

I think that this can be done in advance, if the United States wants to do it. I think that is the big issue. We talk about donating our dividends for scholarships, but if the corporations really were sincere and wanted to end apartheid, they would donate any excess profits they make back into projects, education, housing for black South Africans and other black African nations. We all know that the only reason they are there is because of the system of apartheid, the slave labor, where they can make huge profits. The more the multinational corporations invest there, I think, the greater their stake on maintaining the system.

I am going to vote in favor of the motion by Regent Dunn. As he mentioned, it is a compromise. I think it is a significant step in the right direction. I think that some of us on the Board will continue to fight. We can't be satisfied until we have complete divestment.

Regent Baker: We ought not mislead the people of Michigan into thinking that we are going to remain invested in Michigan corporation stocks because I don't think that is the intent of that motion. Perhaps it is to some small degree, but that is not the case at all.

Regent Roach: Just on a point of clarification, I thought I had made it clear in my remarks that if this resolution fails, I would be prepared to introduce the resolution I had circulated to the Regents earlier this week. Rather than clutter our parliamentary posture with substitutes and other similar parliamentary moves in view of the expressed feelings of the Board, it seems to me it is a better and clearer way just to vote on this motion. But I assure you, Regent Waters, that if this motion fails, I would introduce my resolution.

President Shapiro then called for the vote. The motion was adopted with Regents Brown, Dunn, Nederlander, Power, Varner, and Waters voting affirmatively and Regents Baker and Roach voting no.

President Shapiro then said that with respect to Regent Baker's question, although he did not have all of the figures at hand, his estimate is that currently the University is holding about \$50 million worth of stocks of corporations doing business in South Africa. Under this resolution, the University will probably divest approximately 90% of those holdings. If that is the case, approximately \$5 million worth of stock will remain held in Michigan companies at this time.

Regent Baker: This is a resolution for legal action with reference to the constitutionality of 1982 Public Act 512:

WHEREAS, the Regents believe that Public Act 512 of 1982 represents an unconstitutional intrusion upon the powers and authority of the Regents to direct expenditures of the University's funds.

IT IS THEREFORE RESOLVED, that General Counsel of The University of Michigan is hereby authorized and directed to take appropriate action to obtain a court determination that Public Act 512 of 1982 is unconstitutional.

Regent Roach seconded the motion.

Regent Waters said that he was opposed to the motion. He indicated that he did not believe the University should be going to court wasting public and taxpayers money on fighting this issue. He did not think it infringes on the autonomy of the University and, if it does, it is slight. It is an issue with which there should be complete agreement. The law talks about divestment and corporations doing business in South Africa and the Soviet Union and the University should be in complete agreement. If there is a desire to challenge the state law on the autonomy question, it should be on some other issue at a later date.

Regent Dunn commented that he was in agreement with Regent Waters on this particular question. He indicated that he had in his original motion called for a challenge of the legislature's ability to enforce this law on the University. After hours of discussions, he felt that he was wrong pursuing that course. He said that he does not feel that this was the issue that should be used to challenge the legislature.

Regent Varner stated that, personally, she has struggled with the question of challenging the constitutionality of the law. She said she does have some concerns about any legislative encroachments upon regental constitutional authority and responsibility. However, in this case, the intent of the legislature was to achieve divestment of stocks from companies operating in South Africa. She indicated that she felt that the Regents acted very much in the spirit of that law. It has been done with the instruction that divestment be done prudently to protect the value of those investments to the University as much as possible. Therefore, if the legislature is dissatisfied, the University will hear from them. She indicated that she was not in favor of challenging the law and would not support the motion.

Regent Roach commented that the majority of the Board and the resolution just adopted has substantially complied with what the legislature wanted them to do. In the long-run history of this University say 100 years from now, the question of whether or not the legislature or the Regents shall determine policies of the University of Michigan could be more important than the issue of South Africa today. He mentioned McCarthyism and the attacks on intellectual freedom and on academic freedom. If the whole purpose of the people of Michigan, beginning in 1850 and continuing in every constitution since then, of separating this institution, and later other state institutions, from legislative interference and control, it seem that it is not only appropriate, but necessary that an action takes place to obtain a summary judgment from the courts. Indeed, the reason why the majority of the Board determined to divest from

South Africa was because they truly felt it was the best thing to do. Not because the legislature told the University to do it, but because it was felt that it was the best answer. If the majority of the Board had disagreed with the legislature, then that would have been the controlling influence. Regent Roach stated that he felt that 133 years of academic freedom at this University would be jeopardized if the University did not challenge the law.

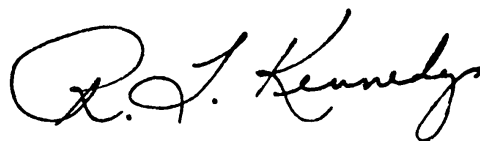
Regent Baker commented that between 1835 and 1850 this University suffered under the legislature so much so that the people of the state called a constitutional convention to remove the control of the University from the legislature. The special committee appointed to study the issue succinctly said that the legislature's wish to retain all power over the University in their own hands was most damaging to the University. He said that the very right of the individuals who have voiced their opinions on the subject was protected by this Board of Regents and by the Constitution of the state of Michigan. He indicated that he has and would always protect the right of individuals to express their opinions in this University. Unless the legislature is challenged on this point of constitutionality, future generations may not be free to have the same kind of freedom of expression as that enjoyed by those present today.

President Shapiro then called for the vote on Regent Baker's motion for legal action on the constitutionality of PA 512 of 1982. The motion was adopted with Regents Baker, Brown, Nederlander, Power, and Roach voting affirmatively and Regents Dunn, Varner, and Waters voting no.

The above transactions were by unanimous vote unless otherwise indicated.

Transportation expenses and accommodation costs for the month of March totaled \$2,341.44.

There being no further business the meeting was adjourned to meet on May 19 and 20, 1983.

A handwritten signature in black ink, reading "R. L. Kennedy". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Richard L. Kennedy, *Secretary*