as released by the Financial Mail to the committee for further inquiry. I then ...[intervenes]

10 **CHAIRPERSON:** And that is – is that February 2017 or 2016?

**MS MAZZONE:** 2017.

**CHAIRPERSON:** Okay. By that time the Public Protector's report State of Capture was out, is it not?

**MS MAZZONE:** By that time it was in the public domain, yes.

**CHAIRPERSON:** Yes, okay.

20 **MS MAZZONE:** I also, Judge, on the 18 April I requested the Public Protector Advocate Mkhwebane to probe the R30 million pension payout to Brian Molefe. I submitted the application - prior application to gain access to the employment contract of Brian Molefe.

**ADV FREUND SC:** Sorry, if I could maybe just interrupt briefly.

**CHAIRPERSON:** Yes.



**ADV FREUND SC:** I do mean to lead you chronologically some developments, maybe it would be helpful to come back to this question after we have dealt with those because there are other [inaudible – speaking simultaneously]

**CHAIRPERSON:** No, no, that – yes, that is fine and I was particularly interested on the proposal for an inquiry but if that document is a document that has been submitted and it has the information, the sequence and what was done  
10 particularly in relation to the proposal for an inquiry, then it is fine.

**MS MAZZONE:** Judge, just so that I do not confuse you in any way, what I did is once I realised that the initial inquiry was being blocked I attempted to do smaller inquiries.

**CHAIRPERSON:** Okay.

**MS MAZZONE:** As I went along.

**CHAIRPERSON:** Okay.

**MS MAZZONE:** In the hope that those smaller inquiries would result in the committee having to have a large  
20 inquiry.

**CHAIRPERSON:** Okay, okay.

**MS MAZZONE:** That is why I did the [indistinct] 25.18 of certain documents, the [indistinct] 25.19 of applications, I wrote to certain ministers for information. All of those were mini-inquiries.

**CHAIRPERSON:** Yes.

**MS MAZZONE:** That I hoped that when the result of those would come to me it would give the committee no option but to adhere to my request for a full investigation because that evidence even of itself was so damning.

**CHAIRPERSON:** Okay. No, thank you, thank you, thank you. Okay, Mr Freund, you may continue.

**ADV FREUND SC:** Thank you, Chair. Now in order to keep chronological sequence, I am going to go slightly out  
10 of sequence in the affidavit. I would like to take you to paragraphs 15.4 and 15.5 of your affidavit, page 31.

**CHAIRPERSON:** Yes.

**ADV FREUND SC:** And that deals with the Public Enterprises budget vote, which I presume takes place in the main chamber of the National Assembly, a plenary session.

**MS MAZZONE:** It takes place in a plenary, it either happens in the National Assembly chamber or it happens in the assembly chamber just above the National Assembly  
20 chamber or it happens in the Old Assembly chamber. So we sometimes break up but Public Enterprises due to the importance of the nature it normally has a large public audience so it normally does happen in the National Assembly chamber.

**ADV FREUND SC:** Sorry, I was not so much concerned of

where it happens physically, it is that it is not a meeting of the subcommittee.

**MS MAZZONE**: No, certainly not, it is a plenary of the house.

**ADV FREUND SC**: Right. And in this paragraph you refer – we have the Hansard quotes – you refer to what you said in that debate and let us start with that. If I could take you to page 374 in bundle 2.

**MS MAZZONE**: 374.

10 **ADV FREUND SC**: Black numbers on the top left.

**MS MAZZONE**: Yes.

**ADV FREUND SC**: Now am I correct that this is your intervention on the 18 May 2016 as appears in Hansard on the Public Enterprises vote?

**MS MAZZONE**: Forgive me, I went to 474, I am just going to 374. Yes, mine starts at the bottom, the declaration of vote.

**ADV FREUND SC**: Yes, the foot of 374 and I am not going to read all of it, but it is very short, it is 374 and 375 and  
20 the first two lines of 376.

**MS MAZZONE**: Yes.

**ADV FREUND SC**: Now you are now speaking before the National Assembly not before the committee and you say – and you are then the spokesperson for the principal opposition party.

**MS MAZZONE**: That is right.

**ADV FREUND SC**: On the very top of the budget vote.

**MS MAZZONE**: That is correct.

**ADV FREUND SC**: And reads:

10 “Honorary Deputy Speaker, there is mounting evidence to suggest that a number of state owned entities, SOEs, have been captured by the Gupta family allegedly influencing not only ministerial appointments but also the appointments of SOEs themselves.”

And then I am going to skip out a couple of paragraphs and then you say the following:

“It is imperative to uncover the full extent to which the Gupta family has interest over state owned entities. This is with the view only to make sure that the very nature and credibility of our state owned entity is brought back.”

And then you say this:

“Parliament...”

20 And you are talking to parliament.

“Parliament is duty bound to hold government accountable as well and to ensure that the cabal of the ANC cronies with links to President Zuma and the Gupta family do not seize our economy.”

And very shortly after that your time comes to an end and

you say you will not support the budget vote. So you are raising in the house the shorts of allegations that you have been raising this afternoon with the Commission.

**MS MAZZONE**: Correct.

**ADV FREUND SC**: And I want to just focus on the response to that for the ANC which we find at page 377. You will see towards the bottom of 377 there's a reference to Ms D Z Rantho, who will be the next witness to testify and after introducing, making a couple of introductory  
10 remarks really the substance of her response is what we find at page 378, and read it as you may you are not going to find any references to the Guptas, you are not going to find any references to your assertion that Parliament should investigate. What you will find is that there has been a turnaround of Eskom, Transnet, S A Express, Denel, SAFCOR and Alexkor under Minister Brown which is bearing fruits, we can mention numerous successes and then in the last paragraph:

20 "I just want to say that we are aware of the other SOE's that have small problems and we are working on that. On the Denel issue Denel is always associated with the Guptas but the people who are associated with the Guptas the other white companies that have shares within Denel because it belongs to them, that is why they are quiet and then

her time is over.”

So what it seems to me just on a reading is that certainly at that time she was not supportive of the proposal that you were then making?

**MS MAZZONE:** Certainly not.

**ADV FREUND SC:** Okay, now if we jump ahead at a later stage would it be fair to say that you and she worked very closely and she was very supportive of the PCPE inquiring into problem of the State identities?

10 **MS MAZZONE:** We worked exceptionally closely and I hand on heart say she became one of the bravest women I ever, ever worked with.

**ADV FREUND SC:** Thank you, we will come back to that, but I am just trying to get things in the correct timeline. So you have told me here about your unsuccessful attempts to persuade the PCPE to conduct an inquiry to summon the Guptas and others.

**MS MAZZONE:** Yes.

20 **ADV FREUND SC:** We have now looked at what happened in the budget, right. I now want to take you back to 14.3 of your affidavit, because we are now passing another story.

**MS MAZZONE:** Yes.

**ADV FREUND SC:** And Judge ...[indistinct – distorted] that in the opening portion I said there is going to be three chapters, the first chapter the unsuccessful attempt to

establish a PCPE inquiry, second chapter an unsuccessful attempt to establish an *ad hoc* committee and then third chapter was going to be the PCPE inquiry but it follows, so we are really now just finished the first chapter. We are going to start the second chapter but the second chapter is exceedingly brief, it will take us not five minutes.

**CHAIRPERSON:** Okay, alright.

**ADV FREUND SC:** Now what happens here is that you refer in these paragraphs to how you had tried other  
10 mechanisms to try and get an inquiry of this type to happen and eventually you and the DA resorted to a different strategy and we see that in paragraph 14.5. You say:

“The DA thereafter had decided to attempt to persuade the National Assembly to establish an *ad hoc* committee under Rule 253(1)(a) of the then very recently adopted 9<sup>th</sup> Edition of the Rules of the National Assembly, those rules took effect on the 26<sup>th</sup> of May.”

And then you quote in paragraph 19.6 and this is apparent  
20 from your annexure as well:

“The resolution that was put by a fellow member of the DA, Mr Menya[?], and the resolution put was that the house:

1. Notes the allegations of State Capture by certain individuals and their alleged undue influence

over the government;

2. Establishes an *ad hoc* committee in terms of Rule 353[1][a], the Committee through

a. investigate the alleged capture of State resources and undue influence over the government;

b. recommend measures in line with the assembly's oversight constitutional mandate to prevent such incidents from occurring;

10 c. consist of 11 members as follows; ANC 6, DA 4, EFF 1 and other parties 1.”

So you are proposing an *ad hoc* committee with the majority representation which is proportional to their representation in the assembly generally, the ANC will have a majority, to investigate alleged State Capture, undue influence and so forth, but you tell the Commission at paragraph 14.7 that although that motion had wide support from the opposition parties it was defeated by 169 to 103 all members present voting against the motion. I

20 take it that is correct, is it?

**MS MAZZONE:** All ANC members present.

**ADV FREUND SC:** All ANC members present voting against the motion. So the ANC stood firmly against not only your first attempt, but also your second attempt to persuade a structure of Parliament to investigate these



allegations. Is that a fair comment?

**MS MAZZONE:** That is a fair comment and we also at the time of the vote called for a division so when you call for a division in Parliament it takes a little bit of time but each person's vote is recorded so next to your name it will record whether you voted yeah or nay.

**ADV FREUND SC:** Yes thank you, and we do have that, we certainly have the beginning of that in the record, at page 379, we have available the rest but we didn't annex  
10 it.

**CHAIRPERSON:** Mr Freund I don't know whether, and it is quite important that Ms Mazzone says all ANC members present voted against the motion because in terms of timeframe we are talking here in September 2016.

**ADV FREUND SC:** Indeed.

**CHAIRPERSON:** Apart from other things three years earlier there was the Waterkloof landing of the Gupta aircraft which really caused a huge outcry throughout the country, that that is something that everybody knew had  
20 happened and anyone who might not before that had seen red flags would be expected to have seen red flags. We have a situation where in March 2016, September may be what – six months after March, yes, six months earlier, namely March Mr Jonas had come out publicly and said what had happened in the meeting that he had with the –

with one of the Gupta brothers as well as Mr Duduzane Zuma and Mr Fana Hlongwane and I think if I recall correctly Ms Vytjie Mentoor had also come out soon after Mr Jonas with her allegations and I suspect that by now also if I am not mistaken Mr Fikile Mbalula's allegations of having been told by Mr Ajay Gupta that he was going to be appointed as Minister before Mr Zuma told him officially would have been known, would have been in the public domain and this September 2016 is about a month or a few  
10 weeks before the Public Protector issues her State of Capture report, so there had been a lot of articles and matters and allegations that have been aired in the public domain, but if Ms Mazzone's evidence is correct all members of the ANC despite all of that, that was in the public domain vote against this proposal.

So in terms of timeframe and what was known publically it is quite important, but let me ask Ms Mazzone in terms of what the ANC said in opposition to this motion why they said they did not support the motion of an inquiry,  
20 what did they say as far as you remember, just the gist of the arguments they put forward?

**MS MAZZONE:** Judge when you propose a motion of this nature the opposition party or any other party in Parliament doesn't have an opportunity to really talk to the motion or to talk down to it. If anyone from the ANC did talk down to

it I am afraid I don't recall it. What I do recall, because it shocked me to my very core, was the massive jubilation and the burst out in song that the ANC had upon the announcement of the result of the division having been called in the house, so when they realised that they had defeated the motion they began to dance and sing ANC veteran songs and ANC rally songs in the house and they very jubilant – you know there was great jubilation that they had beat this particular motion in the house, but  
10 nothing in the house that I can remember was said you know because you stand up and you announce your intention to propose the motion and then the vote is taken so if anything was said Judge I am afraid I don't remember, but I do remember the great jubilation when the motion was defeated.

**CHAIRPERSON:** I assumed that before the voting took place there would have been a debate, but are you saying that there was no debate?

**MS MAZZONE:** Judge I think that there could have been  
20 and I think that Advocate Freund has the minutes of that particular meeting, so if he could quickly jog my memory.

**CHAIRPERSON:** Yes, okay.

**ADV FREUND SC:** If I can perhaps interject at this stage Judge, just to refer the witness to the document you are asking for.

**CHAIRPERSON:** Yes, yes

**ADV FREUND SC:** In the bundle at page 327 through to page 361.

**MS MAZZONE:** Advocate 361?

**ADV FREUND SC:** 327 finishing 361.

**CHAIRPERSON:** Yes I see that, there is a draft resolution.

**MS MAZZONE:** Ah, there we go.

**CHAIRPERSON:** Oh so whatever was said in Parliament  
10 before and after the vote I would find here, is that correct?

**MS MAZZONE:** Yes that is this.

**CHAIRPERSON:** Okay no that is fine. I am sure there is a footage of the jubilation, Mr Freund I would like to see that footage, I would like to see who was so jubilant at the defeat of this motion.

**ADV FREUND SC:** I will certainly do my best.

**CHAIRPERSON:** Ja, if you can find it, we will show it here in public.

**MS MAZZONE:** Yes.

20 **CHAIRPERSON:** You may proceed.

**ADV FREUND SC:** Thank you. You will see just for the record that the debate precedes the actual draft resolution, when the draft resolution is put at page 357 and it is immediately after the draft resolution is put that after a couple of minor quibbles about matters of formality one

sees at page 360 the record of the division of the House, and one sees at 360 to 361 precisely who voted aye, the 103 who voted aye, which is in support of the motion and the 169 names are the people who voted no, so Chair I think you there have your answer as to who were the people who voted not.

**CHAIRPERSON:** Okay I am sorry, I was listening to you more than looking at the page, what is the page you were looking at?

10 **ADV FREUND SC:** The critical page is page 360.

**CHAIRPERSON:** Yes, oh I was at the right page, on Bundle 2?

**ADV FREUND SC:** Of Bundle 2 yes.

**CHAIRPERSON:** Ja.

**ADV FREUND SC:** You will see from the left – you will see a whole of names there, on the left you will see the ayes, and there are 103 names printed there and on the right you will see the no's, and you will see there's 169 names printed there.

20 **CHAIRPERSON:** No I think I must be – my page 260 and I am looking at the black numbers, are you ...[intervenes]

**ADV FREUND SC:** 360.

**CHAIRPERSON:** 360?

**ADV FREUND SC:** We are at three hundred and sixty.

**CHAIRPERSON:** Oh, I was at 260. Okay, okay. Oh the

voting was not secret?

**MS MAZZONE:** No it was an open division.

**CHAIRPERSON:** Yes, okay so I nevertheless would like to see the footage of the jubilation.

**ADV FREUND SC:** Yes indeed, and Chair just while you are where you are, if you go back just two or three pages, back to 357 that is what you actually find the text of the motion that was put.

**CHAIRPERSON:** Yes. Yes I have got it here.

10 **ADV FREUND SC:** But you will be aware that that is being quoted from in paragraph 24.6.

**CHAIRPERSON:** Yes.

**ADV FREUND SC:** Chair I have unlimited energy and I think Ms Mazzone has unlimited energy ...[intervenes]

**CHAIRPERSON:** I am still fine I think.

**ADV FREUND SC:** What I propose is that we still have some way to go.

**CHAIRPERSON:** How much do we have to go in terms of time?

20 **ADV FREUND SC:** I would think an hour.

**CHAIRPERSON:** Yes, let's continue and try and see if we can't finish, let's continue.

**ADV FREUND SC:** I will do my best.

**CHAIRPERSON:** Ja.

**ADV FREUND SC:** Now Ms Mazzone I just want to refer

briefly to something you touched on already, it is the question of evasive answers to questions in Parliament, because of course the capacity to ask questions both written and for oral answer in the House is one of the important instruments of oversight and accountability. We have referred already in paragraph 9.7 of your affidavit to the Tegeta contract details that you asked for and were refused on grounds of confidentiality. I now want to take you to paragraph 15.7 of your affidavit.

10 **MS MAZZONE**: Yes.

**ADV FREUND SC**: There you deal with the question you put to Minister Lynne Brown on the 20<sup>th</sup> of May 2016 about whether she or her Deputy Minister had met with the Guptas or their associates or attended any meetings at the Guptas Saxonwold estate and the answer she gave, or let me call it a deliberate non-answer is that, and I quote:

“The duties of Ministers and Deputy Ministers are outlined in the Ministerial handbook.”

**CHAIRPERSON**: [laughing]

20 **ADV FREUND SC**: Any comment on that?

**MS MAZZONE**: Yes, this is the type of answer that the opposition has become accustomed to, there is no regulation and certainly not accountability to Ministers who do not answer questions correctly in the House. We had a powers and privileges committee and an ethics committee,

I can tell you that the Ethics Committee hasn't sat for over a year, the same can go for the Powers and Privileges Committee, so this type of answer unfortunately is regular and it is to be expected because there is no accountability for the way Ministers answer questions.

**CHAIRPERSON:** But a Minister is obliged the questions that members of Parliament put to them, isn't it?

**MS MAZZONE:** Judge you are quite correct, that is the case, and when we complain about the answers we are told  
10 that we must resubmit them and that if we don't like the answers that is not the House's fault.

**CHAIRPERSON:** But this is not like you don't like the answers, this is not an answer to the question. You should be able to go back and say whether go back to the Minister or somebody to whom a complaint must be made, whether it is the President or the Deputy President, leader of Government, business or whatever, and say I put a question to the Minister, he has not answered the question, because this is not an answer to the question that was put.  
20 Are you not able to do that or have you reached a point where you think it is not going to help, it means they don't want to answer and no matter whatever you do is not going to help?

**MS MAZZONE:** Judge Zondo unfortunately we have reached the stage, and we have had for some time, that if



a Minister does not want to answer a question they simply don't. When we resubmit a question the questions office will then tell us that that question has already been asked within a certain period of time and that the response was given. We can refer the response to the Rules Committee, but the Rules Committee equally such as the Ethics Committee and the Powers and Privileges Committee also doesn't sit, so there is no actual structure that sits and holds a minister to account.

10           So one would hope that the leader of government business or certainly the head of the Executive would hold the Ministers to account, but that certainly does not happen.

**CHAIRPERSON:** But of course the leader of Government business to the extent that he or she may do something about it will only be able to do something if it is brought to their attention that here is a minister who is not showing respect for Parliament. Do MP's so to speak report this to the Leader of Government Business.

20   **MS MAZZONE:** We most certainly do and there have been many occasions, especially oral questions to Parliament which Judge if you have ever watched an oral session in Parliament it becomes very robust and sometimes very unruly, and we often refer Ministers who don't arrive or who simply stand up and say yes or no and sit down, we do

refer those particular Ministers to the leader of government business or to the Chair of Chairs, we also do so in the Chief ...[indistinct] if there is a continuous pattern that we see development, however I have yet to see a Minister have any consequence to refusing to answer a question, and I have been in Parliament since 2009.

**CHAIRPERSON:** But as far as you know one of the people who complains about a Minister not answering questions or not answering – not answering questions even if they are  
10 evasive, one of the people to whom complaints can be made or to whom a report can be made about such a minister is the leader of government business?

**MS MAZZONE:** Yes, it would be the leader of government business, it could also be the ...[indistinct – distorted] of Parliament and either one of them could then bring the matter up in a Cabinet meeting.

**CHAIRPERSON:** Yes. Okay, alright, thank you. Yes Mr Freund.

**ADV FREUND SC:** Yes, just following that same theme, if  
20 I can refer you to paragraph 16 of your affidavit, I want to deal with this very briefly because I think the facts here are all a matter of record and public knowledge, but you asked a question of Minister Brown about monies paid to Trillian Capital Partners, we see that in paragraph 16.1 and it eventually became a matter of common cause that the

answer given had not been correct, the matter was referred to the Public Protector and the Public Protector found that Minister Brown had inadvertently misled Parliament in the reply she gave to you on that occasion, is that correct?

**MS MAZZONE:** That is correct.

**ADV FREUND SC:** Then if we can follow the same thing in paragraph 17 to 40 of your affidavit.

**MS MAZZONE:** Yes.

**ADV FREUND SC:** You say there on the 24<sup>th</sup> of April 2017  
10 I submitted a Parliamentary question about the procurement process, pursuant to which Eskom had awarded a R7billion contract for the supply of coal by Tegeta to Komati Power Station. My question received no reply at all and then you say this is by no means uncommon and you refer to the rule that requires that a written question is supposed to be responded to, was required by the rules to be responded to within ten days, and you say that at your request your staff investigated as it were what happened to a whole number of questions  
20 and it says at the foot page 40 that as of 11 September 2020 the VA National Caucus had submitted close to 1500 questions for the 2020 calendar year, of which 345 were still answered, 263 having passed the ten day period set out in rule 145[5] and then you draw attention to a particular provision of the rules, Rule 146[3] which

requires the Speaker to endorse unanswered questions as such and to inform the leader of government business, parliament or – to inform the leader of government business and then you say Parliament and/or the leader of government business routinely fails to take steps to enforce accountability by Ministers in this regard.

Do you stand by all of that?

**MS MAZZONE:** I do.

**ADV FREUND SC:** So for example the question that you  
10 asked in 17.14 did you ever receive an answer?

**MS MAZZONE:** No.

**ADV FREUND SC:** Right I want to move on to a different issue, this is really the events leading up to the PCPE's Eskom inquiry and you start to deal with that from paragraph 17.18 of your affidavit and following, and I am going to in the interest of time just try to very briefly summarise what it is all about. You refer to what became – what you referred to as the Molefe fiasco, this is Mr Brian Molefe who had been as I recall Chief Executive I  
20 think of Eskom in what you call the disastrous state of Eskom and you point out that on the 17<sup>th</sup> of May 2017 the Acting Chairperson of the PCPE, Ms Rantho, agreed to a request from the DA that Minister Brown and Eskom be called to the committee to account for this.

Now as I read the material, the written material at

my disposal, this seems to be a turnaround moment, that Ms Rantho is now acting as the Chair, the former Chair no longer serving as Chair, if I am not mistaken perhaps having been promoted, and Ms Rantho as an Acting Chair starts to exercise his authority as Acting Chair somewhat differently to your previous experience, would that be a fair summary?

**MS MAZZONE:** That is a very fair summary.

**ADV FREUND SC:** And so you have at this meeting in  
10 May a discussion about the problems, you have another meeting on the 22<sup>nd</sup> of May and then on the 23<sup>rd</sup> of May and I am now on paragraph 18.1 there is an urgent meeting convened of your committee, held at the Townhouse Hotel and I just want to pause and understand where we were politically by then, because we note in paragraph 18.2 that Mr Pravin Gordhan is by that stage a member of your portfolio committee, is that right?

**MS MAZZONE:** That is correct.

**ADV FREUND SC:** I think if I am not mistaken this must  
20 have been very early if not his first participation in this committee, would that be approximately right?

**MS MAZZONE:** That is correct. What had happened was Mr Gordhan and his Deputy had been relieved of their duties as Finance Ministers, the one, the Deputy, had resigned to my recollection, Honourable Gordhan had

decided to stay on as a member of Parliament and had been placed as a member of the Public Enterprises Portfolio Committee. Where we were politically to answer your earlier question was that we were now moving into the period of the ANC Congress and a build up to the ANC Congress and the clear division lines had been drawn within the ANC separating those who were now clearly on the Zuma camp and those who were now clearly on the Ramaphosa camp and battle lines so to speak had been  
 10 drawn, one could see it in reactions to heckling and to speeches made in Parliament and one could also see the reaction of members who now – who had one time were scared to speak out and were following a certain who were now giving a freedom to take another line and to pursue a different way of – of dealing with issues.

**ADV FREUND SC:** And when you were referring to the political context I presume what you had in mind was the anticipated ANC National Congress in December of 2017 at Nasrec at which they would amongst other things elect a new  
 20 President of the African National Congress?

**MS MAZZONE:** That – that is correct it is the elective conference of the ANC that took place in December of 2017.

**ADV FREUND SC:** Is that (no sound) – now what you then disclose in this affidavit and I know factual controversy about this is that end of May 2017 clearly a crucial turnaround

moment – way I see you are freezing on my screen – can you help me?

**CHAIRPERSON:** Mr Freund it looks like there is something that has gone wrong with Mr Mazzone’s screen. I do not know whether you got frozen.

**MS MAZZONE:** I am here I could hear you.

**CHAIRPERSON:** Oh you could hear everything?

**MS MAZZONE:** Yes I am sorry about that I could hear you.

**CHAIRPERSON:** Oh okay no that is fine. Then you – you  
10 can – I do not know if Mr Freund you had finished your question or I interrupted you before you could finish.

**ADV FREUND SC:** Well I – let me just repeat it just to avoid any misunderstandings.

**CHAIRPERSON:** Ja.

**ADV FREUND SC:** That what I am putting to you for your comment is that this meeting of the Portfolio Committee of Public Enterprises on the 23 May was a fundamental turning point in the – in the question of your committee’s attempts to put allegations ...

20 **CHAIRPERSON:** Hang on again Mr Freund I think that is going to be problematic on the transcript. As you were speaking you know some words did not come through and I think it is because of technical problems so I am thinking that they will not transcribe your full question properly whereas it is important. Somebody is talking to – it should

be fine now? Okay. I will ask you to repeat it – your question.

**ADV FREUND SC:** Chair I will – I will of course repeat it but I would request respectfully that if we have a further problem of the 00:02:55 you just alert me and then I will – I will know what is not being heard.

**CHAIRPERSON:** Yes.

**ADV FREUND SC:** What I am putting to you Ms Mazzone is this. That it seems that the meeting of the May 2017 was a  
10 fundamentally important turning point in relation to the question of that committee’s willingness to enquire into, to probe into and to try to relation to state capture allegations. Do you agree with that?

**MS MAZZONE:** Yes absolutely. It was a fundamental turning point in more ways than one. When I arrived just to explain the – the structure of the Townhouse Hotel the – where you have the meetings you have to go downstairs and then you are in a sort of basement level. When I got to the basement level I was there with the leader of the opposition  
20 – the Chief Whip of the opposition rather Honourable Steenhuizen who had joined me for that particular meeting because there was going to perhaps be a question raised about the sub judice rule and he was at the time and probably still is the expert on sub judice. When we arrived the ANC section of the committee welcomed me, they –



there was a definite warmth that had not been there before. They told me that they would back me in all the questions that I was going to ask and they informed me that Honourable Pravin Gordhan was also going to be there because he had such in-depth knowledge about the finances and how things had worked so there was a sort of sigh of relief that we had an ex-Minister of Finance joining us who knew about the finances and how they – the finances would have been paid over. During the course of the meeting it  
10 was very obvious that we had gone from a committee divided to a committee completely united in being on the side of South Africans and what was correct for South Africa at the particular time and that was the fundamental shift where we went from a normal Portfolio Committee meeting – committee to being team South Africa in taking the issue forward as a united team.

**CHAIRPERSON:** One second Mr Freund. Although the question...

**ADV FREUND SC:** And this claim...

20 **CHAIRPERSON:** Hang on – one second Mr Freund. Although when you repeated the questions there were some problems but I – I get the impression that when Ms Mazzone responded everything was fine and I think the way she responded captures in a way what your question was about the fundamental shift or turning point. So I think I am being

told that now it seems that it is fine. So let us continue.

**ADV FREUND SC:** Yes thank you very much. Now as it happens this is only a few days it seems to me for referred to in paragraph 18.7 of your affidavit. When there is a trove of leaked emails that became available the so called Gupta Leaks and I want to now understand the impact that made as the – as we go along. Now the – you issued a statement I am not going to take you to it now; you refer to it in paragraph 18.7 where you responded to that. And you  
10 describe in your affidavit how you sought the consent and assistance of the so called Chair of Chairs – the House Chairperson of Committees Mr Cedric Frolick for the inquiry that the PCPE intended to embark upon and that he was agreeable at least in prin... – first in principle and in due course by providing resource assistance for that inquiry, is that correct?

**MS MAZZONE:** That is correct.

**ADV FREUND SC:** Now what I want to next refer you to and it is another very important turning point in the history that  
20 we are trying to place before the commission is the set of letters that Mr Frolick issued on or about the 15<sup>th</sup> June 2017 and you refer to that in paragraph 18.9 of your affidavit. And you refer there to Annexure NM62 and that annexure I would ask the Chair to turn to and I am just going to check my page references but I want to start at page 490 – page 490.

**CHAIRPERSON:** Yes I have got it.

**ADV FREUND SC:** Do you have it Ms Mazzone?

**MS MAZZONE:** I am almost there. I have two pages stuck together. Yes I have it.

**ADV FREUND SC:** Now that is a letter I am going to read into the record from Mr Frolick to Ms Rantho the acting Chairperson of the Portfolio Committee on Public Enterprises.

10                   “Dear Ms Rantho allegations of state capture  
                      in organs of state.”

And then Mr Frolick says the following:

20                   “I am sure that you are aware of numerous  
                      allegations of state capture that have  
                      appeared in the media in recent weeks.  
                      Some of these allegations involve members  
                      of the Executive and officials in a variety of  
                      state owned enterprises such as Denel,  
                      Eskom, South African Airways and Transnet.  
                      I would like to request that your committee  
20                   investigate the allegations within the  
                      parameters of the rules and report any  
                      findings where applicable to the National  
                      Assembly as a matter of urgency.”

And I am going to be referring very shortly to a set of similar letters to other Chairs of other committees. But what I would

like to ask you about is what if anything had happened that you may have been involved with in relation to the so called Gupta Leaks and the material in the Gupta Leaks and the making of that material available to the House?

**MS MAZZONE:** Well members of Parliament are often given documents; we are sent information, documents are left at certain places for us and I had been given a in those days it was still on a CD Rom I had been given a CD Rom of a collection of the Gupta Leaked emails which were in the  
10 public domain already which had been released mostly by the – by the media in which you could of course get. You know it was public if you went onto certain media houses web pages. I then sat down with a grouping of the DA staff and what we did is we did computer searches on particular names. So we would do a computer search on Brown and then we would do a search for everything that came up linking Minister Brown to state capture and so we did it Minister by Minister. What we then did is we printed a set of each one of the Gupta Leaked emails that involved certain  
20 Ministers in Parliament. We put them into a big brown manila envelopes. We labelled them accordingly with the name of the Minister and when I had completed this task which was quite mammoth task it took us a good few days and nights to complete I went into the House and as soon as the Speaker had called the House to order I stood up on a

point of privilege and I informed the Speaker that in my hands I had a set of Gupta leaked emails and that I had separated these Gupta leaked emails into packets according to which Minister had been implicated or alleged to have been implicated in any of the Gupta leaked emails and that I was handing up the full and complete set of emails to the Speaker for her then to disseminate to each one of the Ministers and I explained that I had labelled each of the envelopes accordingly. Of course there is televised footage  
10 of that as well as a rather famous photo of me standing up with a huge pile of these brown envelopes as I handed them up to the House.

**ADV FREUND SC:** Now can I take you to paragraph 18.17 of your affidavit?

**MS MAZZONE:** Yes.

**ADV FREUND SC:** And there you really summarise what you have just told the Chair. But in the second sentence you say:

20 “These emails appeared at face value to implicate five Ministers in facets of state capture.”

And you have described how you separated material from the so called Gupta leaks as it were relevant to Minister by Minister. Could you please identify the Ministers to the best of your recollection in relation to whom you prepared this

material?

**MS MAZZONE:** Yes. I am just going to – it is easy for me to remember when I write down the names. Advocate I off the top of my head really remember the name of four and I do not want to in any way perjure myself so I will give you the names of the four that I remember. It was Minister Brown, Minister Van Rooyen, Minister Zwane and Minister Gigaba and I cannot recollect the name of the fifth.

**ADV FREUND SC:** Alright and just for the record if you  
10 could indicate what their Ministries were at that time?

**MS MAZZONE:** Minister Brown was the then Minister of Public Enterprises. Van Rooyen was the Minister of COPTA and then he had become the Finance Minister. Minister Zwane was Mineral Resources and Minister Gigaba at the time had taken over as Finance Minister but was previously the Shadow – the Minister of Public Enterprises.

**ADV FREUND SC:** And then did he not have some relationship with Home Affairs?

**MS MAZZONE:** Yes and Home Affairs – but Home Affairs  
20 was later.

**ADV FREUND SC:** Home Affairs was later?

**MS MAZZONE:** Yes.

**ADV FREUND SC:** Thank you. Now what you say is that you produced these big packs of Gupta leak material organised by Ministry and Minister and those were presented

to Parliament and – but I see that what you say in paragraph 18.17 is that that actually took place on the 22<sup>nd</sup> of June 2017. So it seems to be a few days or a week or so after the letter we just looked at dated the 15<sup>th</sup> June. Can you – do you – are you with me?

**MS MAZZONE:** Yes.

**ADV FREUND SC:** But nonetheless if we read the very content of the letter of the 15<sup>th</sup> of June it seems Mr Frolick will no doubt testify in due course and confirm whether this  
10 is correct or not but it seems that he probably had in mind the slew of articles that emerged out of the so called Gupta Leaks when he wrote this letter to Ms Rantho requesting an investigation by her committee.

**MS MAZZONE:** Absolutely a lot of the Gupta Leaked emails had already been made public. So many of the documents were in the public domain but the facts of the matter is you want a Minister definitively to have read something and to assume that they have read something. You have a duty to hand it up to them in the House and that is what I did. I  
20 executed my – my diligence in the House by handing up the document to them.

**ADV FREUND SC:** Right now what I want to do is I want to go back to this set of letters of the 15<sup>th</sup> June. We have already looked at the terms of the letter to Ms Rantho then the acting Chairperson of the Portfolio Committee on Public

Enterprises. If you go back one page to page 489 you will find a very similar letter also of the same date to Ms Mashele Chairperson of the Portfolio Committee of Home Affairs at the time and it is very much – very similar except that the detail of the first paragraph is different. Some of these allegations informed the – involved the former Minister of Home Affairs in the granting of citizenship to non-South Africans that is the particular issue that Mr Frolick has asked the Chairperson of the Home Affairs Portfolio Committee to

10 have investigated. And similarly if you go back a further page to page 488 also on the 15<sup>th</sup> of June you find a virtually identical letter except again that the second sentence of the first paragraph is changed appropriately. This is written to Ms Magadzi the Chairperson of the Portfolio Committee on Transport and she is asked – or she is informed that some of these allegations involve members of the board of the Passenger Rail Agency of South Africa PRASA and somebody please investigate that in your committee. So we have three but only three letters dated the 15<sup>th</sup> of June to

20 these three particular Chairs of Portfolio Committees.

**MS MAZZONE:** Huh-uh.

**ADV FREUND SC:** But what I also want to refer you to and to refer the Chair to is the letter that appears at page 486 which is – oh sorry that is also to Ms Magadzi sorry I am referring you to the wrong letter. Mineral Resources let me



just get – if I can take you to page 480 – 485. This is a little bit later. This is the 23<sup>rd</sup> August and it refers to earlier correspondence and I do not have at the moment possession of any letter dated the 15<sup>th</sup> of June to Ms Luzipo Chairperson Portfolio Committee of Mineral Resources but my strong suspicion is that there was also a similar letter of the 15<sup>th</sup> of June to her and what this letter shows is that in any event it is quite clear that a similar request had been made of her in relation to the serious allegations in the public domain about  
10 state capture and the alleged role of certain members of the executive and the letter is referring to the legal basis upon which this was indeed permissible. So what we seem to know from the documents at face value is that two things happened at around about the same time.

Firstly in later made your committee did 00:20:30 and now decided that they were in favour of investigating these or what we would call very loosely Gupta related state capture allegations.

And secondly Mr Frolick the Chair of Chairs is  
20 expressly inviting the Chairs of four committees to pursue within their respective mandates investigations of a similar type and to report back to the House as a matter of some urgency.

I see you nod I take it you were aware at the time that this was going on?

**MS MAZZONE:** I was Advocate Freund I also had a meeting with Mr Cedric Frolick. Our committee asked for a multi-party delegation to go and meet Mr Frolick in his office. It was made up of myself, Ms Daphne Rantho and Mr Naransing from the IFP and we asked – we were sent to Mr Frolick’s office to ask him for assistance with our inquiry in terms of getting us an evidence leader and making sure that we had everything at our disposal. He kindly arranged all of that. It is minuted in a meeting when we report to our  
10 committee that we had in fact executed that task that was given to us and Mr Frolick did everything that we requested of him.

**ADV FREUND SC:** Right. And to – to deal with that fairly briefly amongst – what had happened already and served to some extent as a model for what you were trying to achieve was the SABC’s ad-hoc inquiry into the Board of the SABC which I think ran from November 2016 if I am not mistaken until around about March or so 2017. You have a recollection of that?

20 **MS MAZZONE:** Yes I do.

**ADV FREUND SC:** And that had been served by an evidence leader one Advocate Vanaro if I understand correctly, is that correct?

**MS MAZZONE:** That is correct.

**ADV FREUND SC:** And if one reads the documents that are

already before the commission in the affidavits one can see that your committee requested Mr Frolick to approve that Mr Vanaro should be released and made available to assist your committee in you committee's proposed inquiry. Is that correct?

**MS MAZZONE:** That is correct.

**ADV FREUND SC:** Was – he was made available, he did assist your committee and he advised your committee, is all of that correct?

10 **MS MAZZONE:** That is all correct.

**ADV FREUND SC:** And in fact if we read your affidavit we see that Mr Vanaro suggested and your committee agreed that – that the scope of its investigation should be broadened. And I just want to just stand for a – pause for a moment and look at that issue. If one reads the papers what one sees is that the issue that triggered the turnaround decision in late May meeting at the hotel that you referred to it was prompted initially very much by the saga pertained to Mr Brian Molefe which had caused very considerable public  
20 outrage. Am I correct it was the first catalyst?

**MS MAZZONE:** You are correct yes.

**ADV FREUND SC:** And there was a sense within the committee – well if we are going to look at Mr Molefe we should look more broadly at Eskom and so pretty quickly there was support for broadening from Molefe in particular to

Eskom in general. Is that correct?

**MS MAZZONE:** That is correct.

**ADV FREUND SC:** And then what happens as things move along is a decision that actually we must go beyond Eskom. We must look at Transnet and we must look at Denel in particular in addition to Eskom.

**MS MAZZONE:** That is – that is – in fact there was a very public falling out between Denel and Treasury in the called the Assembly Chamber during a Portfolio Committee meeting  
10 on Public Enterprises where the Public Enterprises Committee actually threw the board of Denel of Parliament due to their contempt in which they held the committee and we realised therein and what the problems at Denel were a lot bigger than we had originally anticipated.

**ADV FREUND SC:** Yes and so in principle the decision was taken to proceed not only to inquire into these allegations in relation to Mr Molefe and Eskom but Eskom generally, Transnet generally, Denel generally and that was what you had intended to do?

20 **MS MAZZONE:** That is correct.

**CHAIRPERSON:** As this was...

**ADV FREUND SC:** What then happened...

**CHAIRPERSON:** I am sorry Mr Freund. As this was going on the Public Protector's Report on the state of capture had been out in the public domain for quite a number of months,

is that correct?

**MS MAZZONE:** That is correct.

**CHAIRPERSON:** Yes. Okay alright thank you. Please continue Mr Freund.

**ADV FREUND SC:** But – but we try to get the timeline there. That had happened as I understand it by November of 2016. The turnaround that you have described took place in late May and early June of 2017. In other words there is still a long period from the date of the issuing of the Public  
10 Protector state of capture report and the decision by at least portions of the ANC to support the type of inquiries and investigations to which you are referring, would you agree?

**MS MAZZONE:** I would agree and I would go so far as to say there were even many members of the ANC who wanted that particular report appealed and there was a large pushback saying that the Public Protector had not given members an – the correct opportunity to state their claim. So there was continuously a fight about that particular document of the Public Protector's.

20 **ADV FREUND SC:** Yes and related to that document of course was the – was the requirement by the Public Protector that a Commission of Inquiry – a judicial Commission of Inquiry should be appointed to further investigate the very issues that were the subject matter of the state of capture report.

**MS MAZZONE:** That is correct.

**ADV FREUND SC:** And there was a great deal of toing and froing and disputes and litigation and the like about whether that was going to happen and if so on what terms and when and so forth and that had been material that would be very familiar to this commission.

**MS MAZZONE:** I am sure.

**ADV FREUND SC:** Now in your affidavit at paragraph 18.10 you make an assertion. You say that:

10       “By the time that Mr Frolick sent these letters; these are the 15<sup>th</sup> of June letters requesting the investigation of the allegations referred to two distinct ANC factions had become apparent in Parliament one supportive and one opposed to President Zuma. These factions emerged against the context of

1.The fact that the allegations of state capture or corruption had substance was becoming ever more apparent and

20       2.The fact that the ANC would in December 2017 be electing a new president. The faction supportive of President Zuma showed no enthusiasm for inquiring into allegations of state capture or corruption whilst the other faction had come by this –

had by this time come to support this.”

And then you continue.

“The tension between these two factions in Parliament was obvious to seasoned members of Parliament. For example when members of one faction spoke there would sometimes be heckled by members of the other faction or subjected to other forms of visible or audible criticism.”

- 10 Could you just perhaps elaborate a little on why you think you can you say that – that really the explanation for the turnaround is factional divisions and deep these factional divisions were?

**MS MAZZONE:** Well already it had become public knowledge with many of the ANC members publicly declaring for whom their support was going – going towards. Now this is not uncommon in political parties. My own political party recently went through an electoral conference and many senior members as well as many junior members quickly  
20 make known who they are supporting and they publicly endorse that particular person.

So we know that endorsements had started coming through for either Jacob Zuma then President or for the leader of government business Cyril Ramaphosa.

Also what one must bear in mind is that in Parliament

a lot of the heckling is missed by the public because our microphones are deeply sensitive. So the microphone at the podium is set to a much higher frequency than the rest of the chamber.

So when you are giving a speech in Parliament and it is done so that the hand slide can record it and so that obviously the public can hear it you do not hear the heckles that are made or sometimes you can dependent on how far away they are but the heckles do not sound as loud as they  
10 do when you are in the house.

But the Democratic Alliance obviously ...[indistinct – word cut off] the ANC in Parliament and we could see groupings of people together who were no longer sitting in their seats that they were allocated to. They had moved to sit in clusters. And when a member who was either pro-Zuma or pro-Ramaphosa would speak, a cluster would often heckle. Sometimes turn their back many a time walk out and not listen to the Speaker and the divisions were just highly visible.

20 And as I say, I have been in Parliament since 2009 and one does become accustomed to who is close to who and I mean, we spent a lot of time in The House and you get a general feel for what is going on in The House. And it was very evident in The House who was in favour for example of a commissioner of inquiry being started and who was against



such a commission of inquiry.

**ADV FREUND SC:** Thank you. Then you say in your affidavit in paragraphs 18.12 and 18.13 that it seems to you that Mr Frolick eventually threw in his lot with the group who opposed President Zuma.

And you say Mr Jackson Mthembu, the then chief whip, also joined this grouping. And you say as demonstrated by the fact that he from time to time expressed his support to members of the PCPE regard to  
10 this inquiry and did what he could to ensure that they have access to the necessary resources.

Now let us just go back to Mr Frolick. Apropos Mr Frolick, is there anything more than just conjecture on your part about his factional position?

**MS MAZZONE:** Well, he was absolutely determined to get our committee up and going as fast as possible. When we required a legal opinion from a senior advocate when Ms Lynne Brown had questioned the validity of us having an inquiry.

20 There was absolutely no question about getting that particular legal opinion. So everything in Mr Frolick's power was done to ensure that we had a venue and that we have everything at our disposal.

So I suppose that one could say that it is conjecture but it is also a matter of having lived through the experience

and seen someone's first-hand reaction. And then with the chief whip, what I mean by ...[indistinct] [00:02:23]

**ADV FREUND SC:** Before you go on. Let us just start with that. The that was sought was sought because there was a foreign attack by, amongst other as I understand it, Minister Lynne Brown to the right of the committee to do this at all. And so the committees sought legal advice and an opinion was obtained in due course from the very eminent council, Mr Wayne Trinco SC. Is that correct?

10 **MS MAZZONE:** That is correct.

**ADV FREUND SC:** And his advice in short is that you were entitled to do what you were doing.

**MS MAZZONE:** Absolutely correct.

**ADV FREUND SC:** Let us move onto what you have to say about Mr Jackson Mthembu. I think you were about to tell his that you found him to be very supportive of the work of this Portfolio Committee.

20 **MS MAZZONE:** Well, Mr Jackson Mthembu by his very nature was a very friendly and very kind person but even more so during this particular inquiry. A lot of the inquiry was done in the old assembly chamber and just off the old assembly chamber is the office of the ANC chief whip.

So often in the morning, we would have – we would arrive a little bit early. We would discuss as a committee who would be asking the first set of questions. In other

words, we would sort of caucus as a committee. We had the morning coffee and settle in.

And often Mr Jackson Mthembu used to pop in, check on us, make sure we are all okay, ask us if we need anything, if the evidence leader had everything that he needed and make sure that we were all okay.

We had a few instances where a few movements had tried to come into Parliament and disrupt our meetings. And Mr Mthembu made sure that the security around our  
10 venue was heightened and that we felt completely safe while we were executing our oversight duty.

**ADV FREUND SC:** We can now turn to paragraph 18.21 of your affidavit.

**MS MAZZONE:** Yes.

**ADV FREUND SC:** Where you pay tribute to the ANC on your Portfolio Committee and you say that on several occasions they emphasised to you and to other opposition members that they saw themselves as what was referred to as a Kamikaze mission likely to be destructive of their  
20 careers. Perhaps you could just elaborate on that.

**MS MAZZONE:** Yes. It became a very strange time in all of our lives and it is very hard to explain unless you have lived through something like it. At times it felt like we were living a James Bond movie.

And the members knew very clearly that one way or

another they were going to be in a great deal of trouble for having supported and for having robustly questioned many people who had a great deal of influence over the ANC and more especially over ANC coffers as they came in.

And as it happened, only one member of the Portfolio Committee that was a current member returned to Parliament. Minister Gordhan was of course made a Minister again but not one of the other members came back to Parliament in the end as a member of Parliament. They  
10 were ranked very low on the list.

And yes at times when I expressed to them that I thought that what they are doing was very brave. Because as an opposition it is my job to hold the executive to account but it is very difficult when you are holding your own Ministers and your own potential cadets that have been deployed on behalf of your party to account on this. It is a very difficult thing to do.

And I often say to them that they were being incredible brave in their actions. And one of the members  
20 said to me that that they were well-aware that this is a Kamikaze mission but that they had to for the sake of their future mental health and also for the sake of – in one case – their religious believes had to put South Africa first. And they could no longer be privy to the corruption that they knew was happening.

**ADV FREUND SC:** And since we have eluded earlier to the fact that at a certain time Ms Rantho did not publicly expressed support for your point of view. Could you perhaps just talk about the role that she played on this particular inquiry in this process?

**MS MAZZONE:** Ms Rantho came in as the acting chairperson of the committee. She showed a bravery of the kind not often seen in business nor in politics. Ms Rantho had children that at one time were threatened.

10 And we all experienced some kind of oddness that had happened which we went public about which is not part of this committee. It was dealt with at the time by Parliament.

But Ms Rantho stood incredible firm, incredible strong and she maintained a level of decorum throughout the inquiry which was fair in the line the timing of questioning.

And she certainly ensure that the committee acted as a team South Africa and otherwise what would happen is that the ANC would been a disproportioned amount of time to  
20 ask their questions to other members of the committee because that is how Parliament works.

Ms Rantho decided not to go that particular route and gave everyone equal opportunity to speak. And I think showed an immense amount of bravery at a time where harm could come to her and her family.

**ADV FREUND SC:** And it seems implicit in your evidence ...[intervenes]

**CHAIRPERSON:** Mr Freund, one second. Registrar. Thank you Mr Freund. You may proceed.

**ADV FREUND SC:** Thank you Chair. It seems implicit in what you said already that a great deal can turn on the character and disposal of the chair of the Portfolio Committee. Could you just elaborate a little further on the importance of a chair.

10 **MS MAZZONE:** Absolutely. A chairperson of a committee can make or break whether that committee is able to execute their duty as put down in the rules of Parliament, and more importantly as envisaged in the oath of office that a member of Parliament takes.

I have seen many a committee chairperson who has actually stopped me from doing my oversight duty and has stopped me from being able to execute my oath of office.

Ms Rantho was the exact opposite. She was an enabler who has to hold the executive account rather than  
20 someone who stood in our way.

**ADV FREUND SC:** Thank you. Now I just want to conclude by giving you a brief opportunity to talk to the final observations you make in your affidavit. These are really general Cummings and proposals which you may about things you think should be considered as potential

recommendations of the Commission which you have adopted might assist in improving things. If you would just like to talk briefly to the points you have made here.

**MS MAZZONE**: Thank you. Thank you very much Indeed Advocate. I consider myself to be a senior member of Parliament and I also consider myself to be a senior member of my party and as such I think that I have the experience to speak on issues on how we can improve oversights in Parliament.

10 I specifically referred to the oath of office or the affirmation that every member of Parliament takes upon being sworn in which is done in front of the Chief Justice because we sway our allegiance our oath of office to uphold the constitution.

And one particular, if I may, I would like to read out from our oath of office is that:

“I will be faithful to the Republic of South Africa and will obey, respect and uphold the constitution and other laws of the Republic.

20 I solemnly promise to perform my function of the National Assembly in the case of the oath, so help me God who otherwise I hereby affirm.”

Now to me that oath that you solemnly promise to perform your duty is what we need to focus on. now you can solemnly promised to perform your duty but they can be a

brick wall that you are constantly running into and that seems to be where we are and where we have been for a long time as members of Parliament

The current rules of Parliament even though they are reviewed make it virtually impossible for us two for full hour oath of office.

Now I sit on the Rules Committee and that remains the biggest problem. The ANC's absolute majority in our Parliament gives them the absolute opportunity to block  
10 whatever they don't want to go through.

And I believe that we do not legislate for the party that governs at the moment. I believe that we need to legislate for any government that will in future come into power.

So I say this not because I wish I need to stop the ANC majority. I would like to see any party that gains majority in Parliament not being able and to stop a member from upholding the oath of office.

So the overwhelming majority enjoyed by the African  
20 National Congress allows them to outvote, disallowed or stop any actions that are contrary to the ideology, intentions or political aspirations.

This majority is thus utilised to serve the members of the office and that accountability by members of the executive and diploid ANC cadets.



Now accountability does not in my opinion or in my parties opinion exist because there are no opposition committees of committees with the exception of SCOPA which is the Standing Committee of Public Accounts which is usually chaired by a compliant not an ANC member.

**ADV FREUND SC:** If I can just interrupt. I think you miss read. I think it says no opposition chairs committee. Is that correct?

**MS MAZZONE:** Yes, there are no opposition chairs of  
10 committees. Excuse me. One needs to understood and accept that's the majority party governs the country. opposition parties must also be allowed the scope and room to exercise oversight within governments and to hold the executive to account.

It is reprehensible that the very individuals discussed and investigated by this committee of inquiry are currently serving as Ministers, chairs committee's and ordinary members of Parliament.

Advocate Freund and Judge Zondo with your  
20 indulgence allow me to repeat that sentence.

It is reprehensible that the very individuals discussed and investigated by this Commission of inquiry serve as Ministers, chairs of committee's and ordinary members of Parliament.

It is our submission that there should be a

committee made up of one member of each party represented in Parliament that decides an establishment and composition of ad hoc committees, the scheduling of debates and the taking of motions.

The rules of the ethics and the powers in the committee needs to be urgently relooked. The majority enjoyed by the governing party cannot be used to evade accountability of members that appear before these committees.

10           There should also be criminal repercussions for those who are found guilty of an infringement by either one of these committees. These committees must be open to the public and to the media to ensure transparency in the Parliamentary process.

The programming of the Parliamentary term needs to be fundamentally changed. We are still looking at a sort of six months, six months which dates back to the old style system the Parliament would sit six months in Cape Town and six months in Pretoria.

20           The amount of time that MP's do not spend in The House during the basic work of legislating and holding the executive to account is unacceptable.

The leader of government business and the leader of opposition should be consulted in the programme in process.

We submit that the Speaker of the National Assembly and the Deputy Speaker should not belong to any political party, no hold any office of any political party and thus must be completely politically independent.

The presiding officers of Parliament should be apportioned as in accordance with the representation of parties in Parliament.

Advocate Freund, in conclusion. It cannot be that we sit at the Commission like the Zondo Commission that  
10 looks at the state capture and honestly say to one another that the entire Cabinet did not know that state capturing was happening.

it is a physical and factual impossibility. We cannot say under earth and say to Judge Zondo as chairperson of this committee that the very person who was the head of government business, the leader of government business and also the head cadet appointment programme of the ANC did not know that state capture was happening. It is impossible that the Speaker of Parliament did not know that  
20 state capture was happening.

One must look at the divisions that exist in our country and one must realise that it is to the interests of some to divide us and not to unite us.

It would be very naive of us to come here and think that we can scapegoat one ex-president and maybe 5, 6, 7,

10 of the Ministers and CEO of various companies. those Ministers were appointed by the ANC cadet employment programme and their CEOs enjoyed a turnstile ball approach to the appointments in all state owned entities.

And there is no way that people in the executive of the ANC could even not have known that state capture was happening. Thank you very much.

**ADV FREUND SC:** Thank you Ms Mazzone. I have no further questions.

10 **CHAIRPERSON:** Thank you Ms Mazzone. Just one or two questions. It is clear that one of the problems with regard to members of Parliament performing their oversight functions the way they should in some cases is that there are parties can instruct them effectively not to do their oversight functions or perform their oversight functions properly.

I think you gave evidence Ms Mazzone about the study groups which you said the majority party in Parliament has where positions are taken as to what stance the members of the majority party in a particular committee  
20 should take on certain issues which ends up affecting the performance of their oversight functions.

What do you think is the solution to that problem Ms Mazzone?

**MS MAZZONE:** Judge Zondo, I think address that problem is that although we are a multi-party Parliament, we are a

multi-party Parliament that enjoys an overwhelming majority who takes the decisions on behalf of that multi-party.

So what we need is we need to see a levelling out of the playing field when it comes to certain decision making functions. Otherwise we may as well just be a dictatorship or a you know a two-party show.

Because theoretically if one looked strictly at the way time is allocated, someone who has one seat in Parliament for example would get 15-seconds during the  
10 debate to make their contribution.

So it is my opinion and the opinion of the Democratic Alliance that there are some committees that needs to be established where the leader of the opposition together with the leader of Government Business make decisions for example on the Programme of Parliament and the Scheduling of Debates and Motions that happen in Parliament.

And it is also my submission as well as the DA's that we have a committee made up of one person from each party  
20 represented in Parliament that form a Committee of Parliament that make sure that oversight is executed in terms for example of where a Minister refuses to answer questions and what kind of repercussions that particular Minister will have.

Because at the moment regardless of what

committee that particular Minister is referred to, the overwhelming majority of the ANC will always protect that Minister.

So what we need to see is levelling of the playing fields in terms of the numbers that we have in our Parliament.

**CHAIRPERSON:** Well, I understand that there is a view that leaders of political parties, the party bosses, in number of parties represented in Parliament might not like the idea that  
10 members of Parliament must be able to perform their oversight functions the way they see fit or that members of Parliament must be free not to comply with any instructions from their parties that says for example if there is a vote of no confidence, members of the party must vote this way.

There seems to be that view that party bosses, not just the majority party, but other parties as well where they govern even if it a municipality or a province that they do not like the idea that members can vote as they see fit or according to their conscience.

20 They seem to like the idea that, at least in regard to certain matters or maybe the majority of matters or all matters...

*[Background noise interruption - cell phone interruption]*

**CHAIRPERSON:** Is that your phone Ms Mazzone?

**MS MAZZONE:** [No audible reply]

**CHAIRPERSON:** I do not know whose phone that is. Okay that should not happen again. Ms Mazzone, the point I was making is that there seems to be the view that party bosses across many if not all political parties including those who are represented in Parliament like the idea that they can instruct members of Parliament who are members of their party how to vote.

They do not like the idea that they should not be able to instruct members of their party or in Parliament on  
10 how to vote. What do you know about this if anything?

**MS MAZZONE:** Justice Zondo, I know more probably than most people would about holding the party line.

**CHAIRPERSON:** Yes.

**MS MAZZONE:** Because my job as Chief Whip is to make sure that my members hold the party line. And often in a snap debate or a snap motion that will come to the floor you will see me stand up and I will walk around and I will inform my party members how to vote. That is what a Chief Whip does.

20 But how we get around this particular mine that I think we find ourselves in is that we must not be naïve to the ideology that parties have. All political parties have an ideology. That is why you join them because you believe in what they stand for. So there are certain fundamentals that a political party will always vote for or against based on the

ideology of the party.

There are certain circumstances where I believe that a secret ballot is necessary. For example I think that the election of the President and the election of the Speaker are examples of where there should be a secret ballot as well as the impeachment and removal of either a speaker or a president should be in a secret ballot form.

I also think that the South African public have a lot more right to find out exactly how members of Parliament who may have voted into office are voting.

So I do not believe in a simple yea or nay system. I think we should have a system in Parliament that logs every single vote that you as a member of Parliament make because I should never be ashamed of voting yes or no for an issue and I should be completely and fully accountable to my constituency as to how I voted.

Now I know there has been a lot of talk about allowing you know changing, fundamentally changing the system of government the way we elect governance in South Africa and that is something that we are going to be looking at and certainly the Van Zyl Slabbert Report is going to be looked at too.

But perhaps what is necessary is for the South African public got to realise that we hold our positions because they had given us their mandate to hold their



positions.

And Judge Zondo, I think that perhaps that if you knew exactly who voted for what and when, you would have more power as an individual South African citizen who votes to hold me accountable than you do at the moment.

And I think it would also make many members of Parliament think twice before they vote in a certain way if they knew that the general public would know next to their name it said yes or no.

10 And in a case such as we had now where we had an entire inquiry into state capture. I think we have to hold those who voted against an initial ad-hoc committee who voted against that ad-hoc committee, I think we have an obligation to hold them to account.

And I think we have an obligation to hold many MP's who have voted for certain issues to account. And I understand that it is not something that is easy to solve and it certainly will not happen overnight but I think as our democracy matures so must our attitude to the way we are  
20 hold accountable, mature.

And I take comfort in looking at governments around the world where without a second guess if they are found to have done something wrong they resign their office immediately.

And it is my hope that the dignity and the quorum of

our Parliament matures at a much faster rate to ensure that we have ministers and members resigning should they be found to have infringed the rules in any way.

**CHAIRPERSON:** Thank you very much. Mr Freund, I take it there is nothing arising out of that?

**ADV FREUND SC:** No, thank you Chair.

**CHAIRPERSON:** Yes. Thank you very much Ms Mazzone for coming to assist the Commission. We appreciate that very much. And if we need you to come back and help with anything, we will ask you to come back but we will try and not ask you to come back unless there is really a serious need.

**MS MAZZONE:** Justice Zondo, whatever you need from me I am at your service and I thank you very much for your time.

**CHAIRPERSON:** Thank you very much. Okay we are going to adjourn the proceedings for the day. Mr Freund, we are supposed to talk about what time we start tomorrow. We start at ten or would you suggest half-past nine?

**ADV FREUND SC:** I am entirely free either way.

20 **CHAIRPERSON:** We did not get to one witness that you had planned for today. Is that right?

**ADV FREUND SC:** Well, yes. But then I was always concerned that we would not.

**CHAIRPERSON:** Oh.

**ADV FREUND SC:** And her evidence will be considerable

quicker than the evidence that we have heard today.

**CHAIRPERSON:** Yes.

**ADV FREUND SC:** Chair, I mean, certainly 09:30 would be fine with me.

**CHAIRPERSON:** Yes.

**ADV FREUND SC:** As you wish.

**CHAIRPERSON:** Yes. And the ...[intervenes]

**ADV FREUND SC:** I understand we are going to be losing a day which means that we would have to consider  
10 lengthening the ...[intervenes]

**CHAIRPERSON:** Ja, we will not be able to sit on Wednesday and tomorrow we will have to adjourn a little earlier than usual but we could start earlier than ten. But in terms of your witnesses. I think the one witness you suspect might take about two hours?

**ADV FREUND SC:** Judge, I have difficulty in answering your questions right now. I need to think about it.

**CHAIRPERSON:** No, no. That is fine.

**ADV FREUND SC:** But if we want to adjourn. My  
20 suggestion is we adjourn early we should start early and whatever time you think is a convenient starting time.

**CHAIRPERSON:** Okay. No, let us start at half-past nine tomorrow, tomorrow morning. Okay.

**ADV FREUND SC:** Good.

**CHAIRPERSON:** And your witnesses for tomorrow, do you

want to announce them for the benefit of the public?

**ADV FREUND SC:** Give me a moment. I do not have this list immediately to hand.

**CHAIRPERSON:** Yes.

**ADV FREUND SC:** But I am certainly hoping to start with Ms Rantho.

**CHAIRPERSON:** Okay.

**ADV FREUND SC:** Reference has been made.

**CHAIRPERSON:** Ja-no, that is fine. The others  
10 ...[intervenes]

**ADV FREUND SC:** I can clarify with the secretariat the names of the others who I anticipate ...[intervenes]

**CHAIRPERSON:** Ja, you could announce them in the morning when we start who the others will be. Okay alright. We are going to adjourn now and tomorrow we start at half-past nine. We adjourn.

**INQUIRY ADJOURNS TO 2 FEBRUARY 2021**