

its proceedings in public in Johannesburg on the 15, 16, 17, 18, 22, 23, 24 and 25 of August 1989, this was after notice had been given and advertisements placed of the date and place of the hearings. I still recall that when the venue of the hearings in Johannesburg in the Johannesburg Supreme Court was determined, then we published the notices for all interested parties to come forward with whatever evidence they may have.

MS TERREBLANCHE: Now at what stage did you first get a transcription or listen to the CVR records that there were, the recovered black box records?

MR VAN RENSBURG: Well that was, we even listened to that during the course of the hearing and we've read it as it was typed.

MS TERREBLANCHE: I hear what you're saying, but at what stage did you first have access to it, before or during the enquiry?

MR VAN RENSBURG: No, I think we had, you know, it's quite some time ago, but if my memory serves me, I think we listened to that before the hearing and during the course of the hearing, and it was also on paper of course.

MS TERREBLANCHE: You relied, as in the previous enquiry, it was relied on Dr Leonard Jansen to do the interpretation?

MR VAN RENSBURG: Yes, we analysed the DVI.

MS TERREBLANCHE: And the full transcript?

MR VAN RENSBURG: Yes.

MS TERREBLANCHE: Now, at the enquiry the Pilots Association was called right in the beginning to ask their permission to play the entire recording and run into the court record the entire transcript, is that correct?

CHAIRPERSON: Yes.

MS TERREBLANCHE: And they were questioned by Judge Margo a number of times where they said, yes, they would not mind the whole one until he said that perhaps it contains confidential evidence, and then they conceded and said, well in that case, no, they don't want the whole one.

MR VAN RENSBURG: No, I do not recall the reference to confidential information, but what I recall which also came from the Airline Pilots Association that some strong language was used by Captain Dawie Uys on board that aircraft and they didn't want all those heavy expressions or strong language to be broadcast in open, because it was an open hearing, the general members of public were there and there was some objection to that part, but not because of confidential information, to the best of my recollection.

MS TERREBLANCHE: What stage was it decided that only the part from when the fire warning bell rang was applicable to the enquiry, and not the part where the strong language was used?

MR VAN RENSBURG: No, the strong language was used right through, I mean up to the last bit, I mean, if you go through that recording, Dawie Uys was very tense up to the last minute.

MS TERREBLANCHE: Listen to the question, at what stage was it determined that only the part after the fire-bell rang was applicable to the investigation and the enquiry, as to the cause of the accident?

MR VAN RENSBURG: I think when Judge Margo made it clear to the Airline Pilots Association that that's the critical time just before the accident and they will not be able to stand in his way to play that part because that is of critical importance, and that is why that part only was incorporated in the record.

MS TERREBLANCHE: Would you say that Judge Margo had a better understanding of such an interpretation that a pilot?

MR VAN RENSBURG: Well, I will not judge that, I just know that Judge Margo is also an experienced pilot and he was assisted by even more experienced pilots than any pilot of the Airline Association in this enquiry. We had test-pilots from all over the place, and I will not try to be the judge of who was the better one to assess the situation.

MS TERREBLANCHE: Just for the record, Judge Margo never flew a 747.

MR VAN RENSBURG: No, that is correct, but many of the other witnesses involved, they flew that type of aircraft, and we had them all there.

MS TERREBLANCHE: Do you think that the Pilots Association and the Flight Engineers Association were interested parties in this investigation?

MR VAN RENSBURG: Of course yes, they reacted to the notice that we published and that's why they came. They are always an interested party when it comes to aviation matters. They've just recently filed a serious complaint about air traffic control all over with the Licensing Councils, nationally and internationally, so we would most definitely regard them, that's why they've been given audience there.

MS TERREBLANCHE: Would they have had access to all records, even the entire CVR recording?

MR VAN RENSBURG: Absolutely. It was an entire open - even, you know, with the previous investigation, I was personally attacked by not one person, but more than one when I said to the Media, that as we are leading the evidence to this Counsel, as we handed it up to the Chairman of the Board of Enquiry, I always secured an extra copy for the Media and said, as you get it, here it is for the Media. I was criticised for doing that, but we decided it's an open enquiry, whatever comes to record must be part of the record, we are not to try and hold anything back. And

that was the attitude from the Board's side, internationally represented and all the legal representatives involved in the Enquiry.

MS TERREBLANCHE: I think you must now listen closely, we have had more than one person come forward, particularly pertaining to the Flight Engineers Association who said that they asked for participation, but was given only observer status. They then had difficulty of accessing the full transcript of the voice recording. After securing that, a number of them put together - well, were in fact originally seconded to the board, but was never used, put together their own interpretation of the CVR where they said that the part that was not played and not taken in account, was vital to determine the cause of the accident or the wreckage of the plane. Now, we've had it from more than one person that there was a meeting called after this submission was made, in Judge Margo's chambers. First of all they were told that they were out of the deadline, they dispute that, saying that they were 48 hours inside the deadline of making submissions. We were told ...(intervention)

CHAIRPERSON: You have put a number of things to him already, can he react to some of these that you have already put to him. Do you still remember some of the things that have been put to you?

MR VAN RENSBURG: Mr Chairman, what we must be clear on, I recall the discussions between the Board and the Airline Pilots Association and the Engineers, but, you know, the invitation was addressed to all and sundry who may have had evidence, hard evidence to consider by this Board to come forward and to submit the evidence. Now, I can't recall any evidence that was submitted by the Airline Pilots Association in writing and was subjected to cross-examination. Mr Rene van Zyl will most definitely be in a better position to give you a complete breakdown of the discussions that took place between the DCA and the Airline Pilots Association.

MS TERREBLANCHE: With respect, I'm saying that the flight engineers only had access to the tape at a very late stage. They then had to go back and do an expert analysis because they realised, immediately after listening to it, that there was a different interpretation at stake here. I am talking about representations made to the Board once the enquiry had started. Can you recall such an incident, and I have been told a number of times, I think Ms Patta has been told a number of times, that you were present in Judge Margo's chambers.

CHAIRPERSON: Let's get first things first, are we talking about the Flight Engineers Association or the Airline Pilots Association, because I think Mr van Rensburg is responding to this as though he was responding to both of them. I think all your line of

questioning has been on the Flight Engineers Association, let's deal with that first and all the queries that she is raising in regard thereto.

MR VAN RENSBURG: I'm not very clear on the Flight Engineers Association. I remember the Airline Pilots Association, but you must please accept that the investigator in charge in terms of annex. 13 and the Aviation Act is a Board of Enquiry. It's not for me as an individual or any other person so conduct an investigation into an accident like that, that's why a Board of Enquiry has been appointed, and if any person would then come forward with evidence that could assist the Board of Enquiry, the investigator in charge, to get to the cause of the accident with hard evidence that is submitted to cross-examination and tested, and that would have been refused, then I would have regarded this as an irregularity, but I'm not aware of anything like that, that evidence was submitted and that they were declined or that they haven't been given access. That, I would suggest, that you talk to Mr Rene van Zyl and see whether there was anything of that sort.

MS TERREBLANCHE: I want to speak to you, because what I have been told is, that at this meeting there was a man called Jimmy Mittins of the Flight Engineers Association and other members, Peter de Beer, the Vice-President Ray Scott and a guy called Judge Bedar, on the other side was Margo, Rene van Zyl,

Mitchell and the attorney Van Rensburg. The FEA felt  
...(intervention)

CHAIRPERSON: Do you recall a meeting of that nature?

MR VAN RENSBURG: Yes, I recall a meeting. We had many meetings in the chambers of Judge Margo, especially when people came forward to look at what they have and what they want to put forward. I remember a meeting, but the detail of the thing, that I'm very vague on, I mean, I can tell you, anything is possible there, I can't recall what was the subject matter of discussion.

CHAIRPERSON: Can you put a specific allegation, Ms Terreblanche.

MS TERREBLANCHE: The Flight Engineers Association felt,

"We wanted to carry on and at the very least, make a number of recommendations of which the most important was the disaster check list ...(intervention)

MR VAN RENSBURG: Of which the most important was?

MS TERREBLANCHE: The disaster check list, but that's not what I want to get at.

"We were summoned to the Chambers by Judge Margo because the CDR came in at a late stage and we wanted to make a submission."

Which they have made in written form and was placed before you the day or so before. They were told that it was late, first of all, and that therefor they must withdraw it. As I understand it,



Judge Margo at a stage left the room and Mr Mitten was told, he claims and Mr Scott, they were told by you that the country cannot afford this enquiry into a two stage theory that they advanced on the basis of the full CVR, and that they should therefor withdraw. This could cost the country and a large amount of money was mentioned.

MR VAN RENSBURG: That I can't recall, with respect, Mr Chairman.

CHAIRPERSON: What is the large amount, Ms Terreblanche?

MS TERREBLANCHE: Something like R400 000.

MR VAN RENSBURG: No, I can assure you, that type of remark would most definitely not have come from me. The question of costs of the investigation, you know, this was quite a costly situation with all the stuff that we had to remove from the ocean bed, 4½ kilometres down, would have been rather from Mr Rene van Zyl who was involved in the budget of the thing, I had absolutely nothing to do with the budget or the financial situation of the investigation, that was - if I have to give any evidence on that matter, I will just be swimming because I had no information whatsoever.

CHAIRPERSON: Can I just put the proposition in the manner in which I have understood to be put to previous witnesses here. The proposition is that Judge Margo in your presence and in the presence of the other people that have been mentioned,

discouraged these people from making the sort of enquiry that they wanted to make, on the basis that it would cost the country a considerable amount of money, that it was not in the national interest, that in fact, they had to consider, not at that meeting but at another, the security of their jobs and their family. Now, I think what we are seeking to find out is whether a conversation of that nature, which in terms amounts to an intimidation of witnesses, whether a conversation of that nature ever took place, either at the meeting that she has mentioned, but at any other meeting at which you were present?

MR VAN RENSBURG: Mr Chairman, I recall meetings with the Flight Engineers Association and the Airline Pilots Association, but most definitely not any form of intimidation, because we had the approach to this whole thing, whatever information could be brought forward to throw light on a possible cause of this accident, must be considered, but in the same breath I must also say to you, when you do an investigation like this, you have many people from the general public who are looking for some sensational disclosure, and then they come forward with pure allegations and Judge Margo, as a Judge of the Supreme Court with his experience assessing witnesses, he would just ask one or two questions and see whether there's any substance in what this person is coming forward with. And if there is not substance, then he would be very firm to say, sorry, you are not raising

anything here of any importance. Whether this was the case with the Airline Engineers Association, I can't say, I can't recall anything to that extent, and in the least, it would be against his nature to repudiate anything coming from that body, because it must be seen as an expert body, the Flight Engineers are experts in their field, if they ... (intervention)

CHAIRPERSON: My emphasis is on something much more serious, this information seeks to say Judge Margo actively dissuaded information which might have been material from being placed before the Commission on the basis that it was not in the national interest, it would cost the country a great deal of money, there was even a suggestion that words in the form of, they would play into the hands of the ANC, were used.

MR VAN RENSBURG: No, that, Mr Chairman, I can most definitely not verify, because the political say, whether we talk about political parties, with Justice Margo that was never ever part of his make-up to come forward with a political expression that, you are working in the hands of the ANC, or for that matter in the hands of any other political party. That, I can most definitely say to you, knowing him through the experiences that ~~I've gone through in these investigations, that's not his approach,~~ but if he's convinced that someone would come forward with a statement or an allegation that's of no substance, he can be firm to stop that, because we had a lot of real information to consider,

and you can't loose time on something if it's not of substance and prove by solid evidence. That is a possibility.

CHAIRPERSON: Let us examine that. Let's examine Judge Margo in the context of his uprightness, and I'm not challenging for once your observation and your view of him. Now, during the course of that sort of enquiry, would you expect Judge Margo to invite anyone to his residence in the circumstances where the person came by himself in the absence of other interested parties, during the Commission of Enquiry, whilst it existed, would you expect that to be happening?

MR VAN RENSBURG: I won't say that won't be possible with him, but whether he will react to that, because he was always, when he heard something, wherever, he came back and he put it to us as the legal representatives, that's now in the case of the Helderberg enquiry, Advocate Southwood and Bob Nugent, he's a Judge today, Bob Nugent was the junior advocate with Brian Southwood, and then we would have said to him, yes, but let them come forward and let's assess the situation where everybody could be heard.

CHAIRPERSON: That's the procedure, that's the normal procedure, but would you expect Judge Margo to have invited to his home a person who was a material party, for instance a pilot, a person who had now become Manager, who had been given on evidence the tape from the UCR, would you have expected him to

have invited that person, on that person's evidence, to his residence whilst this thing was taking place?

MR VAN RENSBURG: I wouldn't have - I won't expect that, but I can't say it hasn't happened, Mr Chairman.

CHAIRPERSON: I'm not saying that it has happened - well, we have now evidence, I'm trying to say the mere fact that you have a view of Judge Margo as having been a morally upright person, etc, should not by itself be conclusive or sufficient for you to say some of the things could not have happened, because a witness here yesterday told us under oath that he went to Judge Margo's chambers, when this specific question was put, in denying, in an effort to deny that this meeting took place, they said the only time that he went and saw Judge Margo was not in his chambers, but at his home, at his invitation. And when he was getting out there, he's sure that the Flight Engineers were leaving, also having been there at the invitation of the Judge. I ask myself the question ...(intervention)

MR VAN RENSBURG: No, that's possible, but I can't verify it, I can't say it's impossible, most definitely not.

CHAIRPERSON: But what I want to get at is, would you consider it to have been highly irregular and improper of a sitting Judge, whilst handling a sensitive Commission of Enquiry of that nature, to be inviting people in that sort of fashion to his

residence in the absence of the attorneys and in the absence of the other parties?

MR VAN RENSBURG: Mr Chairman, there I must say to you that Judge Margo has always said that this Enquiry is an inquisitorial enquiry, in other words it's ...(intervention)

CHAIRPERSON: That may well be, but it must be conducted in circumstances where the Enquiry is not only just, but is seen to be just, not only even-ended, but is seen to be even-ended, would you agree with me that, as a lawyer, if there was a suggestion that a Judge had invited people to his residence in the absence of the other parties, in the absence of their legal representatives, that would have been irregular.

MR VAN RENSBURG: Most definitely that would have been irregular, but I can also say that if that would have happened and something would have come out of that meeting, he would have insisted on getting that evidence submitted to the full Board.

CHAIRPERSON: That's the problem, because now what comes out of that meeting is that, he made a suggestion that people should cover up evidence, that's one of the allegations. That's why then the irregularity becomes even more important.

MR VAN RENSBURG: I hear you, but I can't comment on that.

MS TERREBLANCHE: Perhaps I should just remind you what, well maybe it will remind you when I tell you what people said further,

"We went back inside...", that's after the tea-break, "and said we will only withdraw if our recommendations are accepted. We were also saying that our Chairman is not present..." the Chairman of the Flight Association, ...(intervention)

MR VAN RENSBURG: The Flight Engineers now?

MS TERREBLANCHE: Yes, Flight Engineers Association.

"and we said that we cannot completely withdraw the report without his consent. We were just hoping that they will consider the two fire theory. The Chairperson was then flown back from England immediately and summoned to Judge Margo's house, where he was persuaded to withdraw the report. He came out of that meeting telling us that this was done for fear and finance, the two wrong reasons."

MR VAN RENSBURG: No, I can't comment on that, I'm sorry, there I can't say anything.

MS TERREBLANCHE: It just strikes me as completely absurd that R28 million is spent on recovering the black box and then you listen to only a small part of it to find the true cause of the accident, and then determine at the end you can't find the true cause.

MR VAN RENSBURG: But what I must state categorically, Mr Chairman, I can't verify or confirm that meeting, because that

meeting at Judge Margo's house that I am now hearing of here, I have not been aware of that, I can assure you.

CHAIRPERSON: But are you then denying - that's technical, I'm sorry, Ms Terreblanche, but to the extent that the meeting or one of the meetings suggested to have taken place in chambers ... (intervention)

MR VAN RENSBURG: No, that has taken place for sure, I remember that.

CHAIRPERSON: But what you deny about that is the fact that Judge Margo persuaded people not to follow certain in the national interest, because of money and all that, are you denying that?

MR VAN RENSBURG: Yes, most definitely, I can't verify that at all, and I have nothing even to say in support of that, so as far as ... (intervention)

CHAIRPERSON: You were supposed to be present you see, that's why I want you to commit yourself to a version. Are you saying it never happened, or if it happened you have forgotten about it, what is your ... (intervention)

MR VAN RENSBURG: I recall the meeting, but I do not recall any allegation of, do this or do this because it's costing the country a lot of money or that finance was at all involved. It was argued on merits whenever we were present in his chambers and something came to the table, he always had the way of doing it,



this is what has been put to me, what do you guys say, and then he addresses that to all the members of the Board, that was a meeting outside the hearing, but in his chambers with all the Board members present.

CHAIRPERSON: Can I get you clearly then, are you saying you don't recall it because it never happened, or you don't recall it because these things took place 11/12 years ago and it may have been said, except that not it is a serious change of mind.

MR VAN RENSBURG: These meetings may have taken place, I just can't recall the detail of any allegation with regard to finance or what it will cost the country, but that meetings ... (intervention)

CHAIRPERSON: Are you considering that it could have been said?

MR VAN RENSBURG: Yes, no, no, for sure, I just can't say with any conviction of my mind that that it's been said.

CHAIRPERSON: Okay, if it was said, would you agree that it was the most irresponsible statement to come from a Judge?

MR VAN RENSBURG: I agree with that, but I must tell you I ... (intervention)

CHAIRPERSON: I accept that you don't recall it, but you are considering the possibility that those who say it actually was said may be correct, and if it is so, ... (intervention)

MR VAN RENSBURG: Then it would have been irregular and not acceptable to me at least.

CHAIRPERSON: Ms Terreblanche?

MS TERREBLANCHE: Mr van Rensburg, you recall the meeting, but you don't recall the report that was handed in at the meeting by the Flight Engineers Association?

MR VAN RENSBURG: No, I don't recall that. You must really ask the Department what happened about that report, because I know and I remember that meetings took place, but what they've handed up or what they wanted to hand up, I have no record of because it's not part of the record that we've handed in, it was never submitted as evidence, whatever the reason was, I can't say.

MS PATTA: It's interesting that it wasn't submitted as evidence, it's a detailed report which goes into a detailed analysis of the cockpit voice recording, the whole cockpit voice recording which was not submitted in to the Margo Commission of Enquiry, only the last two minutes were, the whole cockpit voice recording by the way which does not contain any foul language, the only strong language is actually in the bit that was submitted to the court itself, that's when the swearing actually starts, but prior to that ~~they talk about dinner and the lousy SAA food.~~

CHAIRPERSON: And women.

MS PATTA: I battle to see what's so problematic about that, but what's important about the whole cockpit voice recording is that

it makes reference to dinner having been served shortly after take-off and if you go through the Flight Engineer's report, they basically assert that a fire broke out shortly after take-off and they go into a detailed technical analysis of it. It's not a political thing, it's a very conservative analysis of a cockpit voice recording which could have helped your Enquiry, and I find it remarkable, (a) that you don't remember this report, which was very useful and very explanatory, and that you don't remember it and that you actually then later had legal communications with the Flight Engineers Association that you yourself drew up in which you referred to this report.

MR VAN RENSBURG: You must just keep in mind, many of the communications in writing which I did, I did on direct instruction of the Board of Enquiry and in some cases I was not even present at that particular time. I remember the letters that we've written, this on that's just been given to me here addressed to the Chairman of the South African Airways Flight Engineers Association, I mean, that was done on instruction of the Board of Enquiry.

MS PATTA: So you remember that letter?

~~MR VAN RENSBURG: No, I can't say with any certainty, I know~~  
see it and I can confirm that this is a letter that I most definitely sent off to the Chairman of the South African Airways Flight Engineers Association, but I can't recall the detail or the contents

of it. If I can go through it I can tell you, but this is a letter that I've written for sure.

MS PATTA: Mr Chair, can we give him two minutes to read through it?

CHAIRPERSON: Yes, Mr van Rensburg, can you read your own letter.

MR VAN RENSBURG: Yes, Mr Chairman, I recall this letter, and as I've said here we are directed by the Chairman of the Board of Enquiry to write to you as follows, and I know that this letter was settled by the entire Board of Enquiry before I sent it off on our letterhead, and there was some arguments about Captain Dawie Uys' file and his licence ratings and I know that DCA was also involved in that, and they refuted certain of the allegations made by the Flight Engineers and they had record available to say some of the stuff that they submitted was not true and then negotiations took place with a view to see whether they could be accommodated and I know that their recommendation, the recommendations made by the Flight Engineers have been incorporated in the report to the extent that Judge Margo has indicated. But that's all I remember of this thing, the detail ~~behind this I can't give you any further information~~

MS PATTA: Well maybe I'll just remind you, the detail behind this is it refers to this report that you can't remember ever having

been brought before Judge Margo in his chambers, a detailed report which goes into a two fire theory on the Helderberg plane.

MR VAN RENSBURG: Which was withdrawn eventually.

MS PATTA: Which was withdraw eventually and there was legal - in fact so concerned were you about this report that you actually had to write a letter to the Flight Engineers Association saying that they were going to withdraw their report, and just putting it on record. The Flight Engineers Association then sent a letter back through their lawyers to you to say that,

"We are instructed that our client stands by its letter to the Helderberg Disaster Commission. Our client does not wish to respond to each allegation made in your letter and from the attitude reflected in the letter our client sees no purpose in doing so. This should not be construed as an admission of the accuracy or correctness of your letter and our client reserves its right to respond to the allegations at a later stage, should it become necessary."

Putting it on record that they actually disagreed with your interpretation of events. We don't need to go into the letters, but

~~the point is that we actually even have legal communication about~~

the Flight Engineers Association report, which amazingly, you can't remember, and I would put it to you that this report could have really helped solve a lot of the mysteries of the Helderberg,

and when put off with the fact that a meeting was held in Judge Margo's chambers and a meeting was held in Judge Margo's home, which Captain de Beer was flown from London for as your letter states that he was flown out from London, and Captain Mickey Mitchell was instructed to bring him back from London, when you put that together with that and the evidence from the Flight Engineers Association that they were forced to withdraw their report for the two wrong reasons, fear and finance, we have a suppression of evidence here, that could have helped shed light on the Helderberg.

MR VAN RENSBURG: Mr Chairman, no, I don't think I would agree with a suppression of evidence, we have said here that this correspondence will form part of the records of the Board, copies of this letter was sent to the DCA, was sent to Mr Viv Lewis of the South African Airways, and was sent to Captain Mitchell as Director of Flight Operations, South African Airways. So, the matter was still open after this, that if they would have come forward with anything material to submit as evidence to the Board, they could have done so. I don't think I can agree with the statement that that was a suppression of evidence, I'll have to ~~see much more before I can just concur with a statement like that~~

CHAIRPERSON: Well, there's all sorts of qualifications, even to your acceptance, of the recommendation. In one breath you say, well, you know, the Board will give consideration to them, but

immediately, in almost the same breath you say, from a superficial glance of those recommendations, let's assume that the substance of them had already been adopted in the Board's rough report, or already under consideration by the relevant authorities. This is a very unsatisfactory treatment of people who say, let us have you giving our report the due consideration, and you didn't and that is why I think, you know ...(indistinct) Hazelman & Thompson are making the disclaimer and are waiving their rights to say, we stand by what we've said and we are not accepting your interpretation of the events, and reserve our rights. Maybe that later stage that we were talking about is because they anticipated that one day there might have to be a Commission of this nature which would then look into what ...(inaudible) I still am not satisfied and I'm not passing judgement, I'm still not satisfied why it was not possible for that report to be received.

MR VAN RENSBURG: Mr Chairman, if I may speculate for the moment, I can tell you there must have been a discussion on the merits of the report between all the Board members and the Association and it must have been regarded as not of such material nature that it should have been taken further. Otherwise ~~they would have followed it up, the door was kept open for the~~

Engineers to come forward at any stage, they can even come today. If they come today and they put it further then ...(intervention)

CHAIRPERSON: Let's look at what you had had, because it appears that you are now closing, going towards closing the Commission. You had had a stunning situation where there was one tape which was either missing or had been rubbed off, so that was vital evidence that was not there. You had professionals who conducted an investigation going through millions of rands from what I'm told, which was making an analysis, an analysis that what showing that contrary to popular belief, that the conversation that was recorded from the cockpit was relating to the last 30 minutes as the aircraft was about to land at Mauritius.

The likelihood was that that recording was of a conversation nearer to when the aircraft had left Taipei when dinner was served, because it was very unlikely that dinner would have been served just on the top of descent. Now, that is the vital - because we would then have to explain, and that Board would have had to explain, how does it happen that when there is an indication almost immediately after departure from Taipei, I'm talking hours, there is a recording which says, we have a smoke problem. In other words, it was not a done deal, what's more the - and this was considered by a Captain yesterday, in spite of the fact that he ~~had been giving a lot of theories about might have happened, that~~ pilots, especially crew, take their dinner as and when they want, they can take it in the evening, in the morning, whenever. Once it was put to him that if it is so that that 30 minute conversation



where the voice cockpit recording says, we have a smoke problem, is relevant to the period when the aircraft was just about to descend on Mauritius Airport, Mount Pleasant, whatever. Then we would expect that recording to correspond with the recording from Mount Pleasant Airport and it was shown beyond a reasonable doubt that there was no correspondence at all, because what was recorded in that aircraft should also have been found to have been recorded in Mount Pleasant. So that theory seemed call into question any basis on which it could be said that conversation about dinner and women and what have you, was relevant to the period just on top of descent.

Now, we are saying if that was so, then it was bringing into question a whole list of things and therefor when that sort of information, which was put by Engineers who are professional in their field and had analysed all the voice recordings that was available, and it was sought to be put as being either late in coming or when it came, it had been considered. We are saying, when there is a corollary allegation that the Judge was in fact ill-disposed to receiving any enquiry that was going to call into question in the entire theory that was saying this fire must have ~~broken out only when the thing was about to land. Then it calls~~

into question as to whether in fact there wasn't a motive to suppress that information. I think that's the basis that is being put.

MR VAN RENSBURG: No, no I follow that, Mr Chairman, and I can agree with that, but I still think that your enquiry will be much wiser on the whole thing if the entire chain of events on those meetings, before and at the time with the Judge and before, would be discussed with the Directorate of Civil Aviation, because they were involved in that and they submitted the information. So I will sincerely say that they must also be given the opportunity to talk to you on this point.

CHAIRPERSON: Mr Magadhla?

MR MAGADHLA: Thank you, Mr Chair. Mr van Rensburg, were you aware of the fact that the Judge had summoned a witness to his house?

MR VAN RENSBURG: No, sir, I haven't been aware of that.

MR MAGADHLA: Had you been aware, what would you have done? What would have been your reaction?

MR VAN RENSBURG: Well, Mr Chairman, if you look at the provision of annex 13, the Chairman of the Board of Enquiry is the investigator in charge for all practical purposes. If he would do so, and in the same breath say that this is an inquisitorial enquiry and you can even listen to hearsay evidence, to ~~circumstantial evidence and that the strong and formal rules of~~

evidence do not apply to this type of investigation, then it is possible that something like this can happen, but I would still say whatever may be coming out of any informal discussion at the

Judge's home or wherever must, if there's substance in it, must be put before the Board of Enquiry and I have not reason to believe that that hasn't been done. I've listened here today and I've heard about a motive of suppressing evidence, now that I must say categorically to you, was not my impression of Judge Margo or any of his Board members that they would do - because it was an international Board of Enquiry and the South Africans were in an absolute minority there, they could have been overpowered by the other Board members.

MR MAGADHLA: Something inquisitorial as you say, would that have involved - were all the other people involved, yourself too involved in the investigation, if this Judge would have just called this person secretly and had a discussion with him only to, maybe to implant in your mind that in an inquisitorial situation he could just do that, wouldn't it be a matter for concern to yourself, especially when he does not, the Judge himself, tell you that, look, I have had occasion to have a one to one meeting with one of these people, this is what he says.

MR VAN RENSBURG: I'm not accurate on this, Mr Chairman, but I'm pretty sure the way I know Justice Margo, that the ~~meeting that took place eventually between himself, the other~~

Board members and all of us present, must have been the follow-up of a meeting that could have taken place at his home, which I'm not aware of, but I'm listening to what you are saying here.

MR MAGADHLA: If you think it was a follow-up, was there any indication in whatever he said that this was a follow-up to a meeting he would have had with certain people?

MR VAN RENSBURG: No, I can't say that because I ... (intervention)

MR MAGADHLA: Why did you say it would have been a follow-up to a meeting that he would have had?

MR VAN RENSBURG: That's his nature, if he's heard anything anywhere, he's always come to us and said, I've heard this or we must look at this and please go a bit deeper into this, and then the investigating team will take that further. Now, I really can't say where he's heard it, it may have been at his house or any other place.

MR MAGADHLA: Now the tape that was a part of which was embargoed or censored, would this tape have been - or this discussion, would it have taken place just before the plane crash landed or when?

MR VAN RENSBURG: Yes, well that's my impression that the information we have on the cockpit voice recorder was the last minutes before the impact in the ocean before landing at Mauritius.

MR MAGADHLA: Would this have been after the people noticed that there was danger, that they were sort of in distress?

MR VAN RENSBURG: Most definitely because the smoke-detectors came on and that was when everything started gaining momentum and when oxygen was released and ...(intervention)

MR MAGADHLA: The unacceptable language therefor, in what context would it have been used, would it have been used in the context where one would be saying, well, I told these people, look what's happening now, or something else?

MR VAN RENSBURG: No, there I can't comment, Mr Chairman. I know what was said in the last minutes, but I mean, before that or if there was anything mysterious beforehand, I can't comment on.

MR MAGADHLA: Would it not have been proper therefor that even if this conversation would not be for public consumption, that those people who were involved in the Commission with the people who represented - the legal representatives of the victims were to listen to that thing for everybody to be satisfied about what was said there, in camera?

MR VAN RENSBURG: I don't think it's been kept away from them, we must accept that they are not investigating, or they were not investigating the accident, I mean, that was done by the ~~Board of Enquiry, but whatever served before the Board of~~ Enquiry was available to any interested party whether it's relatives of some of the victims or of the aircraft operators or

whatever, it was available to them and it's up to this day, to the best of my knowledge available, the record is there.

MS PATTA: With due respect, just to come in there, the full cockpit voice recording was never put on the record, it was not available, the last two minutes were put on the record. Your own admission to us today was that the full cockpit voice recording was withheld because of the foul or the strong language that it contained, that it might upset the families.

MR VAN RENSBURG: But that does not ...(intervention)

MS PATTA: But now you're contradicting yourself, saying it was fully available.

MR VAN RENSBURG: No, not in the least, I'm not even trying to contradict myself, but that recording is still there. I mean, I don't think, if they must be called upon today at the DCA to give you the full recording that it won't be available.

MS PATTA: It's there, but it's not available publicly. The only thing that is a matter of public record is the last two minutes.

MR VAN RENSBURG: There was a reason why it wasn't publicly available, there was most definitely a reason. That reason wasn't to suppress vital evidence, that I can assure you, not to the best of my knowledge

MS PATTA: The reason was because, you said, it had strong language.

MR VAN RENSBURG: Yes, that was a factor at the time, that strong language was used and they didn't want to publish that.

MS PATTA: Strong words like lousy food and stuff?

CHAIRPERSON: Can we, I think, I don't know, it seems to me we possibly have kind of asked at this point fairly extensively and I would, Ms Terreblanche, what would you want?

MS TERREBLANCHE: Little things that I would just like to check on. Just to say that the last half an hour of the Helderberg's conversation was with the Mauritius tower, there's no overlap between the CVR and that last half hour, so that CVR conversation took at least, it burned through, at least half an hour before the plane landed, or before it made contact with Mauritius.

Therefor it could theoretically be in any part of that flight. Do you concede that, because there is no overlap?

MR VAN RENSBURG: Yes, no, but there was also a reason communication wise with the Pleasance Airport Traffic Controller, there was some problem there, so I'm not conceding that that thing could have taken place at any stage during the flight, if you have evidence to that effect which we haven't had, then I will be as surprised as anyone else, but not with the information available to me.

MS TERREBLANCHE: Just one thing, you said that Judge Margo continually asked you, did you hear of this and that, was

there ever any discussion about the fact that the fire could have broken out earlier in the flight?

MR VAN RENSBURG: I think that must have been part of the Flight Engineer's situation which was debated and as you've seen, this letter which you've given me here, it was not only a matter between the Board and the Flight Engineers, it was a matter between the South African Airways and/or the parties that have received copies of the letter. So it wasn't a secret issue, I mean, this letter was sent to Rene van Zyl, to Viv Lewis of SAA and Captain Mitchell, Flight Operations, South African Airways.

MS TERREBLANCHE: But for some or other reason the submission was disregarded.

MR VAN RENSBURG: Yes, but not just lightly I can assure you, Mr Chairman, that wasn't done. Judge Margo would never have just, look, I mean, he had a responsibility of an international Board of Enquiry, the country's image was at stake here and a lot of people lost their relatives, everything he had to consider. He can't play around with superficial issues here, he must make sure that there's substance in what he said before he takes it up and makes findings on it.

MR MAGADHLA: Maybe, let's quickly run through the second tape, the tape that you are, what can you tell us about that one?

MR VAN RENSBURG: Mr Chairman, I can just say according to the information available to us there was no connection between



the accident and the omission of the station ZUR to communicate with the Helderberg at the pre-arranged time, nor is there any significance in the fact that the ZUR tape covering that time was mislaid or wiped out by later use. There was sensational statements about the ZUR tapes and that it was wiped out and what have you. But again, it was the Board's duty to decide whether there was any bearing between that and a possible cause of the accident, and that was wiped out very early in the proceedings because the reasons were given by the South African Airways officials what the purpose of the ZUR tapes were, and all the experts involved in the investigating teams did not regard this as serious, but the moment you have an open hearing and it goes out to the general public that ZUR tapes were wiped out at the time, and when they were looked for it wasn't available, then it sounds suspicious, and obviously that's what happened here.

MR MAGADHLA: Finally, any reason for wiping them off?

MR VAN RENSBURG: Not to my knowledge, Mr Chairman, not that I'm aware of.

MR MAGADHLA: Thank you.

CHAIRPERSON: Ms Patta?

MS PATTA: On to another subject, can I ask why you failed to call the Mauritian campers who were camping on flat island who gave statements to the investigators and testified to seeing a big

ball of fire with a black tail of smoke plunge into the Indian Ocean at exactly the time the Helderberg crash occurred?

MR VAN RENSBURG: Mr Chairman, I recall that part and I can tell you a lot was done to get hold of them, but in the final analysis they couldn't trace those people. They made the noise at the time to say they've seen this and they've seen that, and then it was followed up to please get hold of them because we were very uncertain about what happened in the final minutes of this sad flight of the Helderberg, and if anyone would have come forward from that part of the world close to the point of impact with that type of information, we would have considered it very carefully, but they have not pitched up. It was eventually said, no, they can't trace these people and they don't know where they are.

MS PATTA: Amazing, it took me 10 minutes to find them. I arrived in Mauritius at 09h00, looked in the phone book and phoned them, and they're at the same place they've been for the last ten years, and I actually got their names and addresses from statements that were given to Civil Aviation investigators on Mauritius Island.

MR VAN RENSBURG: That may be so, Mr Chairman, but now I can talk of experience here, we had no jurisdiction to subpoena witnesses to force them to come before.

CHAIRPERSON: That's another reason now, that's another reason.

MR VAN RENSBURG: No, no, but I mean we've tried and the moment you've asked people, Mr Chairman, really I must tell you here, we have tried to get hold of them, but they refused when they heard that they must testify and they must come under oath, they just tried to wipe that thing out and then not to get it close to us and they couldn't follow it further and we couldn't get hold of those people to come and tell us exactly what they've seen.

MS PATTA: Well we'll hear evidence from them tomorrow because we've got - they were very easily traceable and they said to me that they were amazed and surprised because they were waiting and willing and wanting to come to South Africa and they indicated to Roy Downs and Rene van Zyl that they were willing to come at the moments notice to South Africa to testify before the Truth Commission. In fact the one of them had been a witness in something else a year previously and he said he knows that their testimony was very important and he was shocked that South Africa never came to find them, it was only 10 years later when I phoned them up that they had contact with South Africa again.

MR VAN RENSBURG: Well if they can give any evidence that could give any further light, I'll be as pleased as you could be about it because it wasn't available at the time, but I say, get the evidence and cross-examine them and see exactly what it is. It may just give us more light on this incident.

CHAIRPERSON: Well for the moment you will be pleased to know that your pick-up truck is here so that you should be excused and released and should not miss your flight.

MR VAN RENSBURG: I thank you, Mr Chairman, am I excused for this proceedings, I mean, it won't be necessary to come here again?

CHAIRPERSON: No, well, for the moment I do not consider that you will be called, certain in the immediate future, should the need arise I'm sure it will be in terms and conditions that will have been arranged with you ahead of time.

MR VAN RENSBURG: Thank you.

CHAIRPERSON: You are excused.

WITNESS EXCUSED

MS TERREBLANCHE: Mr Chairman, I wish to call one more witness, do you want a break?

CHAIRPERSON: Call the witness, Ms Terreblanche. He has written a book, I don't know if his evidence is going to be as long as the book, because if that is going to be so, maybe we need to consider whether we need to take his evidence now.

RECORDING ENDS