

The South Africa Divestment Law Is Constitutional And Does Not  
Infringe On The University's Autonomy.

We have been told over and over again that because the University of Michigan is an independent institution, the South Africa divestment law is an unconstitutional invasion of the university's independence.

Article 8, Section 5 of the state constitution does indeed say:

The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan....Each board shall have general supervision of its institution and the control and direction of all expenditures from the institution's funds.

But that is not the whole story. Another article of the state constitution, and a recent Attorney General's opinion, say that the state legislature can control how a university invests its funds without running afoul of the university's constitutional autonomy.

Article 9, Section 19 states:

The state shall not subscribe to, nor be interested in the stock of any company, association or corporation, except that funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law; and endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees....

On October 29, 1980, Attorney General Frank Kelley issued an opinion (No. 5807) stating that an earlier law passed by the legislature concerning investments was binding on universities granting baccalaureate degrees without violating the autonomy provision. He said:

The governing boards of institutions of higher education having the authority to grant baccalaureate degrees, under Const 1963, art 8, secs 5 and 6, are subject to legislative exercise of the police power ....The police power includes protecting the public from financial loss ....Thus, 1976 PA 157 (the earlier law governing investments) may be applied to the governing boards of institutions of higher education granting baccalaureate degrees without violating Const 1963, art 8, secs 5 and 6.

If one law governing investments by universities can be enforced without violating their autonomy, then the South Africa divestment law can be as well.

Do not be fooled by the Regents' arguments. The state legislature has the power to control investments and to combat racism. It has exercised that power to order divestment by universities of investments in companies doing business with the racist South African regime.

That law can and will be enforced.

--The Washtenaw County Committee Against Apartheid  
February 14, 1983

# Michigan colleges must cut SA links

THE state of Michigan, in the USA, has passed a law ordering its universities and colleges to divest themselves of all holdings in firms operating in South Africa.

With the signing into law of Bill No. 4533 in the closing hours of 1983, Michigan became the first state in the Union to enact such legislation. The Bill

requires that divestiture of holdings be completed by April 1, 1984.

Various Michigan corporations active in South Africa, such as the Ford Motor Company, of Detroit, had lobbied against the Bill, supported by some university representatives, including the University of Michigan.

The legislation affects

such institutions as the University of Michigan, Northern Michigan University, Eastern Michigan University, Oakland University, Western Michigan University, the University of Michigan-Flint, Central Michigan University, Wayne State University and many community colleges.

Michigan State Univer-

sity trustees voted four years earlier for their own unilateral divestiture and have reported increases in stock value during and since the divestiture action.

The passage of the Bill by both houses of the Michigan state legislature continues the state's protest against South African apartheid policies begun

several years ago with the "Banking Bill," another act of the Michigan House and Senate to withhold all state funds from banks making loans to South Africa, its parastatal corporations or branches of corporations operating in South Africa.

Both these actions followed a 1978 resolution by

both houses, calling on the US government to increase its sanctions against South Africa because of its intransigence on the issue of apartheid.

In both the Banking Bill and University Divestiture Bill, both houses of the legislature explicitly rejected the so-called "Sullivan Principles" supported by a

number of corporations as an alternative to divestment. The Sullivan Principles commit corporations operating in South Africa to greater educational opportunity for black workers and reduction of segregated work facilities; however, under the principles, corporations must continue to operate under segregationist apartheid legislation, to pay taxes to the South African government, to produce military and police supplies for the South Africans and to participate actively in various programmes to assist the South African government in its control of the black populations.

## PRUDENTLY

The University Divestiture Bill allows the investment authorities of the colleges and universities to divest themselves of their stockholdings prudently over a period of some months, and requires completion of the divestiture by April, 1984.

Support for the new Bill had come from diverse sectors of Michigan, including various universities, churches, faculties, students and individual citizens. Strong support was given by Michigan's legislative "Black Caucus".

One spokesman for the Michigan citizens' organisations supporting the Bill commented: "At a time when President Reagan is actively pursuing a policy of 'constructive engagement' with South Africa, those of us dealing with the hard global economic realities of industrial collapse and unemployment here in depressed Michigan think it is time as a state for a different foreign policy. We believe Michigan's long-term self-interest lies not with the minority and repressive governments of the rest of the world but with the majority of the peoples, even those who, as in South Africa, are dispossessed at this time.

"We feel," he added, "that continued support of South Africa and other repressive governments will reap us the whirlwind in the long run."

